Asia-Pacific Population Journal

ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC

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COVER PHOTOGRAPH

Migrant workers from Myanmar working in a garment factory in Mae Sot province of Thailand. (Photograph by Han Htay Aung)

Migration is the focus of this entire issue of the *Asia-Pacific Population Journal*, which brings out eight articles that address this multifaceted issue from a variety of angles.

From the Viewpoint column, which places migration right on top of the political and policy agenda, to the article on child migrants and children of migrants and the one addressing the intricate issue of trafficking, through the discussion on the current management approaches and initiatives, among others, it is hoped that this special thematic issue of the *Journal* will contribute to a comprehensive picture of the phenomenon.

The articles published here are derived from the ones presented at the Regional Seminar on the Social Implications of International Migration, held from 24 to 26 August 2005 at the United Nations Conference Centre, Bangkok.

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Special Issue on Migration

UNESCAP works towards reducing poverty and managing globalization

Editorial

Despite views that migration is a temporary phenomenon that would decrease in importance as structural changes occur, one has to face the evidence that migration is here to stay. As disparities widen between countries' level of development and as more and more people cross borders in search of better opportunities, migration is gaining increased attention and increasingly is being seen as a development force that can contribute to the achievement of the internationally agreed development goals, including the Millennium Development Goals (MDGs).

About 175 million people, or 3 per cent of the world's population, are living away from their home countries (as of 2000) – more than double the number four decades ago. According to the International Monetary Fund (IMF), migrants sent remittances worth an estimated US$154 billion in 2003.

Asia alone deploys about 2 million migrant workers per year within and outside the region, and the level of their foreign remittances reaches several billion dollars. For example, the annual sum of remittances exceeds US$8 billion in India, $7 billion in the Philippines and $3 billion each in Bangladesh, Sri Lanka and Thailand. The total of these sums is second only to foreign direct investment, exceeding official development assistance by far.

Against this backdrop, it appears most relevant to publish a special issue of the *Asia-Pacific Population Journal* on this multidimensional phenomenon, which is increasing in magnitude in the region. This issue is also an outcome of the Regional Seminar on the Social Implications of International Migration, held from 24 to 26 August 2005 at the United Nations Conference Centre in Bangkok. The papers published in this issue are a selection of articles presented at the above-cited Seminar.

Among others, the Seminar urged Governments and international organizations in the region to continue promoting regional dialogue on international migration and to mainstream the issue into national policy development in the region.

I hope you will find the articles published in this issue of the *Journal* interesting and useful in your respective work areas. I also hope you will welcome the various changes introduced recently in the *Journal*: its new periodicity, its new and colourful design and its new column, "Viewpoint", which has already received contributions from many very prominent authors in the region and beyond. Please feel free to send us your comments on any of those.

This particular year will mark 20 years of continuous publication of the *Asia-Pacific Population Journal*, the first issue having been launched in March 1986. To mark this milestone, two important tasks are proposed: we will produce a special issue of the *Journal* in 2006 marking 20 years of progress in the field of population and development and, in early 2007, we will issue a CD-ROM compiling 20 years of publication of the *Journal*, which will include search features for easy retrieval of past articles. This CD-ROM should prove very useful to population researchers in the region. Meanwhile, you can still search the entire collection of our past issues in full text and for free, on the Web, at the following URL: http://www.unescap.org/esid/psis/population/journal/index.asp.

On the eve of its twentieth anniversary, the editorial team of the *Asia-Pacific Population Journal* would like to take this opportunity to thank the United Nations Population Fund (UNFPA) for its unfailing support and the trust it has placed in ESCAP to implement the various projects of which this *Journal* is a part.

Thelma Kay
Chief
Emerging Social Issues Division

Introducing Viewpoint

In consultation with the *Asia-Pacific Population Journal* Editorial Advisory Board, the Asia and the Pacific Division of the United Nations Population Fund (UNFPA) and UNFPA Country Services Technical Teams (CST) for East and South East Asia, the Editor of the *Journal* has decided to launch a new column entitled "Viewpoint".

This column publishes contributions from prominent and outspoken population experts on various issues of importance in the region. "Viewpoint" touches on issues widely debated in the field of population and development and is open to a variety of defendable, although perhaps upstream, points of view on a given topic.

"Viewpoint" welcomes contributions/ reactions to published articles from population specialists on the understanding that the article is subject to reviewers' approval and editorial revision.

For further information, please contact: e-mail: escap-population@un.org.

Migration and Mobility: The Critical Population Issues of Our Time

Migration may no longer be the stepchild of demography but it remains the most complex and intractable of the population variables from both an analytic and a policy point of view.

By Ronald Skeldon[*]

We have come a long way since 1960 when the American sociologist, the late Dudley Kirk, called migration the "stepchild of demography". In the intervening 45 years, that stepchild has become richly endowed indeed with, particularly since the late 1980s, a torrential outpouring of articles, books and research on the topic.

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Our empirical knowledge has certainly expanded greatly, but whether theoretical and conceptual understanding has seen equivalent refinement might be a matter of some debate. Unquestionably, today, migration has gained a much greater public awareness with government departments in countries in both the developed and the developing worlds, as well as several international organizations, moving the subject towards the top of the political and the policy agenda. Developing countries fear that the loss of their educated and skilled citizens will prejudice their chance of reaching higher levels of development. Developed countries need labour to do certain types of jobs but fear that importing labour will create both social stress at home and conflict with their development policy abroad by "poaching" the best and the brightest. International organizations try to work out how best to manage the flows in the interests of both countries of origin and countries of destination, as well as of the migrants themselves.

Ironically, the very success in bringing down the demographic variable that was seen to be at the root of the population "problem", fertility, has exacerbated the whole issue of migration. Sustained fertility decline has led to slow and, in some developed economies, negative growth in prime labour-force cohorts. Not all labour-intensive activity can be moved offshore, and not all labour can be replaced with automation, leaving the importation of labour as the only realistic alternative. As Asia has developed, so, too, has the demand for labour, both skilled and unskilled, that creates a tension with slowing growth in domestic labour forces. In a globalizing economy, the interchange of labour is an integral part of development as not all skills can be generated domestically. Economies such as Japan, the Republic of Korea; Taiwan Province of China; Singapore; Hong Kong, China; Malaysia; and, increasingly, Thailand have seen a shift towards the importation of greater numbers of migrants. At present, the number of workers in those economies alone is probably around 6 million.

Migration, rather than being a failure of development is thus a direct result of development and the issue of migration in Asia is going to take on ever greater importance. While most governments in the region, and around the world, welcome skilled migrants, they are reluctant to welcome unskilled migrants. The former are likely to go home or move on, while the latter may be more likely to stay on, particularly if they entered illegally or overstayed their conditions of entry. Clear linkages exist, however, between skilled and unskilled migration. Skilled workers are likely to generate menial jobs that domestic labour with higher levels of education and aspirations is unlikely to want. Computer engineers generate openings for routine assembly workers, for packers of the finished product and for drivers to take the product for export, and so on. Highly paid bankers require

restaurants, coffee shops and office cleaners. Thus, to promote participation in globally competitive markets implies the importation of labour at all skill levels.

Governments in the Asian and Pacific region face several dilemmas. With the exceptions of Australia and New Zealand, they have no recent traditions of immigration, and virtually no government in Asia actively pursues permanent settlement. Migration is assumed to be temporary. Programmes to regularize illegal entrants and overstayers certainly go some way towards protecting the migrants and giving them legal access to basic services, but they also allow host governments to push for the turnover of workers. While it can be argued that those legally in the country can have the right to go back and forth to their country of origin, it leaves the migrants in a kind of spatial limbo. Can governments risk allowing migrants to bring their families? Arguably, workers with their families will enjoy a higher quality of life than those separated from them and are likely to be more productive. The constant turnover of workers in all but the most menial of jobs is likely to increase training costs, decrease loyalty to employers and lower productivity. Migrants will marry local partners and establish transcultural families. Should they be allowed to stay? The alternative to, perhaps the direct outcome of, temporary immigration programmes and a constant turnover of workers is the establishment of long-term or permanent migrant communities, as the experience of France and Germany has shown. Even a concentration on temporary migrant programmes creates a permanent community of temporary workers and workers who are likely to be less content and less productive than long-term workers. They can never be, to use current discourse, stakeholders in the host economy. Governments in the region need to "think the unthinkable", not in terms of pursuing an "open borders" policy because such a policy would be politically and economically irresponsible, but to move towards the creation, gradual expansion and the integration of permanent immigrant communities. These could come to play a full and constructive part in the social and economic life of the State.

Management of migration needs to be much more than just exclusion and limited and temporary entry: it needs to be forward-looking, proactive, innovative and comprehensive. However, again countries in the Asian region may be influenced by the experience of Europe where immigrant communities have come under suspicion as being fertile recruiting grounds for groups seeking to undermine the nature of the State and economy. However, the numbers of migrants so involved are tiny and it would be short-sighted and unfortunate if the behaviour of such a minority of migrants and their descendants were to drive migration policy. There are costs as well as benefits to migration and some of these are the

result of a lack of integration of migrant populations. The alternative for destination economies is restriction or unsustainable long-term programmes of temporary migration. Both are likely to lead to slower economic growth.

Not all economies in Asia are confronting immigration pressures. Others face very different issues: those associated with relatively low rates of economic growth and high rates of growth in labour force. Here, the dilemmas are quite different and revolve around whether governments can create the conditions that will retain potential migrants to be the key personnel to facilitate domestic development or whether they can train people who can access overseas markets and send money home as remittances that can stimulate development. The latter strategy has found favour in economies such as the Philippines although, in the case of skilled migrants, all the more developed economies in Asia are contributing migrants at both the global and the regional levels. The globalization of education and training should ultimately eliminate the current problems of accreditation that lead to skill wastage.

Clearly, a strategy to target overseas labour markets makes sense in the context of the immigration pressures in the more developed economies discussed above. Remittances currently estimated at over US$ 53 billion a year to Eastern and Southern Asian countries are a significant source of foreign exchange for many of the lower-income economies in the region. More important, they put money directly into the pockets of migrants' families. However important though remittances are, they are not a panacea for development and there is a danger that they be seen as a substitute for official development aid or other forms of investment. Nevertheless, the diaspora communities of migrants overseas do form one important source of finance and expertise that origin countries can tap into in the quest for development.

Such has been the recent concern for movements across international boundaries that sight has almost been lost of the vast majority of people who move: those who migrate internally within the borders of their own country. One of the great transformations of the past century has been the shift from an essentially rural society to one dominated by cities, in which migration has played a critical part. Temporary migration between village and town, monies sent back home and the loss of the best and the brightest in origin communities are as significant domestically as they are internationally. After a burst of concern in the 1960s and early 1970s, internal migration has taken a back seat in research and policy concern to international migration, although signs exist that a resurgence of interest in internal movements is occurring. It would be wrong, however, to assume that internal and international migrations are separate entities: there are significant

linkages between the two that are as yet poorly understood. Whether migrants arriving in the largest city in a country are likely to spill over into international movements or whether people leaving to go overseas generate internal movements to fill the resultant vacuum are but two intriguing research and policy concerns. However, if a central concern is to see how migration is related to development and given that most migrants move internally, any programmes to manage migration for the benefit of the poor must incorporate internal migration, not just movements across international boundaries.

Finally, it is apposite to consider whether some "World Migration Organization" might be established to integrate and promote the management of migration. Several international organizations already exist whose mandate it is to deal with the various dimensions of the movement of population: the International Labour Organization, the United Nations High Commissioner for Refugees, and the International Organization for Migration being among the most prominent. It is difficult to see what yet another layer of bureaucracy might achieve particularly given the great range of topics and areas of responsibility touched upon in this brief viewpoint. Also, policy solutions are unlikely to emerge immediately at the global level: regional solutions are perhaps a best mid-range alternative to the variety and variation in types and patterns of migration. Here, with adequate vision and leadership, the regional commissions of the United Nations might surely play a facilitative role. Migration may no longer be the stepchild of demography but it remains the most complex and intractable of the population variables from both an analytic and a policy point of view. It is the critical population issue of our time.

Abstracts

This paper provides updates in trends in international migration in and from the Asia-Pacific region from 2001. With migration systems firmly in place, various forms of international migration involving workers, settlers and refugees continue to transpire in the region. Other persisting trends are the increasing participation of women in migration and the concentration of migrants in labour markets abandoned by local workers. Despite the structural role of labour migration in the region's economy, the template of policies concerning the migration of less skilled workers is still wedded to the idea of temporary labour migration. Receiving countries are also increasingly turning to migration to increase their pool of highly skilled and professional migrants. A notable development since 9/11 is the linking of migration to security issues, which has led to policies and practices that infringe on migrants' rights. The paper concludes that migration will continue to matter in the Asian and Pacific region in the near future. There is a need to foster more dialogue and cooperation to ensure that migrants' rights and the development prospects of the countries of origin are not jeopardized

Migration Trends and Patterns in South Asia and   **39**
Management Approaches and Initiatives

Historic ties, accentuated by the modern day dynamics of migration has given rise to a complex and multidimensional population movement in South Asia. Today, migration features prominently in all contours of life, including economic, social and cultural aspects for all countries of the region. From internal migration to international migration, short-term to long-term migration, economic migration, irregular migration including smuggling and trafficking in persons or population displacement, migration has become an issue that cannot be ignored. It is a livelihood option, a coping strategy, a strategy to fulfil vital labour needs and one that continues to shape the economies and societies of the region. This paper attempts to look at some of the emerging migration dynamics in terms of patterns and trends and also the existing migration management policies and initiatives in place in South Asia. In conclusion, the paper highlights the complexities and interdependence in managing migration and validates the fast emerging recognition that regional collaboration is crucial to manage and ultimately maximize the benefit of this movement in South Asia, while reducing its the negative impacts.

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Labour Migration in Asia and the Pacific

Cross-border movements of workers from and within the Asian region have grown rapidly during the past three decades, largely driven by labour shortages in the more dynamic economies of the region, and taking place without the benefit of agreements between origin and destination States. The migration's dominant characteristic is the role played by commercial intermediaries and the admission of workers under temporary guest worker schemes. While most view the phenomenon as having been mutually beneficial to origin and destination States, as well as to the majority of individual migrants, the fact that migration is largely market-driven and official policies are anchored on purely temporary admission have had predictable consequences on the conditions of the migrants. Migrants are not allowed to enjoy equal rights with native workers in order to discourage settlement. The growth of populations of undocumented migrants who are unable to access legal protection has profound social and economic consequences. This

paper draws on the 2003 ILO (International Labour Organization) Survey of labour migration to shed light on how far national policies are in line with ILO principles especially that on equal treatment.

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in South-East Asia – NGO and Trade Union Perspectives

South-East Asia is part of a dynamic region in terms of labour migration, comprised of source and destination countries highly significant within the broader patterns of human movement at the global level. The "import" and "export" of steadily increasing numbers of foreign workers in general and the feminization of migration in particular, has created a myriad of problems and challenges that require the attention of governments, trade unions and non-government organizations in origin and destination countries. New strategies are beginning to emerge within the region in the form of intra-organizational reform processes or inter-organizational alliances.

This paper focuses on migrants' collective activism and national as well as transnational networking by NGOs and trade unions in view of identifying areas of collaboration on issues concerning foreign workers across South-East Asia. Its objective is to highlight the importance of social action and activism in the effort to promote and implement a migrant rights' agenda. In adopting a transnational perspective, the paper seeks to reflect today's prevailing forms of migration that are characterized by their short-term nature with high levels of return and re-migration taking place. Thus, emphasis is put on transnational political activism as a crucial element to push for a new rights' agenda that takes on board the context in which many, if not most, migrants operate today.

Profound dialogue between the two sets of actors needs to take place nationally on the exact terms of engagement and areas of cooperation. Transnational partners need to be identified and brought into this process to build a complex web of transnational interactions that would improve the complex situation of migrant workers. Documentation on good practices of trade union and NGO collaboration as well as the failures in the field of migrant labour would help to gain deeper insights into trade union-NGO connections.

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While the levels of international migration and international remittances continue to grow globally, little is known about the effect of those processes on the development of home countries. There is little research about the roles of diaspora communities at countries of origin. Recently, the debate on the role of international migrants and the migrant diaspora in the development of their countries of origin has received new impetus. Although it is widely acknowledged that migrants send substantial amount of remittances back home, the exact nature of the effects and whether the net effects are advantageous or deleterious for the countries of origin is still a matter of debate.

This paper tries to fill this gap. It aims at discussing the often neglected but important development impacts of migrant remittances and diaspora. Referring to the specific case of Viet Nam, the paper analyses the roles that the Vietnamese diaspora is planning in the national development. Potential and actual impacts of overseas Vietnamese on the country's socio-economic development are examined through remittances, investment and transnational entrepreneurship, and technology transfer.

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There are two categories of children of migrants in Thailand who are in an especially vulnerable situation. They are the children of displaced persons residing in camps along the border with Myanmar and the children of registered and unregistered migrant workers from neighbouring countries. The two groups together comprise more than 150,000 children. Very little data and information on those children is available and, partially as a consequence, government agencies and international organizations have not given adequate attention to the issues surrounding their well-being. It appears that most children of migrant workers are not receiving schooling in Thailand and those of unregistered workers may have difficulty accessing health care. It is recommended that the Government of Thailand strengthen policies pertaining to children of migrants within a framework that integrates migration policies with its broader strategies for social and economic development.

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South-East Asia and Beyond

Despite unprecedented growth in programmes and policies to combat trafficking in persons, the problem is generally believed to be getting worse. It is therefore timely to review the overall impact that those programmes are having, and, in particular, the way they are conceived.

This paper, centred on South-East Asia, focuses on interventions undertaken under the heading of Trafficking Prevention, including awareness-raising, vulnerability reduction and migration controls. It suggests that there are several important problems in the anti-trafficking response, many of which emanate from the way that the issue is conceptualized. Those problems include, in particular, commonly accepted definitions of the "root causes" of trafficking. At the same time, the paper highlights examples of how changes in our conceptualization and understanding of the issues, based on experience and new information, are leading to promising new approaches.

Recent Trends in International Migration in Asia and the Pacific

There is a need for more dialogue between countries of origin and destination on such issues as ethical hiring practices, protection of migrants' rights, and cooperation to ensure that the development prospects of origin countries are not jeopardized.

By Maruja M.B. Asis*

When the twentieth century came to a close, international migration had become part of the region's economic, social and political fabric. As of 2000, there were 49.9 million international migrants in Asia and 5.8 million in Oceania, accounting for 29 and 3 per cent, respectively, of the 175 million international migrants worldwide.[1] Excluding refugees, the International Labour Organization (ILO) estimates that of the 86 million migrant workers worldwide (ILO, 2004:7) some 22.1 million were economically active in Asia and some 2.2 million in Oceania (27 and 4 per cent, respectively).[2] Those numbers reflect the relentless migration that accompanied regional integration and the broader process of

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globalization on the move since the 1970s. By the end of the century, several migration systems had become firmly established in South-East Asia, East Asia, South South-West Asia, and North and Central Asia (Battistella, 2002; ESCAP, 2002). In the Pacific, migration from the Pacific Islands to core countries, notably Australia and New Zealand, has also been a recurrent pattern in the past decades. Thus in the Asian and the Pacific region, alike elsewhere in the world, international migration has become a structural reality, setting in motion the dynamics for further migration in the years to come. As noted by the participants of the Berne Initiative regional consultation for Asia, held in Guilin, China, on 29-30 July 2004, "The debate in Asia, of course, differs from the one in other regions of the world, not least of which is due to the predominant interest on the continent in the issues surrounding labour migration".

This paper presents recent trends in international migration in Asia and the Pacific, focusing mostly on the years from 2001 to date, and serves as an update to an earlier report (ESCAP, 2002). Owing to a lack of access to data on North and Central Asia, South-West Asia, and Pacific countries or territories, the review focuses on East and South-East Asia, with some references to South Asia, as well as Australia and New Zealand in Oceania. Unless otherwise stated, references to Asia-Pacific in this paper refer to this restricted definition of an otherwise vast and diverse area. Much of the discussion deals with labour migration, although permanent and refugee migrations are also discussed as they are integral components of international migration in the region.

The first part of the paper is devoted to updates on labour migration, both authorized and unauthorized.[3] The volume of migration, sources and destinations, composition of migrants and their labour market niches are presented based on data collected by government agencies and non-governmental sources, research findings, as well as media reports, mostly covered by the biweekly *Asian Migration News*.[4] The second part of the paper examines recent trends in other forms of international migration, mainly permanent and refugee migrations, and their interface with labour migration issues. The concluding section outlines the social implications of migration trends, particularly those aspects related to migrants' rights, development prospects and partnership.

Workers and talents in motion

A review and developments: 1970s to the present

The demand for workers in capital-rich but labour-short countries in the Gulf region in the 1970s started large scale labour migration from and within Asia that continues to this day. The strictly temporary and limited contract migration

adopted by the Gulf Cooperation Council (GCC) countries also became the template of migration policies of receiving countries in East and South-East Asia. Initially, labour migration to the oil-rich countries – Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates – involved mostly male workers. India, Pakistan and Bangladesh, and later, the Republic of Korea, the Philippines and Thailand supplied workers to realize infrastructure projects in the Gulf countries. Despite their goal to nationalize their work force, Gulf countries continue to hire foreign workers. Among the sending countries, the Republic of Korea is the only one that became a labour receiving country; the rest, especially South Asian countries, continue to send workers to the region. In addition, Indonesia and Sri Lanka secured the labour market for domestic workers, which spurred the feminization of migration in the Gulf region. While female migrants figured among the medical/health-care personnel, salespeople, hotel personnel, and services and maintenance workers recruited by the GCC countries after the construction boom, domestic work provides the major source of employment for women migrants (Moreno-Fontes Chammartin, 2005:1).

In the 1980s, the newly industrialized countries (NICs) in East and South-East Asia resorted to labour importation to sustain economic growth. As their economies soared, the NICs experienced labour shortage in sectors which the local population had deemed undesirable: construction, manufacturing and plantation/agriculture. Moreover, as local women entered the paid labour market, families and households experienced a shortage of care workers. Labour shortage in the 3-D (dirty, dangerous and demeaning) sectors and in the households was solved by importing migrant workers.[5] The demand for domestic workers in Hong Kong, China; Singapore; Malaysia and Taiwan Province of China and the demand for entertainers in Japan (and more recently – and in a smaller scale – in the Republic of Korea) increased the feminization of migration. Filipino women migrants dominated the domestic work sector in East and South-East Asia (except in Malaysia, where Indonesians are the predominant group) and are also the largest group of legal foreign entertainers in Japan. As in the GCC, the domestic work sector in East and South-East Asia expanded significantly. By contrast, the concentration of women in domestic work and entertainment sectors, which are not covered by national labour laws, renders migrant women vulnerable to abuse and exploitation (see Huang, Yeoh and Abdul Rahman, 2005; Moreno-Fontes Chammartin, 2005; *APMJ*, 2003). The problems surrounding migrant women in these sectors, including those in legal migration, speak of violations of basic rights that threaten women's safety. They also erode the potential of migration to promote a better life for migrants and to act as a vehicle for empowering migrant women.

The feminization of migration is often associated with migration from Indonesia, Sri Lanka and the Philippines, where women comprise some 62-75 per cent of workers legally deployment annually. If unauthorized migration were considered, the feminization of migration would extend to other countries. For example, Thai women migrants may be underrepresented in legal migration, but they predominate among those in irregular migration or those trafficked (e.g., the large number of Thai women in Japan's entertainment sector). Unauthorized migrant women have gone unnoticed in Thailand because past registration efforts (except in 1996 and from 2001) did not include domestic workers (Toyota, n.d.; Punpuing and others, 2005). Of the work permits issued between 1 July and 15 December 2004, 128,514 of the 814,246 (15.7 per cent) were private household workers (Huguet and Punpuing, 2005:31). Interesting country variations were noted in a study on unauthorized migration in South-East Asia: in the Philippines, women were as likely as men to take part in unauthorized migration; in Indonesia, men were predominant in unauthorized flows to neighbouring Malaysia;[6] while migrants in Thailand's fishing, agriculture and manufacturing industries were mostly men (Battistella and Asis, 2003).[7, 8]

Unlike the government-to-government arrangement in Western Europe's guest worker programme, the system that evolved in Asia involved minimal government-to-government discussions. Except for government regulation of migration matters, recruitment is left largely in the hands of private recruitment agencies (and their networks of various brokers and intermediaries), and the protection of workers rests on contracts signed between workers and their employers. This scheme has given rise to irregularities and abuses at all stages of the migration process, exacting costs on migrants and their families. Excessive placement fees, contract substitutions, contract violations, low wages, non-payment or delay in the payment of wages are widespread, especially among women migrants in domestic work and entertainment. Unauthorized migrants and trafficked persons are rendered more vulnerable because they are seen as immigration violators and have limited or no access to support and redress of grievances.

Until the 1990s, labour migration in Asia involved mostly less skilled workers. Since then, the migration of the highly skilled and professionals increased in response to greater demand, especially for Information Technology (IT) workers and health-care workers (especially nurses), by more developed countries. In the past, the highly skilled workers migrated to countries of settlement, but from the 1990s, non-settlement countries, such as the NICs in Asia, started vying for those wanted workers. The offer of permanent residence to attract those prized human resources is particularly remarkable for Asian

countries, such as Japan; Taiwan Province of China; Republic of Korea; Malaysia and Singapore, which do not allow settlement to less skilled foreign workers.[9]

Demographic factors (i.e., declining population growth, ageing of the population) and lifestyle factors (e.g., some jobs becoming undesirable – such as nursing)[10] as well as the mobility of the highly skilled[11] are among the factors that will increase the migration of the highly skilled. Countries of origin are gearing up to corner a share of this more lucrative (and better protected) market. Moreover, the educational/life aspirations of families and individuals in countries of origin have been influenced by their perceptions of what would be in demand, hence, the high levels of enrolment in "marketable" courses, such as nursing and IT programmes. However, the demand for less-skilled workers will not diminish either. In the more developed economies, certain jobs have been identified as migrants' jobs, typically 3-D jobs (dirty, dangerous and demeaning). In the case of the Gulf countries, private sector jobs have largely been relegated to migrants. Some receiving countries are working at improving work conditions to attract locals (e.g., Hong Kong, China, China's efforts to encourage local women to go into domestic work) or sell the idea of self-reliance to persuade locals to take up migrants' jobs. To realize the goal of reducing the number of migrant workers to 300,000-500,000 by 2015, government officials in Malaysia admit that an attitudinal change will be required to entice the local population to work in plantation and other 3-D sectors.

Estimates of labour migration: legal and unauthorized

According to Abella (1995:125) in the 1980s, there were about one million Asian migrants working in East and South-East Asian countries (including long-term residents in Japan and Indonesians in Malaysia); by the 1990s, their number rose to more than three million; and around 2000, their number may have reached 5.3 million (ESCAP, 2002:1) or 6.1 million (Battistella, 2002:406). Women migrants were estimated at two million or one third of the total (Yamanaka and Piper, 2003:6). Based on more recent data and estimates, the number of Asian migrants working in East and South-East Asia has increased to 6.3 million legal migrant workers or 7.5 million if unauthorized workers were included (table 1). Assuming that women are a third of the migrant population, their number would be around 2.5 million. Compared with estimates around 2000s, the share of unauthorized migrant workers has gone down from 34 to 16 per cent of the migrant workers population in more recent estimates. The registration drive in Thailand and the Republic of Korea, the crackdown in Japan against unauthorized migrants, and the repatriation drive in Malaysia, all of which were carried out in 2004, may explain the decline. It remains to be seen whether this decline is but temporary. Moreover, those figures are, at best, an approximation of the

real scale of the phenomenon because of serious data limitations, particularly on unauthorized migration.

Table 1. Stock of foreign workers in receiving countries in East and South-East Asia, most recent year

Country (Nov 2004)	Legal (Year)	Unauthorized (Year)	Total	Source(s)
South-East Asia				
Brunei Darussalam	150,000 (2004)	na	150,000 (2004)	Asian Migration News, 30/09/04
Malaysia	1,470,000	400,000 (other ests: 300,000; 500,000)	1,870,000	cited in Bloomberg, 2005; Asian Migration News, 15/04/05; 31/03/05
Singapore	621,000	na	612,000	cited in Orozco (2005)
Thailand	1,269,074 (2004)	400,000 (2004)	1,669,074 (2004)	Asian Migration News, 15/05/05
		800,000		Country statement of Thailand (2005)
East Asia				
Hong Kong, China	340,000	na	340,000	Cited in Orozco (2005)
Japan	1,973,747 (2004)	219,428 (2003)	2,193,175 (2003/2004)	2004 figure is cited in Migration News, n.d. Ministry of Justice cited in Iguchi (2005)
	870,000 (2003)		1,089,428 (2003)	Estimate by Iguchi (2005)
Republic of Korea	179,000 (April 2005)	199,000 (April 2005)	378,000 (April 2005)	*Migration News* (2005)
Taiwan Province of China	312,664 (Nov 2004)	16,000 (Nov 2004)	328,664	
Total	6,315,485	1,234,428	7,549,913	
	5,211,738	1,634,428	6,846,166	

Notes: For Japan, the legal figure refers to the registered foreign population; the shaded figure is based on Iguchi's (2005) of estimate of foreign workers; the unauthorized figures refer to overstayers. For Taiwan Province of China the unauthorized migrants refer to absconders. The shaded figures represent alternative estimates.

Although unauthorized migration is present in all the migration systems, the problem is serious in Malaysia, Thailand and the Republic of Korea, while the situation appears to be under control in other receiving countries. Those three countries share some common characteristics: (a) they drew up a migration policy after numerous migrants arrived, (b) they share a border with other neighbouring countries, and (c) their migrant populations tend to be dominated by one or two groups who usually come from neighbouring countries (ethnic Koreans from China, in the case of the Republic of Korea).

Contrary to popular perceptions, not all unauthorized migrants are undocumented (many unauthorized migrants hold a travel or work document), and not all unauthorized migrants have violated migration regulations throughout all stages of migration. Several types of unauthorized migrants have been identified in Asia, namely: (a) undocumented, i.e., those who do not use travel and/or work documents – very common in cross-border migration, e.g., between Indonesia and Malaysia or between Myanmar and Thailand; (b) non-work permit holders, i.e., those who legally leave the country of origin with a non-working visa (usually as tourists), but then work in another country; (c) overstayers, i.e., those who stay beyond the period specified in their visa; and (d) runaways, i.e., those who run away or abscond from their sponsors/employers.[12] The legal status of migrant workers is not exactly fixed and unchanging, hence posing legal migration and unauthorized migration as a dichotomy has its limitation. Overstayers or runaways, for example, were legal migrant workers, until they overstayed or absconded. Runaways may have left their original sponsor/employer because of abusive or difficult conditions, in which case their "immigration violation" was actually prompted by violations against them. It is also possible for unauthorized migrant workers to regularize their status in the event that an amnesty or registration programme is offered.

The issue of trafficking in human beings further muddles the discussion on unauthorized migration.[13] The terms "unauthorized migration", "human smuggling" and "trafficking in persons" are often used interchangeably. It has been suggested that unauthorized migration is the general category while trafficking in persons is a more specific form – i.e., more abusive, more violent – of unauthorized migration (Battistella and Asis, 2003:12-13). An outline of similarities and differences among those forms of migration is summarized in table 2. Focusing on the consequences of migration on migrants, the conditions that put migrants at risk is present in all forms of migration. As such, developing approaches that consider legal migration and unauthorized migration as part of an integrated migration system rather than as polar opposites (which presume

Table 2

different sets of policies) may be more constructive and effective in managing migration (Battistella and Asis, 2003).

Migration systems and labour markets

In general, the configuration of origin countries, destination countries and labour markets employing migrants have not changed much over the years (tables 3 and 4). Table 4 underscores the dependence of receiving countries on migrant workers in key sectors, while table 5 shows how countries of origin have come to rely on remittances' contributions to their gross domestic product.

South-East Asia. In South-East Asia, Brunei Darussalam, Singapore, Malaysia and Thailand draw migrants mostly from within the region while the major countries of origin are the Philippines and Indonesia. Myanmar, the Lao People's Democratic Republic and Cambodia would be the other countries of origin if unauthorized migration were considered. The Philippines continues to have the largest and most diversified migration profile. For the first time, from around 2001, the Philippines set a target of deploying a million workers abroad annually. It has yet to meet the target – the closest was the 2004 deployment which reached 933,588.[14] Indonesia, was heavily affected by the repatriations Malaysia carried out in 2002 (Asis, 2004) and in 2004-2005. Some 400,000 Indonesians were repatriated in the most recent drive (*Asian Migration News*, 15 April 2005*)*. The Government finally enacted Legislation 39/2004 to protect migrant workers, but migrant NGOs found it wanting in promoting workers' protection. The Government also signed the International Convention of Migrant Workers in 2004. A newcomer in labour migration, Viet Nam plans to expand its overseas employment programme, aiming to send 70,000 workers abroad in the near future.[15]

Demand factors and policy changes in the receiving countries could affect deployment levels. The Philippines, for example, is eyeing increased demands for health-care professionals and workers as a growth area; in addition, Japan's move to tighten the requirements for entertainers may presage a reduction of this lucrative but controversial market.[16] The deployment of Indonesian workers to Taiwan Province of China was cut in half owing to the economical embargo on the hiring of Indonesian workers from 1 August 2002 to 20 December 2004. The ban almost halved the number of Indonesian workers in Taiwan Province of China, from close to 100,000 before the ban down to about 58,000 as of November 2004. The slack has been compensated by increasing number of Indonesian migrants in Singapore and Hong Kong, China. In response to Taiwan Province of China's complaint, Viet Nam is considering a draft bill to increase the penalties against

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Table 4. Receiving countries: sources of labour and migrant sectors

Country	Source countries	Sectors
South-East Asia		
Brunei Darussalam	•Migrant workers are 70 per cent of the work force •Most migrant workers come from Malaysia and other ASEAN countries	•Private sector jobs (also construction, service)
Malaysia	•Migrant workers are 14 per cent of the work force •70 per cent of migrant workers are from Indonesia •Other source countries are Thailand, Cambodia, Nepal, Myanmar, Viet Nam, Philippines, India, Bangladesh, Central Asia	•Plantation, construction, manufacturing, domestic work •16 per cent of workers in the manufacturing sector are migrants (Fed of Malaysian Man) •Migrants from specific countries are to be assigned to specific sectors, e.g., Indonesians in agriplantation and domestic work •Sectoral plan does not work as intended, e.g., Indonesians dominate construction
Thailand	•Migrants are from Myanmar (850,000-900,000), Cambodia (170,000-190,000) and Laos, PDR (160,000-180,000)	•Construction, agriculture, factories, domestic work, other service
Singapore	•Migrants are from Malaysia, the Philippines, Thailand, Indonesia, Myanmar, India, Bangladesh, Sri Lanka, China	•Construction, manufacturing, domestic work and shipyard work •Domestic work is mostly by migrant women from the Philippines and Indonesia
East Asia		
Hong Kong, China	•Migrants are from the Philippines, Indonesia, Thailand, Sri Lanka, Nepal	•Domestic work (58 per cent Filipino, 38 per cent Indonesian)
Japan	•Migrants are from Brazil/Peru, China, the Philippines, among others	•Manufacturing, entertainment •Auto manufacturing dominated by *Nikkeijin* •Entertainers (legal) mostly from the Philippines
Republic of Korea	•Migrants from various countries in Asia; Korean-Chinese are the largest group	•Manufacturing, agriculture

**Table 5. Remittances to countries of origin and remittances
as percentage of real GDP**

Country	Remittances 2004	Percentage of real GDP	
	(in USD in billion)	2004	2005
South-East Asia			
Indonesia	1.3	4.8	5.0
Philippines	8.1	5.2	4.2
Thailand	1.6	6.2	6.4
South Asia			
Bangladesh	3.4	5.5	5.7
India	23.0	6.4	6.7
Pakistan	4.1	6.3	6.0
Sri Lanka	1.3	5.0	5.0
East Asia			
China	4.6	9.0	7.5

Sources: World Bank (2005); IMF (2004).

absconding workers. The draft bill provides for jail of up to two years and fines of up VND50 million (1US\$ = 15.89 VND) if the workers were found to have deliberately deserted their jobs.

All the receiving countries in South-East Asia, especially Malaysia and Thailand, focused on addressing unauthorized migration. Being "the world's second-largest long term undocumented migration flow, overshadowed only by the traffic between Mexico and the United States" (Hugo, 2003:3), Malaysia carried out serious measures to curb unauthorized migration from Indonesia and to diversify the source countries of its migrant workforce (some 70 per cent are Indonesians). Malaysia pushed through with crackdowns and deportations after 28 February 2005; the end of the amnesty period for migrants to voluntarily leave the country. Violators face a maximum of five years in jail, fines of up to Malaysian ringgit (MYR) 10,000 (1 US\$ = 3.77 MYR) or both, and six strokes of cane. Malaysia may have succeeded in reducing the number of unauthorized Indonesians, but the departure of migrants also created labour shortages in key sectors such as construction and plantation.

Thailand also carried out deportations and crackdowns, but in addition, it conducted a registration process, a move intended to regularize unauthorized

migration and to extend more protection to migrant workers. From 2002, Thailand also forged memoranda of understanding with the Lao People's Democratic Republic, Cambodia and Myanmar, the source countries of migrants to Thailand (see Huguet and Punpuing, 2005). In Thailand's 2004 registration exercise, some 1.27 million migrant workers registered the highest so far since the Government started conducting registrations in 1992. Of those who registered, 814,247 obtained a work permit (Huguet and Punpuing, 2005:37-40), which would allow holders to work in Thailand from three months to one year. The new registration process is a step in Thailand's attempts to manage migration.

East Asia. The three receiving countries in East Asia introduced different measures to manage migration. On 31 July 2003, the Republic of Korea passed a law setting in place a work permit system that would allow employers to recruit migrant workers from 1 August 2004; the law also grants foreign workers basic rights, i.e., minimum wage, union membership and industrial accident insurance (*Asian Migration News*, 15 August 2003; 31 July 2003). The work permit system is expected to address the Republic if Korea's perennial problem with uncontrolled unauthorized migration and to protect migrant workers' rights. In August 2004, the Republic of Korea signed a memorandum of agreement with six countries – Indonesia, the Philippines, Thailand, Viet Nam, Sri Lanka and Mongolia – for the recruitment of 25,000 workers under the work permit system.

Japan aims to halve the number of overstayers (250,000) in the next five years. In May 2004, the Parliament passed an amendment to the Immigration Control and Refugee Recognition Act which increases the fines for overstaying from Japanese yen (JPY) 300,000 to JPY 600,000 (1US\$ = 117.23 JPY) and lengthens the ban in reentering Japan to 10 years (*Asian Migration News*, 31 May 2004). Earlier, the Immigration Bureau's campaign on the Internet inviting the Japanese public to report suspected irregular migrants was criticized by human rights groups. Fears of Japan becoming a target by international terrorists were a contributing factor in the country's decision to implement those measures. Japan's decision to check the issuance of entertainers' visa helped in upgrading its status from being on the watchlist to tier-2 in the 2005 Trafficking in Persons Report issued by the United States of America's Department of State. Taiwan Province of China's concerns revolve around absconding workers and unauthorized migration from mainland China. To address the problem with runaways, Taiwan Province of China requires countries of origin to meet certain conditions and imposes a ban if the conditions are unchecked.

The lone country of origin in East Asia, China, continues to figure as a source of unauthorized migration to western countries. The cost of migrating to the United

States or Europe has gone up to as much as US$70,000, but this has not deterred aspiring migrants to take the risk (Liang, 2005). Owing to rising incomes in China, other countries have relaxed restrictions on Chinese travelers to take a crack at the Chinese tourist market (Leung, 2005).

South Asia. Compared to the migration systems in East and South-East Asia, South Asia is largely a sending region, with the Middle East looming large as the primary destination of their nationals. Although South Asian governments are setting their sights in the East and South-East Asian labour market, the prospects are limited at this time. Taiwan Province of China, for example, deliberately limits the sending countries to ASEAN (and recently added Mongolia); the Republic of Korea, thus far, signed agreements with six countries. Malaysia may be a possibility given its intent to tap other labour sending countries – recently Pakistan inked an agreement to send workers to Malaysia.

Permanent migration and refugee migration

Permanent migration and refugee migration were also very much part of the region's migration experience since the 1970s. Although those are distinct migration regimes, recent developments point to some interface with labour migration (vis-à-vis permanent migration) and unauthorized migration (in relation to refugee migration).

Permanent migration

Permanent migration from Asia to the United States of America, Canada, Australia and New Zealand increased since the 1970s owing to the dismantling of immigration policies that used to favour people from European background. Immigration reforms in those countries enabled Asian immigrants to be admitted under the family, skills or humanitarian categories.

The increasing emphasis on the skills of immigrants suggests how permanent migration is increasingly turning into a means of boosting their human resources. In Australia, for example, immigrants selected on account of their skills increased from 29.2 per cent in 1995-1996 to 62.3 per cent in 2003-2004 of the total immigrant intake (Hugo, 2005:6). Australia also introduced the temporary work visa, the "biggest change in Australian immigration" (Hugo, 2005: 9) after five decades of emphasis on settlement migration, to increase its stock of skilled workforce. Another pathway to increase the pool of skilled workers is by offering permanent residence to foreign students who completed their training in the receiving countries (OECD, 2001:97). Although student migration is temporary, it is transforming into qualified labour migration and/or a precursor of subsequent

migrations, mainly of human resources in science and technology (OECD, 2001:93-95). Several countries in Asia and the Pacific are involved significantly in student migration. Eighty per cent of foreign students are concentrated in five countries, which include Australia, the United States of America, the United Kingdom of Great Britain and Northern Ireland, Germany and France (OECD, 2001:102). Asia-Pacific countries are important countries of origin of foreign students: three fourth of foreign students in Australia are from this region, as are two third and one third of foreign students in the United States and the United Kingdom, respectively (OECD, 2001:103). For countries of origin, the prospects of student migration turning into labour or permanent migration raises brain drain issues, which may offset potential contributions such as knowledge transfer and other benefits from this migration.

It may be recalled that in the 1970s, the permanent migration of the highly skilled and professionals has led to concerns over the brain drain for the countries of origin. This issue is likely to be revisited in view of the demand for more skilled workers in the more developed economies. However, the discussion will also be informed by the literature on transnationalism and current discussions suggesting the potential of migration to promote development (see for example, *APMJ*, 2005). Meanwhile, in the countries of settlement, there is a need to pay attention to accreditation and skills-recognition issues, which pose barriers to the labour force participation of professional immigrants. Those admitted under the skills category do not automatically practice their profession in the countries of destination owing to accreditation requirements (see for example, Boyd and Schellenberg, 2005). This leads to a "lose-lose" situation because countries of origin lose professionals (brain drain), countries of destination do not gain from the immigration of skilled people because of restrictions to practice their profession (unmet need) and immigrants are forced to work at jobs that are not at par with their training and experience (brain waste).

Refugee migration

In the 2000s, several refugee migrations that originated many years ago have yet to find durable solutions. The continuing saga of the Afghan refugee crisis started in 1979, when some six million fled Afghanistan following the Soviet military intervention (Castles and Miller, 2003:172-173). Those who fled to neighbouring Pakistan (3.3 million in 1990) and the Islamic Republic of Iran (3.1 million) (UNHCR, 2000: 119, as cited in Castles and Miller, 2003:173) were "stranded" in those countries as new conflicts, the rise and fall of the Taliban, drought, and the United States-led invasion in 2001 intervened, resulting in either fresh refugee outflows or stalling return migration. The UNHCR started a

repatriation programme covering the period March 2002 to March 2006. The UNHCR, the host Government (Pakistan and the Islamic Republic of Iran) and the Government of Afghanistan signed an agreement to facilitate the return of Afghan refugees. Other Western countries also implemented assisted return programmes to encourage return migration. The fragile peace and order situation in Afghanistan, the lack of jobs, the lack of basic services and the challenges of rebuilding a war-ravaged country do not encourage return, or staying for good for those who had returned. Over 2.3 million have returned to Afghanistan with UNHCR's assistance, but about three million have yet to make their journey home (*Asian Migration News,* 15 July 2005).

Also unresolved are the following cases: the 117,559 displaced persons from Myanmar who are living in camps along the Thailand-Myanmar border (Huguet and Punpuing, 2005:12),[17] the more than 100,000 Bhutanese still in refugee camps (some live outside of the camps) in Nepal and the more than 20,000 Rohingya Muslims in Bangladesh.

In the mid-1990s, citizens from the Democratic People's Republic of Korea (referred here to North Koreans for the purpose of this article) fleeing famine and repression in their homeland arrived in China. Estimates of those refugees in China range from 100,000 to 300,000 (Park, 2004:3). From 1999, an increasing number of North Koreans have managed to leave China (by first getting into foreign embassies) and thereafter finding refuge in the Republic of Korea.[18] China found itself in a dilemma because it is a signatory to the 1951 United Nations Convention on Refugees yet, it has ties with the Democratic People's Republic of Korea. For China, the North Koreans are not refugees; those who have been caught were reportedly repatriated and met harsh punishment or death.

Australia's handling of the refugees who arrived on its shores, transiting through Indonesia, brought to the fore the debates on refugee protection versus abuse of the system by unauthorized migrants, as well as smugglers and traffickers. The arrival of on-shore asylum seekers from the late 1990s – many of whom were Afghans and Iraqis – led to more stringent actions by Australia, which viewed the arrivals as economic migrants, abetted by money-making smugglers and traffickers. Australia turned away boats suspected of carrying unauthorized migrants; imposed mandatory detention for arrivals, including children, while their refugee status was under review; and introduced the Pacific solution. Despite criticisms, the Government of Australia stuck to the mandatory detention policy, arguing that this was an effective deterrent to the smuggling of migrants or queue-jumping asylum seekers. Australia also sought cooperation with sending or transit countries to curb those irregular practices. It actively participated in

regional discussions on unauthorized migration and trafficking, particularly the Bali Process.

The road ahead

The basic framework of migration policies in Asia hardly changed despite the continuing reliance on migrant workers in selected sectors of the labour market. The need for migrant workers has expanded to the highly skilled/professional workers. While receiving countries welcome the highly skilled and professional migrants, they continue to be restrictive towards the less skilled, maintaining a no-settlement policy towards them. On the part of countries of origin, governments are increasingly embracing labour migration as part of the national strategy for survival. With persisting economic-demographic differentials and the routinization of labour migration, we are looking at a future where migration will continue to matter. The interdependence and integration that this implies for countries of origin and destination require bilateral and/or multilateral approaches to migration.

The road towards more regional discussions of migration issues encountered a setback in the aftermath of 11 September 2001 (9/11). Concerns over international (borderless) terrorism led to policies that directly bear on migration: stricter immigration checks at entry and exit points, greater border surveillance, profiling, identity checks, exacting more penalties on immigration violators, more crackdowns versus unauthorized migrants and so forth. The discovery of the links between the Jemaah Islamiyah (JI) and the Al-Qaeda amplified apprehensions that terrorists are circulating in the region to launch more attacks. The bombings in Bali in October 2002 upped the ante on the anti-terrorism campaign that unfortunately implicated migrants.[19]

The thrust on national security has resulted in more investments on sophisticated technology in border surveillance, immigration and security checks, biometric passports, smart cards and the like. The emphasis on national security as part of the war against terrorism has incurred costs on the human security (or human rights) of migrants. Inviting the public to report on-line suspected irregular migrants, empowering community volunteers to arrest irregular migrants or prohibiting migrant workers from forming associations – all done in the name of national security – infringe on privacy, due process and the freedom to form associations. The climate, thus, has become more hostile to migrants, stoking perceptions of migrants as the dangerous "other". Asylum-seekers, for example, have been adversely affected by the association of migrants (particularly unauthorized migrants) with terrorism. Interestingly, while political and social

considerations are stacked against migrants, economic necessities dictate engaging migrant workers to sustain economic growth.

Many aspects about persisting and emerging trends of international migration have social implications. Two major themes are highlighted here: migrants' rights and the relationship between migration and development.

Migrants' rights

As noted earlier, migration policies in the region are strong on regulating migration, but relatively silent on the working and living conditions of migrant workers. This gap was highlighted in the Global Commission on International Migration regional hearing for Asia and the Pacific held in Manila from 17 to 19 May 2004: "Participants characterized the labour situation in many parts of Asia and the Pacific as one of 'benign neglect', where migrants often work in deregulated settings to the advantage of employers and host economies. *Under such conditions, protecting migrants is tenuous at best*".[20]

Civil society, migrants' NGOs, migrants' associations and international organizations have been working to address this "tenuous" situation. The way forward involves extending migration policies to workers' protection, guaranteeing basic conditions, notably, wages, working hours and days off, safety in the workplace, freedom to seek better wages/employers, and freedom to form associations. The various initiatives and processes aimed at multilateral frameworks for managing migration also need to be more explicit on the terms of managing migration – to what extent do discussions in those processes touch on (a) protecting migrants at all stages of the migration process, and (b) the role of different stakeholders in promoting not just safe and orderly migration, but also safe and orderly working and living conditions of migrants?

The conditions of migrant women in domestic work require particular attention and urgently demand that are ensured workers' protection in this sector. Domestic work is the biggest source of employment for migrant women and will continue to draw migrant women in search of employment. Good practices that promote better protection for migrant women must be shared and disseminated. A periodic report documenting good practices and cases of violations (similar in intent as the Trafficking in Persons Report, but to be made up by an international committee of evaluators) may be considered.

International instruments aimed at protecting migrants are premised on government-to-government arrangements, which have limited relevance in the Asian context where the migration industry is a major player. In relation to this, alternative arrangements or mechanisms must be explored to understand the

accountabilities as well as the contributions of other stakeholders (e.g., recruitment agencies/brokers, employers, NGOs, migrants' associations) in the promotion of migrants' rights. The role of migrants' associations in articulating the migrant sector cannot be overemphasized; their capabilities must be strengthened and their representation must be part of multilateral dialogue and processes.

Migration and development

The consensus among countries of origin to continue promoting labour migration and plans to send more skilled migrants in the future seem to suggest that a "culture of migration" and dependency on overseas employment have established a foothold in those societies. These policies have been in place for the past 30 years, and other than deployments, remittances and the generally beneficial impacts of overseas employment on families and households, there is not much evidence (or the evidence is mixed) on the development impacts of migration beyond the household level.

The growing literature on transnationalism and migration and development has developed based on the experiences of migrants in regions which offer the possibility of settlement. What is the relevance of transnationalism in the Asian context? How can a migration that is dominated mostly by less skilled workers foster development? Research on those questions would be instructive in clarifying the role of transnationalism and/or migration in contributing to development processes in local communities.

As suggested earlier, more developed economies will not only be drawing less skilled workers but also highly skilled and professional migrants from the less developing economies. This trajectory suggests the need for more dialogue between countries of origin and destination on such issues as ethical hiring practices, protection of migrants' rights, and cooperation to ensure that the development prospects of origin countries are not jeopardized.

Endnotes

1. An updated estimate of international migration by the end of 2005 puts the number at 185-192 million (United Nations, 2004, cited in IOM, 2005:1).

2. The United Nations Population Division defines Asia as including East Asia, South-Central Asia, South-East Asia and West Asia. The migrant stock estimates are based on census data classified by place of birth or citizenship; the migrant stock also includes refugees (United Nations, 2002:57).

3. The more popular term "illegal migration" is not accurate and tends to cast migrants as the sole violators, ignoring the role of other actors, such as employers, intermediaries and even States (particularly when state policies contribute to irregular migration). For this reason, the terms "irregular migration" or "unauthorized migration" are recommended (see Battistella and Asis, 2003: 11-13).

4. See http://www.smc.org.ph.

5. Labour migration in Asia is gendered, with male migrants responding to labour shortage in "public" sectors such as construction, manufacturing and agriculture/plantation and migrant women in care work (e.g., Asis, Huang and Yeoh, 2003).

6. Hugo (2002:2) points out that legal labour migration from Indonesia is largely unskilled and dominated by women.

7. A focus on the sex sector is likely to expose more women in unauthorized migration, particularly as trafficked persons. If other sectors were scrutinized as closely, perhaps other purposes of trafficking and more trafficked men would be uncovered.

8. Another highly feminized migration is marriage migration. In Japan; Taiwan Province of China (especially so) and the Republic of Korea, international marriages between local men and women from other Asian countries have increased alongside the increase in labour migration. As of 2004, foreign spouses – mostly women from China and South-East Asia – were estimated at 300,000, or about half of the total foreign population of Taiwan Province of China (Tsay, 2004). In Japan, as of 2002, the marriages contracted between Japanese men and other Asian women increased to 4.7 per cent of all registered marriages (Satake, 2004). The phenomenon is of local men marrying women from other Asian countries is more recent in the Republic of Korea, but it is growing (Lee, 2003). The use of marriage as a means to gain entry or to remain in a country, the trafficking of women disguised as brides (particularly where marriage brokers are involved), and the problems encountered by foreign brides (and foreign grooms in some cases) are some of the concerns that have accompanied such marriages.

9. In addition, countries like Australia; Singapore; Malaysia; China and Taiwan Province of China have programmes and policies to win back their overseas-based highly skilled/trained and professional nationals.

10. Lifestyle factors came out as one of the major reasons for the migration of the highly skilled to Australia (Khoo, Hugo and Voigt-Graf, 2005).

11. For example, the shortage of highly skilled workers in Australia is partly owing to the departure of highly skilled/trained Australians to other countries (Hugo, 2005).

12. Other types include those who use fraudulent documents or falsify information in their documents; those who left as tourists but later secured a work permit in the country of destination. The last example demonstrates the different perspectives of a sending country and a receiving country.

13. It is beyond this paper to cover the large body of work on trafficking, resulting from the international attention generated by the Trafficking Protocol (e.g., *International Migration*, 2005). In East and South-East Asia, there has been much more research, advocacy and regional discussion on trafficking; while those activities have drawn attention to trafficking, unauthorized migration and the problematic aspects of legal migration have been sidelined.

14. There are moves to amend Sec 2 (c) of the Migrant Workers and Overseas Filipinos Act in light of globalization. Part of Sec 2 (c) states that "… the State does not promote overseas employment as a means to sustain economic growth and achieve national development".

15. Viet Nam used to send workers to the former USSR and East Germany, but this was governed by a different framework.

16. In 2004, Japan introduced a policy requiring entertainers to have two years of training or experience in a specific field of the performing arts to screen out trafficking victims from authentic entertainers (*Asian Migration News*, 30 November 2004). For the first quarter of 2005, there were 17,213 workers deployed to Japan, compared with 18,465 for the same period the previous year (www.poea.gov.ph/docs/2005_1Qdeployment.xls, accessed on 5 August 2005). At least for the first quarter, the decline is not that substantial. Based on past patterns, more than 90 per cent of workers deployed to Japan are entertainers. In 2004, Japan dislodged Saudi Arabia as the top destination country of new hires - 71,166 were deployed to Japan compared to 58,363 to Saudi Arabia (POEA, n.d.).

17. The two other main groups which have sought refuge in Thailand are (a) UNHCR-recognized refugees and asylum seekers (n=4,605 as of 25 November 2004) and (b) some 15,000 Laotian Hmong, for whom a resettlement process to the United States started in 2004 (Huguet and Punpuing, 2005:10-13).

18. The number of North Koreans arriving in the Republic of Korea increased from 148 in 199 to 312 in 2000, 583 in 2001, 1,139 in 2002, and 1,281 in 2003 (Park, 2004:3). According to Park, North Koreans are considered citizens, not refugees, since North Korea is considered part of the territory of the Republic of Korea.

19. The war on terrorism has put migrants' lives on the line. In Iraq, several cases of hostage-taking and killings involved migrant workers.

20. Discussions pertaining to labour migration, such as the discussions on the GATS mode 4, are limited to the highly skilled and professional migrants.

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Migration Trends and Patterns in South Asia and Management Approaches and Initiatives

In today's highly mobile world, migration has become an increasingly complex area of governance, inextricably interlinked with other key policy areas including economic and social development, national security, human rights, public health regional stability and intercountry cooperation.

By Md. Shahidul Haque*

Migration[1] has always been a significant phenomenon across South Asia.[2] The historic ties that link the various populations across the region, accentuated by the modern day dynamics of migration have given rise to multiple forms of population movement ranging from voluntary to involuntary, internal to external, long-term to temporary.

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South Asia features prominently in the dynamics of migration in Asia. During the past half century, after the emergence of independent States in South Asia in 1947, about 30 million people have moved from one part to another part of the region to either avoid prosecution or meet basic needs (Ghosh, 2004). Asia's migrant stock stands at 49.7 million migrants, which is the second highest in the world after Europe (IOM, 2003). Out of the top 10 countries of emigration in the world, three are from South Asia; Afghanistan and Bangladesh (4.1 million each), and Sri Lanka (1.5 million) (IOM, 2003). The migrants from Bangladesh and Sri Lanka are mainly labour migrants while Afghanistan's outflow has largely been owing to the war. India and Pakistan are the sixth and tenth top countries hosting the largest number of migrants (IOM, 2005). It could be said that migration to India is particularly for economic reasons while migration to Pakistan is primarily because of the displacement from Afghanistan. This snapshot analysis highlights the complex dynamics and varied nature of migration in the region.

This paper attempts to look at some of the emerging trends of migration in the region. Availability of accurate and objective data on migration is limited, with no uniform method for data collection. Furthermore, irregular migration and trafficking are not included in comprehensive data collection, making it difficult to compare data from different countries. The paper also tries to discuss the migration policy framework existing in the region, highlighting both national arrangements and various regional initiatives in the management of population movement.

Historical background

Population movement has always been a part of life in South Asia. For hundreds of years, circular movements of people have taken place in South Asia primarily to diversify income sources beyond subsistence agriculture (ADB, 2003). The absence of a centralized bureaucratic administration determining citizenship or membership of ethnic groups during the pre-colonial period encouraged the free movement of people across the Indian subcontinent (Bose, Sugata, Jalal and Ayesha, 1998). The advent of colonial rule marked some changes in the migratory patterns as people from the Indian subcontinent became bonded or contracted labourers for the British. Many people from India were also transported to work in mines, plantations and households in North and South America, the Caribbean and South-East Asia subsequently becoming settlers in those colonies.

The independence and subsequent partition of the Indian subcontinent in 1947 resulted in bloody ethnic, religious and communal conflicts, leading to massive "partition migration". Approximately 35 to 40 million people moved across national boundaries of India, Pakistan, Sri Lanka, Nepal and what is known

today as Bangladesh (Weiner, 1993). The end of the British colonial period also saw many people migrating to European countries from South Asia. During the post Second World War period, many European countries experienced a labour shortage, especially in low-skilled industries and attracted labour migrants from former colonies including the Indian subcontinent to work in various industries (de Bruyn and Kuddus, 2005).

The emergence of nation-states in 1947 also resulted in the beginning of impositions of various procedures on people's mobility within South Asia for the first time. However, those could not altogether stop the flow of people within and outside the subcontinent. The "natural integrated labour market" of South Asia remained a major factor behind the fluid movement of people within the region.

Afghans have a long tradition of economic migration to neighbouring countries and the historical migration pattern of Afghanistan was significantly influenced by the silk route. Those historical ties have been altered during the period of civil unrest and war. The massive displacement saw the growth of the world's second largest refugee population and at the same time one of the largest diaspora communities (Jazayery, 2002). The history of the last 20 years has seen the emergence of new ties between Afghanistan and its neighbours, particularly the Islamic Republic of Iran and Pakistan, reinforcing the ethnic ties, traditional linkages and nomadic character existing in the region.

The oil boom in the 1970s marked a major historical change in the migration dynamics for the people of South Asia. With the large demand from the oil producing countries in the Middle East, mainly in the construction sector for less skilled workers, a large population from all the South Asian countries including Afghanistan migrated to the Middle East, for temporary contract work. Another significant change in trends of migration was the rapid economic growth and declining fertility in South-East Asia and the Far East in the mid 1980s, which led to a considerable rise in demand for migrant labour in the region, subsequently filled by South Asian migrants.

Influencing factors

The historical ties between the populations and the intricate interplay of various external and internal factors have shaped and reshaped the migration patterns. For centuries, people in South Asia have moved owing to economic difficulties, natural disasters, religious and ethnic conflicts, war and civil unrest. In recent times, globalization and growth in information and communication technology have further accelerated migration, adding new dynamics to the world of migration in South Asia. Today, factors such as economic imbalances, extreme

poverty, population growth, land scarcity, environmental degradation, social networks, long and porous international borders, global and regional employment opportunities, trade and migration policies, awareness and lack of it, continue to contribute to the increasing magnitude and varied forms of migration in the region. In many cases economic development has come at a cost of employment or livelihood opportunities for poor rural populations. Unregulated market forces, structural economic changes and government policies have destroyed many livelihoods forcing people to move from their homelands (Banerjee, 2002).

Concurrently, various pull factors in destination countries including expanding markets, labour shortfalls and ageing populations (IOM, 2005) also motivate people to migrate across borders. Better educational opportunities for migrants' children, access to specialized jobs, better health-care systems and wider opportunities for self-actualization (de Bruyn and Kuddus, 2005) are also among pull factors. In South Asia, a large number of people also migrate because of family reasons. The family relationship, kinship groups, informal social networks and extended family relations are important in the migration decision-making process. In the region, migration is not just an individual choice, but a choice that takes place within a household and in some cases within the community, which seeks to minimize risks and improve conditions.

However, economic and social conditions continue to be the major reasons behind population movements in South Asia. With 40 per cent of the world's poor, South Asia remains among the poorest regions of the world. According to the World Bank, 45 per cent of the population lives below the international poverty line of one dollar a day. From time to time, conflicts have also shaped the migration scenario in South Asia. War, political conflict and unrest in Afghanistan, Nepal, Sri Lanka have resulted in widespread population movements, resulting in large numbers of refugees, internally displaced persons and irregular migrants.

Migration patterns and trends

People from all socio-economic backgrounds migrate, giving rise to varied trends and patterns. Those trends also continue to evolve and change over time owing to changing circumstances and life experiences. In line with the global trends, the traditional picture of the single male economic migration in South Asia has been fundamentally changed with more and more women migrating autonomously as individual agents. While short-term international migration does not involve the whole family, long-term permanent migrants are mostly family migration. Destinations for South Asian migrants also vary depending on the duration of stay, with long-term migrants migrating to industrial countries in

Europe and North and South America, and short-term contract migrants working primarily in the Middle East or South-East Asia.

In general, international migrants are not the poorest section of the population, as it is difficult to bear the cost of overseas migration. Internal migrants are from a poorer section than international migrants as they cannot afford the cost of international migration. As in other regions, involuntary migration or displacement in South Asia is mostly family displacement. Although men, women and children are trafficked, trafficking in women and children is more common than that of men, as women and children are more vulnerable.

Those general understandings however should not oversimplify the complexities of migration in the region. The ambiguity and confusion surrounding migrant, trafficked and refugee populations often hinder attempts to analyse the migration trends and patterns of various types of population movements in South Asia. The following description of categories aims to provide an overview in the context of a "mixed flow", rather than a rigorous categorization.

Internal migration:

In South Asia, internal migration flows are considered to be significantly larger than international migration (Deshingkar, 2005). The internal migration of people within the country's border is of four types; rural-to-rural migration, rural-to-urban migration, urban-to-urban migration and urban-to-rural migration.

In Bangladesh, nearly two thirds of migrations from rural areas were to urban areas. Rural-to-rural migration was 10 per cent compared to the overseas migration of 24 per cent; estimates indicating a 6.3 per cent annual increase in the migration to the capital Dhaka (Deshingkar, 2005). Two thirds of the urban growth since independence in 1979 could be attributed to internal migration, with 25 per cent of the population living in urban areas in 2000; up from 6.2 per cent in 1965 and 9.9 per cent in 1975 (Afsar, 2003).

In India, an estimated 20 million people annually migrate temporarily (Deshingkar, 2005). During the 1999-2000 period, internal migration dominated over all other forms of movement and accounted for about 62 per cent of all movements (Afsar, 2003). During the same period, rural-to-urban and urban to urban migration stood at 24.5 and 24.4 per cent respectively (Skeldon, 2003).

According to the 2001 census in Nepal, the total number of internal migrants stood at 2,929,062 constituting 13.2 per cent of the population (KC, 2003). This shows an increase from 9.6 per cent reported in 1991. Out of the total internal migration, 68.2 per cent was rural-to-rural with people moving to agriculture

sustainable areas, rural-to-urban migration accounting for 25.5 per cent (KC, 2003). Internal migration in Nepal is also heavily influenced by the Maoist insurgency.

The current urban growth rate is double that of the population growth rate in Pakistan. According to a 1998 Population Census, rural-to-urban migrants accounted for 8.2 per cent of the total population (Menon, 2005). One major characteristic of internal migration in the county is the significant movements related to marriage and family (Gazdar, 2003). Economic migrants account for 20 per cent of the total migrants (Menon, 2005).

According to the 1994 Demographic Survey[3] in Sri Lanka, 14.45 per cent of the population migrated internally. This figure shows an increase from the 1981 Census figures of 13.5 per cent. The high proportion of female migration, both internal and overseas, is a major characteristic in Sri Lanka. In 1994, 13.3 per cent (down from 13.8 per cent in 1981) of the male population were migrants compared to 15.6 per cent of the female population (up from 12.5 in 1981) (Ukwatta, 2005).

In Afghanistan, some recent studies have suggested a growing increase in internal migration for economic purposes. Approximately 22 per cent of rural households in Afghanistan have at least one member who has migrated over the past five years (Opel, 2005). In a recent survey in three major cities; Kabul, Herat and Jalalabad, it was found that out of the sample size of 997, nearly half had migrated within the last year from a rural area and most of them were either planning to (nearly 50 per cent) or had already settled (13.4 per cent) in urban areas (Opel, 2005).

Internal migration is South Asia could be long-term or permanent. The seasonal migration prevalent in South Asia is circular in nature with agricultural labour migrants migrating from rural-to-rural and urban-to-rural areas, as well as across-borders during harvest seasons.

International migration

Three major types of voluntary international migration could be identified in South Asia, namely the movement of emigrants as settlers to Europe, Australia or North America (long-term permanent settlers); the movement of contract labour migrants to the countries of the Middle East, South-East Asia and elsewhere (temporary migrant workers); and the intra-regional short-term movement of people within the South Asian region (seasonal economic migrants) (Skeldon, 2003).

Data for labour migration in Bangladesh suggest that from 1991-2000, on average more than 250,000 Bangladeshis left the country each year to take up overseas employment. However, it is believed that the actual number is far higher than the official figure. The major destination for Bangladeshi labour migrants is the Middle East and Malaysia. According to a rough estimate, 1.05 million Bangladeshis are living abroad permanently either as citizens or with other valid documents (Siddiqui, 2004). This Bangladeshi diaspora is spread mostly in the United Kingdom of Great Britain and Northern Ireland, the United States of America, Europe, South Africa, Canada and Australia.

It is estimated that there are around 20 million Indians throughout the world, comprising one of the largest diaspora communities. India also has a large number of its citizens working abroad as short-term contract labourers. In 2002, the number of contractual labourers from India was 0.37 million which is lower than 1993 when it was 0.44 million. The major destination for Indian contractual labour is the Middle East (75 per cent) (Rajan, 2003).

According to the 2001 census data, 762,181 emigrants were recorded in Nepal representing 3.4 per cent of the population. Most Nepalese migrate to India as they have historical links and an open border between the two countries. In the 2001 data, it was noticed that only 68 per cent migrated to India, which is a considerable decrease from 89.2 per cent in 1991 (Government of Nepal, 2003). Nepalese migrants were bound towards new destinations – Saudi Arabia (8.9 per cent); Qatar (3.2 per cent); United Arab Emirates (1.7 per cent); Hong Kong, China (1.6 per cent) and North America (1.3 per cent). The data also indicated that 53.2 per cent were absent for 1-5 years representing temporary migrant workers and another 15 per cent were absent for 5-10 years – this group can be considered as permanent settlers abroad. Nepal also hosts a large number of immigrants (KC, 2003). In 2001, the immigrant population (in-migration) consisted of 2.7 per cent of the total population (KC, 2003).

Pakistan has a large flow of international migrants. Many migrant workers take up employment opportunities in the Gulf States. It was estimated that by 1980, as many as 2 million Pakistanis had been employed in the Gulf States (Gazdar, 2003). Estimated labour migration outflow in 1997 was 153,929 (Skeldon, 2003). Pakistan has a significant diaspora population: an estimated 2 to 3 million people of Pakistani origin are living in developed countries (Gazdar, 2003).

In Sri Lanka, data from 1998 showed that 158,287 migrants left Sri Lanka, of which 66.5 per cent were women. Most of the migrants migrate to the Middle East. The other destinations include Lebanon, the Libyan Arab Jamahiriyah, Jordan, and

Cyprus. A smaller number go to East Asian countries such as Singapore; Hong Kong, China and Malaysia (IOM- INSTRAW, 2000).

For Afghanistan, the focus of data collection has been mostly on displacement issues and there has so far been almost no work done on the scope and nature of Afghan migration dynamics. However, most Afghan migration to neighbouring countries is economically motivated (Afghanistan Research and Evaluation Unit, 2004). The Afghan diaspora worldwide consists of some one million persons (IOM, 2004a). Afghanistan also hosts migrants from Pakistan, most of whom are semi-skilled, as there is a need for skilled labours (IOM, 2004a). There is also information on Afghans working in the Middle East as labour migrants, but no reliable data on this type of migration is available.

Migration for higher education is also a major issue in South Asia. Though students from all over South Asia are studying abroad, India saw the maximum growth in 2002-2003 with an increase of 11.6 per cent and is second only to China in terms of proportion of the international student population (IOM, 2005).

Irregular migration

Alongside regular migration, irregular movement of people is also significant and a grave concern for the countries in South Asia. In the absence of arrangements for regular temporary migration to address the labour demands, seasonal migration from one country to another, particularly during harvesting seasons and to work in the informal sector, has been a long-standing practice. During the past two decades, there has been an alarming growth of irregular migration in the South Asian countries.

Trafficking in persons

In South Asia, human trafficking is a major and often unreported problem. Although it is estimated that there is considerable trafficking in the region, exact numbers are difficult to obtain (IOM, 2005). All countries in the region feature as origin, destination or transit countries for trafficking victims. Afghanistan, Bangladesh and Nepal are the main countries of origin for trafficked people, while India and Pakistan are considered countries of destination and transit to other regions, commonly the Gulf States or Europe. A small number of women and girls are transited through Bangladesh from Myanmar and Nepal to India and other countries. Women and children are targeted mostly as a vulnerable group. They are trafficked for the purposes of sexual exploitation, domestic servitude, forced marriage and bonded labour. Young boys have also been trafficked to the United Arab Emirates and Qatar and forced to work as camel jockeys and beggars.[4]

Trafficking for the purpose of commercial sex work is a major problem in Nepal. The main source is the impoverished regions of Nepal and the street children. An ongoing Maoist insurgency in Nepal has used violence to wrest control of remote areas from the Government; many trafficking victims originating from those areas. In Bangladesh, the major origin areas are in the impoverished north of the country. It is also reported that Burmese women and children are trafficked through Bangladesh. The restriction on the movement of women for regular migration both in Nepal and in Bangladesh also creates additional vulnerabilities towards trafficking of women in the country. Though most women are trafficked to India, given the widespread demand for trafficked labour, many are transited from India to destinations in the Middle East.

The general impoverishment of refugees, internally displaced persons and other communities all over Afghanistan makes it a major source area for traffickers. Though decades of conflict have made it difficult to come by any data, reported trafficking trends within Afghanistan include abduction of women and girls for forced marriage, forced marriage for debt release, the exchange of women and girls (for forced marriage) to settle disputes or cease blood feuds, and the abduction of persons, including boys, for sexual and domestic servitude.

Sri Lanka is a country of origin and destination for trafficked persons. Commercial sexual exploitation of children is a major concern. Young boys are exploited domestically, often in tourist areas, whereas young girls are lured by promises of job opportunities or overseas travel. Given that most of the migrants from Sri Lanka are female, many find themselves in situations of coerced labour, slave-like conditions, or sexual exploitation in destination countries.

Pakistan is a country of origin, transit and destination for trafficked women and children. Internal trafficking of women and girls from rural areas to cities for purposes of sexual exploitation and labour is also noticeable. Pakistan has also been a source country for young boys trafficked to the Middle East as camel jockeys. Some Pakistani men and women travel to the Middle East in search of work and are put into situations of coerced labour and physical abuse. Pakistan is also a destination for women and children trafficked from Bangladesh, Myanmar, Afghanistan and Central Asia for purposes of commercial sexual and other labour exploitation.

India is a country of origin, transit and destination for thousands of trafficked men, women and children. Internal trafficking of women, men and children for purposes of sexual exploitation, domestic servitude, bonded labour is also prevalent. Indian women in particular are put into situations of coerced labour and sometimes exploitative conditions in countries in the Middle East and the West.

Bangladeshi and Nepalese women and children are trafficked to India or transited through India en route to Pakistan and the Middle East for purposes of sexual exploitation, domestic servitude and forced labour.

Forced migration/ displacement

In South Asia, people are also forced to migrate, both internally and across borders because of conflicts and natural disasters such as floods, cyclones, earthquakes, riverbank erosion, tornadoes and deforestation.

Natural disaster induced displacement is a major issue in South Asia. Floods, earthquakes, cyclones and the recent tsunami have resulted in massive displacements. Chronic flooding in Bangladesh causes major displacement of people on a regular basis. The floods in 2004 resulted in one million people being displaced temporarily or permanently (United Nations Flash Appeal for Bangladesh, 2004). More severe floods in 1988 and 1998 left 30 to 45 million people homeless and displaced (Hossain, 2004). More recently, the tsunami displaced tens of thousands in Sri Lanka and India. Estimates of people displaced in Sri Lanka range from 553,000 to 1 million (Global IDP Project, 2005a). Apart from the displacement owing to those natural disasters, there are other natural calamities that result in displacement. In Bangladesh, about 64,000 people are displaced by riverbank erosion every year. It is estimated that 70 per cent of the total slum dwellers in Dhaka, are internally displaced persons owing to riverbank erosion (IOM, 2005). Displacement owing to development projects is also observed in many parts of South Asia. Irrigation related migration has a long history particularly in Pakistan. (Gazdar, 2003).

Displacement owing to conflicts is another major issue in South Asia. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), at the end of 2003, some 164,567 refugees were living in India. Most of them came from China, Sri Lanka and Afghanistan. India also saw some major displacements within the country with more than 500,000 people internally displaced including 157,000 in North-East India (UNHCR, 2001).

The situation in Bhutan has resulted in the displacement of Nepalese-speaking Bhutanese during the 1990s. More than 103,000 Bhutanese refugees are living in different camps of eastern Nepal as of 2003. Nepal also hosts 20,000 Tibetan refugees according to the UNHCR. The maoist insurgence in Nepal has also displaced many Nepalese. According to the Global IDP Project, there is no way of determining the exact numbers of internally displaced persons (IDP), but realistic estimations put the figure at between 100,000 and 200,000 (Global IDP Project, 2005b).

The main cause of displacement in Sri Lanka is the armed conflict between the LTTE (The Liberation Tigers of Tamil Eelam) and government forces. Other reported war-related causes of displacement include forced recruitment by the LTTE, human rights abuse by both sides and inter-communal violence in the East (Global IDP Project, 2000). Since an armed campaign for an independent Tamil State began in 1983 there have been repeated and massive displacements of civilians resulting in 732,000 IDPs and 84,000 refugees at the end of 2002 (UNHCR, 2004).

The conflict in Afghanistan resulted in refugee influx to Pakistan and the Islamic Republic of Iran. In 2000-2001 the number of refugees and IDPs was in excess of 6 million (Jazayery, 2002). Most of the refugees went to Pakistan and Islamic Republic of Iran. According to the UNHCR, Pakistan hosted 2.2 million Afghan refugees at the end of 2002, making Pakistan the host to one of the largest refugee populations in the world. UNHCR's estimates of major origin countries put Afghanistan at the top of the list. It is estimated that one in every three Afghans has either been a refugee or an IDP (IOM, 2004a). More than half of the refugee population has now returned to Afghanistan, with return figures reaching 3.5 million. However, it is predicted that not all will return. Almost two decades of residing in the neighbouring countries has meant that Afghan refugees have developed social, economic and cultural ties with the host countries (IOM, 2004a).

Asylum seekers are another group of people on the move. According to the UNHCR in 2003, 13,820 Afghans, 13,553 Indians, 5,183 Sri Lankans and 5,083 Bangladeshis claimed asylum outside Asia. However, asylum requests from Afghan nationals have decreased almost to half in recent years.

Emerging key trends

In general, most migrants from South Asia are semi-skilled and less skilled. However, there are also differences in migration trends among the South Asian countries. Over the years, the migration of more skilled workers from Bangladesh to the Middle East seems to have declined, while the movement of the less skilled workers has increased. The opposite appears to have occurred in the case of India.

Another feature of the migration processes in South Asia is the emergence of the recruiting industry, in the late 1970s and 1980s. During the initial phase of the early 1970s, recruitment was mostly dealt by the States. Presently, over 90 per cent of the recruitment in India, Pakistan, Sri Lanka and Bangladesh is carried out by private recruitment agencies. Recruiting agencies usually function with a license from the Government of the labour origin countries to develop employment opportunities and facilitate placement of migrant workers abroad. Regulatory

policies for the recruitment industries are also characteristics of migration management in South Asia.

The feminization of migration is another major trend of migration in South Asia. Over the last decade, more and more women have been going abroad independently. A majority go to work as domestic workers in the Middle East and Europe. A large portion of them are employed in the informal sector, especially domestic work in South-East Asia, the Far East and Middle East. This is spurred by the increased demand for domestic help owing to declining and ageing populations, and increased participation of women in the economy. The United Arab Emirates, Kuwait, Malaysia, Bahrain, the Maldives and Oman are the major destinations for female workers. It was estimated that about 1 million to 1.7 million women were working as domestic workers in Asia and the Middle East in the early 1990s. The figure is now much higher. The number of female domestic workers has increased almost 11 times over 25 years, while it is about six times in the case of male workers over a 20 year period (Haque, 2002).

The trend in migration of women varies across the region. The proportion of women migrants is quite low in Bangladesh, while the proportion of women migrants from Sri Lanka increased from 33 per cent to 65 per cent between 1988 and 1999 (Ukwatta, 2005). However, actual figures for female migrants cannot be determined as many women have migrated using irregular means due to the restrictions in place in many countries such as Bangladesh, Nepal (until recently) and Pakistan. A recent study estimated the total number of female migrants from Bangladesh to be 437,000 (Blanchet and others, 2005); a figure significantly higher than the official records which indicate that between 1991-1995, 13,049 women migrated from Bangladesh (IOM-INSTRAW, 2000). The measures to restrict women's migration that were put in place in the 1980s were justified on the grounds of protecting the dignity of women abroad. However, those policies have not stopped movements but have instead led to many women moving under irregular conditions and thus becoming extremely vulnerable to abuse and exploitation.

With trafficking and smuggling in persons becoming an increasingly significant problem in the region, the policies have been reviewed and some barriers to migration relaxed. For example, the Government of Bangladesh has recently relaxed the ban on migration by less skilled women above the age of 35 years and married accompanied by husband. Nepal also lifted its ban in 2003. Pakistan does not encourage women migration. Only 0.04 per cent of total migrant workers in Pakistan are women. Pakistan does not permit the migration of women under 45 years as domestic helpers (IOM, 2004b).

Migration of highly skilled is another type of migration that has increased in recent years along with the increase in investments in products and services related to information technology (IT). Indian IT professionals dominate this category of migration. The Government of India has created the Ministry of Information Technology recognizing the importance and potential of migration of IT professionals. The Ministry plays an important part in the organization of this type of migration.

Circular migration is also gaining importance in South Asia. With large diaspora communities living in developed countries, the origin countries (namely India) are developing policies to direct diaspora investments. Many migrants return to their country and utilize their newly developed skills. The many large-scale investments and involvement of highly skilled workers in sectors like education is an example of this return. The Afghan diaspora living in Europe, North America and Australia, are also contributing to the rebuilding of Afghanistan. The Government of Afghanistan is continuing its efforts to support the return of qualified Afghans. Many Afghans living abroad are also participating in the Afghan reconstruction and development process in various ways. Return of migrants in other South Asian countries is also noticeable.

General impacts of migration on origin countries

Like other regions, the most important economic impact of migration in South Asia is in terms of remittances. Though figures are hard to determine, remittances from both international and internal migration are significant in the region. Out of the estimated annual figure for world-wide international remittance flows of US$ 100 billion, about 20 per cent flows into South Asia. India accounts for 78 per cent, making it the world's largest remittance recipient country (Kuddus, 2003). According to the Ministry of Overseas Indians, the remittance figures for India during the 2004-2005 period was 20.4 billion.[5] Bangladesh accounts for 12 per cent of the remittances flowing into the South Asian region – some 2 per cent of the global remittance flow. In Nepal, the amount of remittances sent through official channels during 2003 reached 54 million, amounting to 12.4 per cent of the GDP.[6] Pakistan and Sri Lanka receive 2.1 and 1.1 per cent of the total global remittance flow, respectively. Remittances sent by Afghans working in neighbouring countries, the Gulf States and other countries in the world constitute an important resource for many Afghan families, possibly amounting to hundreds of millions of US dollars annually (IOM, 2004a). The flow of internal remittances is hard to estimate though the impact is believed to be significant.

The major impact of remittances in the origin areas is the changes in pattern of household expenditure, improved living conditions, social security and improved education and health care. It is also an important source of foreign currency for many countries. However, the inflow of remittances is not the only significant impact. Migration, internal alike external, is a major livelihood option. Return migration and remittances also create additional employment opportunities in the origin countries. For destination countries in South Asia, migration meets the demand for labour that is not available in the local markets.

Migration also has major social impacts. The new skills and knowledge transfer of migrants significantly contribute to the development of the origin countries. Migration, owing to the effect on gender relations, is impacting the social structure of the society. Altogether, by offering people an option to improve their living conditions, migration is fundamentally affecting the social structure of South Asian societies. Migrants also bring about progressive changes in the community, both in origin and destination countries.

In relation to the impact of migration, there is also a debate among the development practitioners as to whether migration reduces the country's skilled workforce thereby creating a brain drain and having a negative effect on the development process. By contrast, there are those who believe in brain gain through brain circulation. The brain drain situation is not as grave an issue for South Asia as for some countries in Africa.

The regressive impacts of human trafficking are considerable in the region. There is little or no research undertaken in this area. Economic losses to communities and governments resulting from trafficking are enormous if considered in terms of lost returns on human or social capital investments. The cost of countering the crime, the loss of potential income of trafficked labour lost in hidden sectors (for example, the commercial sex industry), the loss of income from the trafficked labour diverted out of the formal economy and the cost of social integration of trafficked persons are some of the other areas of adverse impact on the society and economy.

There are controversial aspects, however, to the social aspects of trafficking. For many women, trafficking despite causing harm also provides opportunities for women to remove themselves from otherwise oppressive circumstances (ADB, 2003). By contrast, integration of trafficked survivors can be difficult as traditional communities do not accept women whom they consider as "spoiled" (the common belief being that "all" women having been trafficked into prostitution are thereby spoiled). Trafficked persons often experience physical and psychological health problems – psychological stresses can lead to trauma, depression and in some cases

suicide (ADB, 2003). Many trafficked persons die in the trafficked situation and many suffer from physical impairment. Women and children trafficked in the commercial sex sector also face higher risk of contracting sexually transmitted diseases (STDs), HIV/AIDS, tuberculosis and other diseases.

Existing and evolving migration management initiatives

In South Asia, most policies regarding the movement of people are ad hoc in nature and related mostly to the temporary international labour migration. There is no comprehensive policy to manage migration – within the countries or on a regional basis. However, the South Asian countries are now placing greater emphasis on addressing irregular migration, particularly trafficking in persons which emerge as an important issue. Nevertheless, larger migration matters remain a relatively less important policy issue in most South Asian countries. At the regional level, South Asia lacks regional initiatives in managing migration; it is one of the few major geographic areas that do not have any exclusive regional initiative in place for managing migration in a comprehensive and coordinated manner.

In Bangladesh, the Government has been relatively proactive in consulting and collaborating with foreign governments and major employers to ensure foreign employment for its population (Waddington, 2003). The Government has set up a separate ministry to deal with overseas contract labourers and the diaspora community. Though the private recruiting agencies deal with more than 90 per cent of the labour migration, the Government has laid down regulatory legislation in this regard as part of the Emigration Ordinance of 1982. The Government is also currently drafting an "Overseas Employment Policy". In relation to trafficking in persons, several national laws including the Penal Code of 1860, the Suppression of Immoral Traffic Act of 1933, the Children (Pledging of Labour) Act of 1933, and the Children's Act of 1974 can be invoked in prosecution of trafficking. Recently, the Women and Children Repression Prevention Act of 2000 has established extremely severe penalties for a number of offences against women and children, including trafficking. The Government of Bangladesh is currently drafting a "National Anti-Trafficking Strategic Plan of Action" to curb trafficking in a coordinated and integrated manner.

In India, private recruiting agents for labour migration operate within the State's determined structure. Though the Government is interested in putting in place effective migration management policies, the Emigration Act of 1983 remains the only policy overseeing foreign employment. However, India also saw the setting up of a new Ministry for Overseas Indians. Other ministries are also

playing a role. For example, with the increasing interest in highly skilled migrants, the Ministry of Information Technology is playing a major role. In relation to trafficking, national legislations include the Indian Penal Code of 1860, the Child Marriage Restraint Act of 1929, the Child Labour (Prohibition and Regulation) Act of 1986, the Bonded Labour System (Abolition) Act of 1976, etc. The main legislative tool for combating trafficking in persons in India is the Immoral Traffic (Prevention) Act of 1956 (ITPA), which was last amended in 1986. India also has a National Plan of Action to counter trafficking. India has in place a law to determine internal migration that takes place across state borders through middlemen, Inter State Migrant Workmen (Regulation and Conditions of Service) Act, 1979.

Pakistan's labour migration is also regulated by the State. The Bureau of Emigration and Overseas Employment, established under the Ministry of Labour in 1971, works through labour attachés in the Middle East and a network of 500 private licensed agents to facilitate labour migration (Waddington, 2003). In terms of policies, the Emigration Ordinance of 1979 is a guiding legislation in managing migration. Recently, Pakistan has enacted an anti-trafficking law and set up a permanent committee in the Ministry of Interior to combat trafficking in persons.

In Sri Lanka, the Bureau of Foreign Employment (SLBFE), established in 1985 is the main institutional set up for the management of foreign employment. The main objective of the SLBFE is the promotion of foreign employment, sound management of foreign employment and ensuring the welfare and security of migrant employees and their families (IOM, 2004b). The Penal Code of 1996 in Sri Lanka is the main legal instrument to punish trafficking related crimes, while the Sri Lanka Bureau of Employment Act No. 21 of 1985 is the major migration legislation.

Population movements in Nepal are dealt with by the Ministry of Population and Development, the Ministry of Labour and Transportation being the lead agency in dealing with labour migration. Although no policy has yet been taken by the Government to deal with migration, in the Ninth Plan, the importance of the study of international migration, policy discussion and policy formulation to regulate international migration have been recognized. Nepal has no policy regarding contract labour migration. The *Muluki Ain* (Code of Law) of 1964 provided the original basis for prosecuting human traffickers (ADB, 2002). Other laws relevant to trafficking include the Labour Act of 1992, the Children's Act of 1992, the Labour Act and the Children's Act, the Child Labour (Prohibition and Regularisation) Act, the Foreign Employment Act of 1985, etc. The border between Nepal and India remains open, guided by the provisions mentioned in the Nepal-India Treaty of 1950.

More than two decades of conflict have prevented Afghanistan from establishing governmental structures, policies and framework for managing migration. In the recent past, the migration dynamics of Afghanistan have been dominated by the largest and most long-standing refugee displacement crisis in the world (IOM, 2004a). With the changing scenario of refugees returning to their homeland and the low opportunities in economic engagement, Afghans are increasingly seeking jobs abroad. To assist the Government with managing mobility in a comprehensive manner, beyond the refugee population and following the phasing out of the tripartite agreements with Pakistan and the Islamic Republic of Iran, IOM has initiated a trilateral dialogue among Afghanistan, Pakistan and the Islamic Republic of Iran to evolve as a subregional migration management system.

Although there are no exclusive regional frameworks or initiatives like in many other regions for migration management addressing the South Asian region, some progress has been made to establish a regional initiative in the area of human trafficking. A Convention on Preventing and Combating Trafficking in Women and Children for Prostitution was adopted by the South Asian Association for Regional Cooperation (SAARC) in January 2002. However, the Convention is yet to come into force. The countries in the region are also part of some larger regional consultative processes. In 2003, ten Asian labour migrant origin countries including Bangladesh, India, Nepal, Pakistan and Sri Lanka from South Asia have jointly launched a consultative process to manage labour migration known as the "Colombo Process". Afghanistan has also attended the last meeting in Manila as an observer. In addition, the countries in the region have been participating in the Inter-Governmental Asia-Pacific Consultations on Refugees and Displaced persons, the Berne Initiative and the Bali Process.

At the international level, South Asian countries have actively participated in United Nations meetings, IOM meetings and recently in the Global Commission on International Migration. None of the South Asian countries except for Sri Lanka have ratified the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. None of the seven countries of South Asia has ratified the 1951 Refugee Convention. In the area of trafficking and irregular migration, the countries have ratified or acceded to a number of human rights treaties that explicitly or implicitly address trafficking in persons (ADB, 2002). Some countries are party to the 1949 Trafficking Convention and the 1956 Supplemental Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (the 1956 Slavery Convention). There are also some human rights conventions that contain a number of relevant

provisions pertaining to counter-trafficking. Those conventions include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of the Child (CRC). The CRC has recently been supplemented by an Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, which Bangladesh has ratified and Nepal has signed. The United Nations Convention Against Transnational Organized Crime and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are some other important Conventions.[7]

The policy and administrative frameworks existing for managing migration in South Asia have certain limitations, particularly as they do not address all forms of population movement in a coordinated and integrated manner. There also remains a gap in harmonizing national policy instruments with regional and international instruments. Another important issue to be highlighted is the lack of proper and effective implementation of the various instruments and obligations.

As in other regions, one of the best ways to manage migration in South Asia is to deal with the issue within a broader migration management framework, bringing in all different types of population movements. There is also the need to manage migration in collaboration with other countries within a regional framework. Measures may be taken to regularize labour migration within and outside the region and reduce the causes of trafficking in persons or smuggling in migrants. Policies aiming at limiting migration by one country could lead to an increase of irregular migration and trafficking in persons in another. A naturally occurring integrated labour market cannot be managed by restrictive migration policy or unrealistically tougher border controls.

Conclusion

In today's highly mobile world, migration has become an increasingly complex area of governance, inextricably interlinked with other key policy areas including economic and social development, national security, human rights, public health, regional stability and intercountry cooperation. Managing migration either at the national or regional level is a complex and multifaceted endeavour. Internal and international migration, as well as regular, irregular and forced migration pose critical management challenges to the South Asian countries. It is increasingly clear that there is a need for collaborative and comprehensive initiatives in managing mobility in the region, if migration is to be beneficial both for migrants and countries. The national level policy may integrate all types of population movements, regular and irregular in a coherent manner and in harmony with the development process of the country. The South Asian countries may

consider adopting an appropriate, balanced and integrated national migration management policy supported by a conducive and productive regional migration framework.

Acknowledgement

Endnotes

1. In this paper, migration refers to voluntary and involuntary movement of people within and across borders.

2. South Asia refers to Bangladesh, Bhutan, India, Nepal, Pakistan, Sri Lanka and Afghanistan. Owing to the lack of information and data, Maldives is not included.

3. Excluding the districts of Northern and Eastern provinces.

4. For details on figures on trafficking in South Asia, please see "Treading Along a Treacherous Trail: Research on Trafficking in Persons in South Asia" by A.K.M. Masud Ali, presented at the International Expert Meeting organized by IOM.

5. According to a statement by Mr. Mahesh Chandra Arora, Deputy Secretary, Ministry of Overseas Indians during the Regional Seminar on the Social Implications of International Migration organized by ESCAP and held from 24 to 26 August 2005.

6. Preliminary draft of a World Bank report.

7. The list of conventions mentioned in this paper is not exhaustive.

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Social Issues in the Management of Labour Migration in Asia and the Pacific

Labour migration is a fast growing phenomenon which is likely to gain force in the future because of widening income disparities, declining work forces in the more developed regions, and changing values and attitudes to work.

By Manolo I. Abella*

Any discussion of the mobility of labour across borders in a region as huge and complex as Asia is bound to do no more than provide a sketch of a few idiosyncrasies and peculiarities. With a combined population of 3.6 billion, the Asian and Pacific region accounts for almost three fifths of the world's total population. The region's land mass and innumerable islands have been partitioned into over 50 independent States, dividing people usually along lines of ethnicity, common language, religion and shared recent history. Each one is pursuing independent national policies for political and economic development with varying

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success, creating in the process differentials in standards of living within and between States that often drive people to move. Those differentials have been magnified by the forces of globalization which have spurred the economies of the region, but favouring the open and politically-stable countries more than others.

This paper focuses on one aspect of this large phenomenon by reviewing the approaches adopted by States to manage labour migration. Although there remains some significant movements of asylum-seekers and refugees in parts of Asia, it is the growing mobility of people responding to differences in economic opportunities that has been the dominant theme of contemporary debate on migration in the region. This paper looks particularly at how Asian States have fared in their efforts to regulate migration flows, the consequences of their policies on the treatment of migrant workers, and the issues modernizing States face in seeking to build a sustainable and mutually beneficial migration regime in the region.

Dimensions of labour migration in Asia

Over the past two decades the gross emigration of labour rose at an annual rate of 6 per cent for the Asian region as a whole. This would make the migration growth over two times faster, on the average, than the growth of the labour force of the origin countries. Asia itself absorbed a large and increasing proportion of the 2.6 million Asian workers estimated to have left their homes annually between 1995 and 2000. Some 1.4 million migrant workers headed for Japan; Taiwan Province of China; the Republic of Korea; Hong Kong, China; Singapore; and Malaysia. Thailand's long land frontiers became more active migration fronts, so that by the end of 1998, there were an estimated 897,000 Burmese, Laotians and Cambodians in an irregular status in the country (Huguet and Punpuing, 2005).

The ILO estimated that by around 2000 there were some 22.1 million migrant workers in Asia plus another 2.9 million in Oceania.[1] Although they represent a tiny fraction of the total work force in the region, migrant workers are a very significant percentage in certain countries. In Singapore, foreign workers represent about 30 per cent of the labour force (OECD, 2001). In Kuwait, there were four times more foreign workers than native workers and in Bahrain there were almost three foreign workers for every two native workers (United Nations, 2003).

Towards the end of the 1980s, over 800,000 workers from South and East Asia found their way each year to Saudi Arabia, Kuwait and the other Gulf States (Abella, 1995). By 1990 there were some 5.5 to 6 million foreign workers in that region, some 3 million of whom came from Asian countries.

In East Asia, migrant workers represented only about 4.2 per cent of the aggregate labour force of the subregion but migration appears to have become a structural feature of those economies. The migrant worker population in each country rose rapidly during a period of rapid economic growth and only fell slightly and briefly during the unprecedented financial crisis. In Malaysia, the number of registered foreign workers more than doubled in five years from 532,000 in 1993 to 1.1 million in 1998 (Ruppert, 1999; OECD, 2001).

The growth of labour outflows reported by some countries of origin has been remarkable. In Indonesia annual labour outflows in the early 1980s were estimated at a mere 36,000 annually. By 2002 this had risen to 480,400 a year, three out of every four of whom were women recruited to domestic service work in the Gulf States; in Hong Kong, China; and in neighbouring Malaysia and Singapore (Kassim, 2000; Pang,1992). Labour migration from India to the Gulf States were thought to have peaked at 234,000 a year in the early 1980s, but after a decline it picked up again and averaged 360,000 a year between 1991 and 2001 (Srivastava and Sasikumar, 2003). Labour emigration from Bangladesh almost quadrupled from 103,000 in 1990 to a peak of 381,000 in 1997, although it has been declining ever since (Siddiqui, 2004).

Main features of labour migration in Asia and the Pacific

In comparison with cross-border movements in other regions, what stands out in contemporary Asian experience are three distinct features. The first is the dominant role played by contract labour migration. It is the official policy of countries importing foreign labour that workers, especially the low-skilled, be allowed only temporary periods of stay and be covered by job or employment contracts. The second distinct feature is the fact that recruitment and placement have been left largely in the hands of commercially – motivated recruitment agencies because few labour – importing States in the region have shown any interest in organizing labour migration through government to government agreements.

A third distinct feature of labour migration in Asia is, in a sense, a corollary to the previous one. The governments of almost all countries of origin are actively involved in regulating labour emigration, and in many cases in promoting it. One finds in Asia well developed legislation on recruitment and the necessary governmental structures to oversee the operation of private recruitment agencies.

Issues in the management of labour migration in Asia and the Pacific

In identifying the key issues for managing migration in the region one can draw on at least four important sources of information. One is the periodic survey conducted by the United Nations Population Division on governments' views regarding the levels of immigration and emigration, the latest one of which was for the year 2000. A second is the report on the regional consultations or "hearings" conducted by the *Global Commission on International Migration* in 2004. The third is the ILO Migration Survey of 2003 which provides the most updated compilation of policies, laws, regulations and implementing structures on labour migration. And finally, there have been a number of regional meetings in Asia where migration management was the main agenda item, including the ILO tripartite meeting on challenges to labour migration policy and management in Asia-Pacific in July 2003, and the IOM-sponsored Ministerial Consultations for Countries of Origin in Asia, the first one of which took place in Colombo in April 2003 and the second in Manila in September 2004.

Addressing problems of irregular migration

The growing populations of migrants in an irregular status are a major preoccupation and concern for governments in the region and elsewhere. Many are asylum-seekers fleeing from persecution in Myanmar and from violent conflict in Central Asia, Afghanistan, Nepal, Sri Lanka and southern Philippines, but the large majority are people seeking better employment and greater economic security for their families. The size of populations in an irregular status is understandably difficult to estimate but regularization campaigns in several Asian countries provide some rough dimensions. There were 420,000 undocumented workers registered by their employers in Thailand in March 2002 out of over 900,000 estimated migrants in an irregular status (Chalamwong, 2003). In Malaysia, the number of irregular migrants was estimated at 560,000 out of 1.7 million foreign workers. Japan's Bureau of Immigration reported that the number of "overstaying foreign residents" had been brought down to 283,000 at the end of 1997. There were some 95,000 foreign workers in an irregular status in the Republic of Korea before the 1997 crisis but only 3,160 in Singapore (OECD, 2000).

The simple reality is that there are far more people seeking to emigrate than there are destination States willing to accommodate them. The dynamism of some economies of the region have further widened income differentials with others, accentuating further the impact of "pull" and "push" pressures on cross-border movements. Moreover, social networks which reduce the cost of migration quickly

develop as earlier cohorts of migrants find a way of establishing themselves in their countries of employment, legally or illegally. In Malaysia, the number of foreigners in an irregular status, estimated at some 800,000 in 1997, kept on creeping up in spite of several mass expulsions and almost yearly regularization campaigns. In the Republic of Korea, an amnesty was declared in June 2001 when some 216,000 foreigners were estimated to be in the country illegally. Despite large return flows the numbers kept increasing so that in April 2003 the population of foreigners in an irregular status was estimated at 289,500.

The so-called "Bangkok Declaration on Irregular Migration" adopted at a ministerial conference of 18 Asian and Pacific countries in 1999 drew attention to the complex nature of irregular migration and called for a deeper analysis of its causes, for adopting appropriate domestic laws and regulations, and for assisting victims and criminalizing perpetrators of trafficking. It considered very important efforts to ensure timely return, to raise public awareness and enhance inter-country cooperation.[2] The central message is for States to go beyond migration controls. However, the Declaration is stated too broadly to allow one to draw out the implications for migration management.

Illegal foreign workers
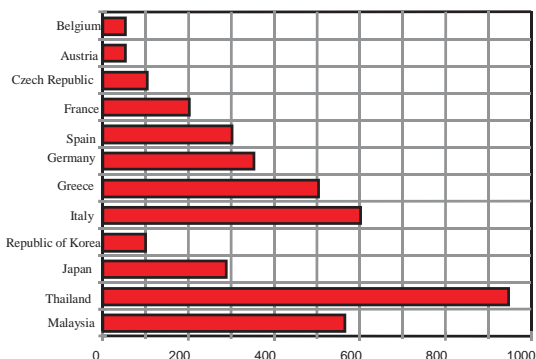
There are a few examples of agreements to deal explicitly with irregular migration. Cooperation to deal with the problems after people have moved is exemplified by the agreement between Malaysia and Indonesia. When Malaysia decided to expel irregular migrants, the Government entered into what amounted to a repatriation agreement with Indonesia, enabling the Malaysian authorities to work with their counterparts in Jakarta to establish the identities of the Indonesian

migrants, arrange for their orderly repatriation, and re-hiring of some through regular channels.

In the absence of more cooperative arrangements for managing migration it is understandable why States resort to a variety of unilateral measures to discourage irregular migration. The choice of measures may in some instances be dictated by geography as some countries have more difficult frontiers to protect than others. Where the cost of tightening controls on borders become almost prohibitive because of long land borders, countries tend to rely more heavily on internal measures. Those include greater police monitoring of migrants' activities which can be very effective as in Hong Kong, China, but it can also lead in some instances, not to reducing irregular migration, but to providing unscrupulous elements of the local police opportunities for extortion.

Most of the Asian countries have adopted stiff sanctions against perpetrators of clandestine immigration, illegal employment of undocumented workers, and against the undocumented workers themselves. Less use is made of measures like withdrawal of business licenses, in the case of repeated offences; exclusion of offenders from bidding for public contracts; and offering various tax rebates or exemptions from social charges when employers hire only documented foreign workers in certain industries or occupations. In Japan, the 1990 amendment of the *Immigration Control Act* introduced a system of penalties against employers and brokers, with imprisonment of up to three years and fines of up to 2 million yen (1 US$ = 121 JPY). The earlier sanctions were provided for in Act. No. 125 of 1952 on the registration of foreigners, which required the controversial finger-printing and penalized only the irregular worker. In the Republic of Korea, the *Exit and Entry Control Act* imposes the same penalty on the employer of clandestine migrants and the clandestine migrant himself – imprisonment of up to one year and a fine of 5 million won (1 US$ = 1,047 KRW). The penalty has recently been stiffened to up to three years, together with a fine of up to 10 million won, for anyone who facilitates or permits the employment of a foreigner who is not in possession of a work permit (Art. 94.6). In Thailand, which has the most difficulty controlling its borders, the sanctions against employers of irregular workers were stiffened in 1998 to three years in jail (and up to five years for those who provide a home for irregular migrants).[3]

Singapore, the law provides corporal punishment against illegal immigrants and over-stayers in addition to jail terms. Those who overstay more than 90 days are punishable with no less than three strokes of the cane[4] and fines not exceeding 6,000 SGD (1 US$ = 1.69 SGD). Employers are also liable to caning if it is proven in court that they have knowingly employed more than five immigration offenders.

Fines may amount from 24 up to 48 months equivalent of the applicable foreign worker levy, and up to one year imprisonment (Mui, 2004).

Employer sanctions raise the potential cost of hiring such workers in two ways: first, they cause a loss in production time if the undocumented workers are discovered and second, the employer must pay financial penalties if they are found guilty of violating the law. Such possible loss and sanctions may discourage employers from hiring undocumented alien workers unless the benefits of hiring them in terms of lower wages outweigh the risks. The latter may be significant where employers escape penalties because of lengthy litigation or through bribery. Some unscrupulous employers have been known to get away not paying wages by reporting their illegal workers to the authorities who promptly deport them without ensuring that they have received their back wages. The most effective deterrent against employment of illegal workers has proven to be not employers' sanctions but the threat of exclusion from government contracts.

According to the ILO 2003 Survey, 13 of the 22 responding Asian countries have procedures for regularizing the status of migrants. Over the past decade, several Asian countries, notably the Republic of Korea, Malaysia and Thailand, have declared amnesties for migrants working illegally in their country. In order to encourage workers to declare themselves the possibility of becoming "regularized" was offered. Malaysia offered the Indonesian workers a chance to become regular but only if they first return to Indonesia and go through regular channels. In her recent regularization programme, the Republic of Korea allowed some workers to remain and work using as a criterion the amount of time already spent gainfully in the country. Those who have already been employed gainfully beyond a certain length of time were not offered temporary work permits, but may apply again some time after returning to their home countries. In some instances as in Thailand the national authorities put the onus of registering and applying for a work permit, not on the workers but on their employers. This proved ineffective, especially since the employers were required to pay fees for each registered worker to whom they must now pay wages no lower than the legal minimum. The measure was subsequently revised to allow either to register.

Clandestine foreign workers are stuck in the underground or shadow economy where wages are low and work conditions unregulated or unprotected.[5] Regularization should open the way for them to find better-paying jobs and occupations and to have access to social security. The impact however does not always become immediately apparent. In the United States of America, most regularized workers have tended to stay for some time in their pre-legalization jobs, receiving the same wages as before. Research in that country shows that

occupational mobility depends more on language skills and experience than on legal status. Even the undocumented can be occupationally mobile if they have skills needed in the market (see Kassoudji and Cobb-Clark, 2002).

Amnesties and regularizations inevitably send an undesired message: that it is easier to enter a country clandestinely and then get regularized, than to let the official application procedures take their normal course. Illegal immigrants are rewarded, while those waiting patiently outside are not. For this reason, some countries have avoided using or repeating amnesties and regularization programmes. Experience shows that countries that cannot effectively control their borders would be better off opening legal avenues for employment of foreign workers and entering into agreements with source country governments for their efficient recruitment.

Making temporary worker programmes work

As noted earlier, only Australia and New Zealand offer foreign workers the possibility of immigration. All other countries needing foreign workers bring them in through temporary or guest worker schemes. Such schemes may be a sound way to meet labour requirements for "time-bound" work such as for construction projects or seasonal farming, but they raise a variety of problems when used for jobs of the more regular kind. The main reason is because it is in the interest of migrant workers to remain longer in better paying jobs and in the interest of employers to keep their trained workers. Unfortunately having a temporary admission status puts workers in a vulnerable position. They can easily be pressured not to join unions otherwise they risk not being extended or re-hired. Few would dare complain of discriminatory treatment in wages or other working conditions for the same reason. As temporary migrants, only those with high salaries are allowed to bring their families with them.

The region has seen the use of strong measures, some bordering on violation of basic human and worker rights, to ensure that workers do not acquire rights to settle permanently. In one instance the validity of a work visa of a female domestic is made conditional on the woman not being pregnant, and not marrying a national.[6] Most temporary migrant workers cannot bring or be united with their families, cannot freely change employers and are excluded from membership in social security. While most countries have laws allowing mobility of foreign workers in the labour market, in practice the situation is often quite different.[7]

It is unlikely that labour-short countries of the region will be changing their temporary or "guest worker" policies in the foreseeable future, except in the case of highly-skilled workers. There are no pressures on governments to change their

present policies, and indeed as the 2000 United Nations' Report shows, the popular sentiment is for maintaining current immigration levels.[8] The events that followed the Asian financial crisis do suggest that public opinion can change very quickly. In Thailand and Malaysia one of the coping strategies seen by the respective governments as essential to protecting nationals was to send home migrant workers.

Reducing the risks and cost of migration

In countries of origin the main concern of governments is still centred around the need to reduce the "risks" faced in migration. Some risks are inherent in taking up employment in foreign countries because of lack of information, and others are due to the uncertainties in finding remedies when employment contracts fail. Workers are less aware than they are at home of what jobs are available, how their skills match those jobs, and how to access the jobs in foreign countries. This deficiency in information explains for the most part the existence of employment intermediaries or recruitment agents. Job-seekers try to reduce those risks by "buying" information from job-brokers, and the information they need to buy tends to be greater the less familiar or the more distant is the country of employment. One must add to the risks, however, the fact that information may sometimes be deliberately falsified for purposes of trafficking or to commit fraud. The latter has been a significant problem in many countries of origin in Asia where the challenge to migration management is, in the first instance, to establish a credible and efficient private recruitment system. Governments seek to minimize the problem through licensing and close regulation of the operations of recruitment agents.

The second type of risks is much more difficult for origin countries to address, and reducing them does require the assistance and cooperation of authorities in countries of employment. Employment contracts may fail for a number of reasons including a poor matching of the worker to the job, bankruptcy of the employer, worker-employer disputes, maltreatment of the worker including physical abuse, or work-related injuries or accidents. The risks lie in the uncertainties on what happens when those contingencies or problems occur. Workers have access to various remedies when the same contingencies happen at home, but not to the same extent when abroad. Where the risks can be insured against like accidents and injuries, the countries of origin have sought to provide the workers with group or social insurance; but many of the risks are not covered.

Studies in different countries have repeatedly revealed that migrant workers are paid much less than native workers (often only half of the latter's) for doing the same job, not to mention their exclusion from social security protection and other

worker benefits and entitlements (Abella, Park and Bohning, 1995). The availability of migrant labour at very low wages has had the unintended consequence of creating incentives for investments in labour-intensive industries and building interests and stakes in expanding the admission of foreign workers.

Today the concerns are more heavily focused on the abuses suffered by women migrant workers whose participation in migration has climbed steeply with rising demand for domestic helpers, entertainers, caregivers, and other service occupations (ILO, 2003). There is likewise a growing phenomenon of "trafficking" in young women for purposes of prostitution (Boonpala, 2002). The dimensions of the problems are difficult to establish with any confidence but most observers take it for granted that reported cases represent no more than a fraction of actual cases of abuse or exploitation. In the case of sexual harassment women victims are often reluctant to make their problems known.

Although much more serious research on the subject is needed, anecdotal evidence from the news media suggests that the cost of migration tends to fall relatively more heavily on those with less skills or education than others. Medical doctors and nurses, petroleum engineers and IT workers, deck officers for ships and similar other professionals who are courted by foreign employers invest relatively little for migration and by and large face few problems with working conditions. By contrast, those with few skills are known to pay recruitment agents relatively large proportions of their expected earnings abroad, to suffer more from wage discrimination, and are more likely to fall victims of fraud as well as harassment at work. They have more "risks" they should insure against, but are the ones least able to afford the means to ensure against those risks.

Limits to unilateral approaches to managing migration

The region has seen the widespread commercialization of migration processes, with all its advantages as well as risks. Profit-motivated private individuals or companies were very effective in increasing employment abroad, but only at the cost of reducing wages. Lacking the authority to enforce their policies and standards beyond their borders, governments of source countries had to devise new ways with which to influence migration processes such as requiring all migrant workers wishing to work abroad to register their contracts to ascertain compliance with minimum standards. This is of course only effective if it is recognized by the authorities or the courts in foreign countries as the legal basis for resolving disputes with employers. Also, it is not uncommon for contracts signed before authorities in source countries to be replaced by inferior ones upon arrival in countries of employment (ILO, 1997; Srivastava and Sasikumar, 2003).

Authorities in the countries of employment approve applications from employers to bring in foreign workers usually after determining that no national workers can do the same job and that the employer is promising to pay foreign workers wages no less than those paid to nationals with equivalent qualifications. Those conditions are however difficult to establish and thus seldom complied with in practice.

Controls over the fees charged for recruitment are likewise difficult to achieve in the absence of bilateral arrangements. Since recruitment fees can be exacted from the workers when they are already at work in a foreign country, a legal ceiling placed by authorities in origin countries can easily be circumvented. Deduction from migrants' wages is a widespread problem which is difficult to address. Unless there are strong labour institutions the market forces will prevail and standards will fall as there are ready supplies of labour willing to work for lower wages. Moreover complaints are rarely raised by workers eager to have their contracts renewed or extended.

Safeguarding the rights of migrant workers

According to the *1998 Declaration of Fundamental Principles and Rights at Work and its Follow-Up,* all ILO member States have an obligation to respect, promote and realize four categories of principles and rights at work regardless of whether or not they have ratified the relevant Conventions:

- freedom of association and the recognition of the right to collective bargaining;
- elimination of all forms of forced or compulsory labour;
- effective abolition of child labour; and
- elimination of discrimination in respect of employment and occupation.

The *ILO 2003 Survey*[9] sought information from member States on whether under their laws migrant workers in their territory enjoyed equal treatment with their nationals with respect to the above-mentioned fundamental rights and other labour rights provided for in a number of ILO Conventions, including especially the two ILO instruments on migrant workers, *Convention 97* and *Convention 143* and their accompanying *Recommendations, Nos. 86 and 151.*[10] The Survey refers specifically to treatment of *temporary* migrant workers in a *regular* status with respect to the following rights and entitlements:

- right to form or join workers' organizations;
- right to bargain collectively;

- protection against forced labour;

- protection against discrimination at work;

- minimum age of employment;

- equal treatment with national workers in respect of wages;

- equal treatment with national workers in respect of minimum wages;

- equal access to training;

- equal access to free public medical/health services;

- protection against sexual harassment;

- right to be accompanied by family members;

- protection against ethnic and racial harassment;

- access to legal proceedings in a language they understand;

- free housing (e.g. for agricultural workers);

- public schooling for their children;

- vote in local/national elections.

Right to organize and bargain collectively

Of the 19 countries from the region which responded to the ILO Survey, only nine affirmed their respect for the right of temporary migrant workers to organize or join trade unions. Australia, Japan, New Zealand, Singapore and Thailand were among the important countries of employment which affirmed such rights. Other countries of employment, however, did not respond to the question. On the right of temporary migrant workers to bargain collectively, it is noteworthy that 11 of the 19 countries did not respond. They included Bahrain, the Republic of Korea, Kuwait, Malaysia, Myanmar, Oman, the Philippines, Saudi Arabia, Singapore, Sri Lanka and the United Arab Emirates.

While most countries allow foreign workers to join trade unions, a few prohibit them from organizing their own unions and in some instances there are restrictions to their assuming positions of responsibility. Undocumented foreign workers cannot join trade unions in Japan, the Republic of Korea, and Thailand. In the Republic of Korea, foreign trainees do not have the status of workers and are not accepted as members by the Korean trade unions, but it is believed that they benefit from the gains in collective bargaining. With respect to trade union organization, Hong Kong, China is perhaps unique in that there exists a union of

Asian migrant workers. This is particularly remarkable because it is a union of household helpers.

Restrictions on the right to organize based on nationality exist in varying degrees in the legislation of several countries. Some countries, for example, make citizenship a precondition for the establishment of trade unions, such as Thailand: section 88 of the Labour Relations Act, 1975 stipulate that a certain proportion of the members must be nationals.[11] In others, trade union affiliation of non-nationals is subject to conditions of residence, as in Kuwait: non-Kuwaiti workers must have resided five years in Kuwait to be able to join a trade union (section 72 of the Labour Code - Ordinance No. 38 of 1964). Reciprocity is another condition that may be set such as in the case of the Philippines where foreign workers holding valid permits issued by the Ministry of Labour and Employment may establish and join organizations of their own choosing on condition that the same rights are accorded to Philippine workers in the country of origin of the foreign worker.

Protection against forced labour

On the protection against forced labour, the ILO Survey revealed that a majority of countries affirmed their adherence to the principle but there was no response from Bahrain, Kuwait, Oman, the Philippines, Singapore and Sri Lanka. It should be noted that there have been agreements among many countries to act decisively and cooperatively against trafficking which involves forced labour.[12]

Equality of treatment

The main principle behind international conventions on migrant workers is non-discriminatory treatment. All member States ratifying *ILO Convention 97* are asked to make it their national policy to "apply , without discrimination in respect of nationality, race, religion or sex, to immigrants lawfully within its territory, treatment no less favourable than that which it applies to its own nationals in respect of remuneration, hours of work, overtime, holidays with pay, minimum age, membership of trade unions and enjoyment of the benefits of collective bargaining, accommodation, social security (subject to certain limitations), employment taxes, and legal proceedings". Except for New Zealand; Hong Kong, China; and the State of Sabah (Malaysia), none of the Asian countries have ratified Convention 97. The principle of non-discriminatory treatment is nonetheless recognized in respect of certain conditions by some States that have not ratified the Convention. Indeed, most of the Asian labour-importing States have labour legislation providing for equal treatment and non-discrimination especially in the matter of remuneration. In Japan, the Labour Standards Law stipulates that an employer shall not engage in discriminatory treatment with respect to wages,

working hours, or other working conditions by reason of nationality, creed or social status of any worker. Migrants are guaranteed the same minimum wage as national workers (Y 250,000 per month) (1 US$ = 121 JPY). In Taiwan Province of China and in the Republic of Korea foreign workers with employment visas have the same rights as national workers.

The ILO Survey confirms this observation. There seems to be widespread adherence to the principle of equality of treatment as provided for in ILO *Convention No. 111*, but five countries offered no response including Bahrain, Kuwait, Oman, Singapore and Sri Lanka. Except for the Republic of Korea, Kuwait, Oman and Singapore, all the respondent countries in the ILO Survey claimed that their laws provide for equality of treatment for temporary migrant workers in the matter of wages.

In Singapore, the State does not intervene in wage setting but wages set through collective bargaining are supposed to be applied without distinction to both national and foreign workers. In the Republic of Korea, Art. 5 of the Labour Standards Act specifically bans discrimination on the grounds of nationality.

The problem lies frequently not in the absence of appropriate laws but in the failure of implementation. Notwithstanding legal prohibitions against discrimination, significant differences have been observed in wages of migrant and native workers in many countries. In Taiwan Province of China, for example, the average monthly wages in 1997 for foreign workers in manufacturing were only 86.8 per cent of the average for nationals (TWD 16,167 versus 18,614) (1 US$ = 33.5 TWD), and in construction only 65 per cent (TWD 15,710 versus 24,169). In the Republic of Korea, foreign workers illegally employed received 40 per cent lower wages than nationals doing the same job. Trainees in fact received only about 35 per cent of the average basic wage of Korean workers in manufacturing. Wage differentials may be expected on account of differences in skill and productivity, and by the fact that most foreigners are employed in small firms (which generally pay lower wages than big companies), but those are unlikely to fully explain the wide differences.

Other entitlements

According to the ILO Survey, 11 out of the 19 Asian countries which responded claimed that they allow rights to family reunification even for temporary migrant workers. This is a notable finding since in fact most Asian workers are not accompanied by family members. The right is there but it can only be enjoyed by those earning above certain wages or salaries. One may note parenthetically that the right to family reunification has not been a major issue in Asia since low-wage

unskilled workers usually cannot afford to maintain their families in their countries of employment. The exception is Australia where family members may be authorized to accompany the temporary foreign worker and also be entitled to work.[13]

There is much less commitment to equality of treatment for temporary migrant workers when it comes to medical services, housing and education for children. The Republic of Korea and Malaysia clearly said they did not guarantee medical services, and many did not respond to the question including Australia and New Zealand, China, Kuwait, Oman, the Philippines, Sri Lanka and Thailand. Only five countries claimed that they treated temporary migrant workers equally as nationals in the provision of free housing for workers as, for example, in agricultural plantations. Those countries are Fiji, Malaysia, Qatar, Saudi Arabia, and the United Arab Emirates. Finally, on the matter of giving temporary migrant workers access to public schooling for their children, eight of the countries (Australia, Bahrain, Fiji, Japan, Kazakhstan, New Zealand, Qatar and Saudi Arabia) claimed that they did.

Equal treatment in social security

Many migrant workers, including those admitted into countries only temporarily as guest workers, spend a considerable part of their working lives outside their countries. Unless there are arrangements through social security treaties for their entitlement to old-age benefits, many risk not having any social protection when they reach retirement ages.[14] The ILO 2003 Survey enquired into the treatment accorded to migrant workers in the social protection legislation of member States. The Survey sought clarification into the entitlement of migrant workers for the following benefits:

- Medical care
- Sickness benefits
- Unemployment benefits
- Old-age benefits
- Family benefits
- Maternity benefits
- Invalidity
- Survivors

The Survey revealed a wide range of situations facing migrant workers in different countries of the region. In Japan, migrant workers appear to be comprehensively protected because of entitlement to all the benefits either under contributory social insurance or under social assistance schemes,[15] and in the case of employment injuries, under employer-financed schemes. However, in Bahrain migrant workers are totally excluded and in Kuwait they are only entitled to medical care benefits.[16]

Social security is an area where the discrepancy between law and practice appears to be very wide. It is generally known that most unskilled migrant workers from the region do not enjoy the benefits to which they may be entitled to under the laws of the countries of employment. The Survey, for example, shows that Saudi Arabia gives equal treatment to migrant workers in all benefits except for invalidity and survivor's benefits. However the country has no arrangements with Asian countries of origin for payment of old-age benefits. Unlike in Europe or the United States of America, important sending and receiving countries in Asia are still without any kind of conventions or agreements. From the Survey one finds that only the Philippines, Pakistan and China have entered into bilateral agreements to cover their migrant workers with some social security protection. Ratification of the *Equality of Treatment (Social Security) Convention*, 1962 (No. 118) and the *Maintenance of Social Security Rights Convention,* 1982 (No. 157) has given the Philippines some advantage in concluding treaties on social security with receiving countries.[17]

Access to employment

While the differences are probably less than would appear from a reading of formal policies, the Asian countries of employment have stricter limits to foreigners' access to employment than countries in other regions. Most States specify the occupations open to foreign workers, regulate the circumstances in which they may change jobs, and establish priorities for employment in favour of national workers. Treatment however varies according to skill. Singapore, for example, grants permanent residence and therefore free access to any employment for skilled foreign workers, while no such rights are given to the unskilled (with a small concession to domestic helpers who can opt to change employers).[18]

Rights of migrant workers in an irregular status

All migrants, regardless of immigration status, have human rights which must be protected and respected. Those rights have been elaborated in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which have been ratified by most States Members of the

United Nations. Those rights are all contained in the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of their Families which has been ratified by some Asian countries of origin. However, in spite of those international principles and instruments, undocumented migrants working illegally or without appropriate documents are always at risk of having their basic rights violated. While legal status alone will not guarantee protection against discrimination and exploitative treatment, the absence of legal status is almost universally what undermines the position of foreign workers in employment relationships.

Because of the dangers of exploitation and abuse, ILO *Convention 143* asks member States to take measures to stop clandestine migration and the illegal employment of undocumented foreign workers. The Convention equates illegal migration with "migration under abusive conditions" precisely because of the difficulties of using national and international law to protect undocumented workers against employment-related maltreatment and exploitation. The Convention requires ratifying States to:

> *"...systematically seek to determine whether there are illegally employed migrant workers on its territory and whether there depart from, pass through or arrive in its territory any movements of migrants for employment in which the migrants are subjected during their journey, on arrival or during their period of residence and employment to conditions contravening relevant international multilateral or bilateral instruments or agreements or national laws or regulations".*

Moreover, it requires them to

> *"...adopt all necessary and appropriate measures, both within its jurisdiction and in collaboration with other Members– (a) to suppress clandestine movements of migrants for employment and illegal employment of migrants, and (b) against the organizers of illicit or clandestine movements of migrants for employment departing from, passing through, or arriving in its territory, and against those who employ workers who have immigrated in illegal conditions, in order to prevent and to eliminate the abuses referred to...".*

Although the ILO Conventions recognize the right of States to deny foreign nationals admission into their territories, and by implication to deny them the opportunity to work in their territories, they nevertheless provide for equal treatment of workers in an irregular status "…in respect of rights arising out of past employment as regards remuneration, social security and other benefits". (Part I

Art.9 of C. 143). Moreover, in the event of expulsion of the worker and his or her family, the cost must not be borne by them.

Where immigration measures fail to stop foreign workers from working in a country illegally, the negative consequences tend to fall on the less skilled native workers. It is very tempting for employers to replace native workers with undocumented foreign workers because they accept lower wages, will not join trade unions, and can be made to work under conditions which fall below minimum standards for safety and hygiene.

The consequences on governance should also be of concern. While there may be advantages to certain employers, the presence of irregular foreign workers poses severe dilemmas for the authorities (Battistella and Asis, 2003; Kunieda,1996). There is an ever present concern that giving them regular status will compromise immigration policies since violators are in effect eventually rewarded. However, not to give them regular status would lead to putting them at risk of exploitation, making firms employing them more competitive than law-abiding ones, and bringing down wages even for nationals in the same occupations. Several mass expulsions of irregular migrants have in fact taken place in the region, some conducted without due process and hence in violation of international principles. In some cases irregular migrants have been kept in detention camps for long periods and conditions were such that they contributed to premature deaths.

Emerging social issues in labour migration

There is little doubt that labour migration is having a profound social impact on countries of employment and countries of origin. In countries where temporary worker migration has taken on historic dimensions, such as for example in the Gulf States, people's lifestyles have been completely transformed. Command over cheap labour from outside has changed consumption patterns, people's work values and attitude to certain occupations, sense of national security (or insecurity), modes of bringing up children, and even food preferences. In countries of origin social structures have been upset by the changes in relative incomes of different classes, by the greater capacity of migrants' families to invest in children's education, by the socialization of children during long absences of their mothers, and by the changed role of some women in the family as they become the principal breadwinners. The economic impact of migration has no doubt been more favourable to some groups than to others, in some regions more than in others, bringing in its train important redistribution of income which still may not be easily reflected in official statistics.

Of the many social issues emerging as a result of migration, the following appear to warrant closer attention since they have profound long-term implications for both societies of employment and origin:

- Emergence of a new social underclass with few rights and most being excluded from social protection;

- Segmentation of the labour market because certain occupations/sectors are stigmatized by association with cheap, exploited foreign labour;

- Growing xenophobia, and in some instances, racism;

- Increased internal migration in origin countries;

- Redirection of educational investments in favour of meeting external demand.

In Asia and the Pacific, the larger part of migrant labour admissions, through both legal and illegal doors, is to fill up shortages for "unwanted" jobs, otherwise known as 3-D jobs (dirty, dangerous, and demeaning). It is thus hardly surprising that wages in those jobs have stagnated, with the consequence that national workers in the same occupations tend to leave for better options. Native workers without other employable skills are left further behind, particularly as more foreign workers are admitted who are willing to accept limitations of their rights and exclusion from social protection. Whether it be the deep-sea fishing in Thailand or Taiwan Province of China, domestic services in Malaysia or construction in Japan or the Republic of Korea, the same trend of native workers leaving certain 3-D occupations en masse is observed.

The phenomenon has another consequence, which is to add to the segmentation of the labour market. In Thailand at the height of the financial crisis, the Government's policy of sending home foreign workers in order to create spaces in the labour market for unemployed Thais did not work. It has become much harder to convince unemployed Thais to accept certain jobs which became associated with cheap foreign labour. It is hard to say if this behaviour would have been sustained had the economic situation worsened further, but at least for some time most Thai workers appeared to have managed to ride out the crisis without stepping down to a lower status job. Hence a situation arose where certain industries remained short of labour in spite of high unemployment in the country (Martin, 2004).

As in other parts of the world, the growth of minority populations in Asia has led to xenophobia and in some places to racism. The public discourse on migration policy, for example, is full of references to the difference between natives and

foreigners. The latter are supposed to have greater proclivity to get involved with criminal activities, to carry communicable diseases, to have poor personal hygiene, to commit petty theft, and to have unruly behaviour. It has led civic-spirited groups in places like Japan and the Republic of Korea to launch campaigns against racism and xenophobia. In Thailand, ancient security concerns vis-à-vis Burma tend to get resurrected when there are calls for expulsion of undocumented Burmese workers.

The assumption that it is a transitory phenomenon, one that will pass away after a labour-short country has successfully made certain structural adjustments, underlies the common official attitude to labour migration. This attitude is reflected in the absence of any discussion about opening doors for permanent settlement or about measures to promote the social integration of foreign workers in major countries of employment. There is instead much more discussion of measures necessary to reduce dependence on foreign labour, a subject that is today very much on the policy agenda of many countries, whether in East Asia or in the Gulf. Everyone appears to recognize that a certain degree of dependence on foreign labour develops over time but the authorities continue to hold the belief that with the right set of policies such dependence can be reduced or even stopped (Huguet and Punpuing, 2005; Hui, 2001; Lee, 2004; NESDB, 1993).

Since infrastructures for linking with foreign countries are in metropolitan centres, one would expect that external migration would stimulate internal population movements. Many studies have already documented the step-wise character of most migratory movements, from villages to towns, from smaller to bigger towns and cities, from cities to metropolitan centres, and then to destinations outside the country. It has also been widely observed that the majority of returning migrant workers tend to stay in the major centres, rather than going back to their towns and villages. Evidence of the incremental impact of external migration on urbanization still needs to be assessed, however. Urbanization has been rising significantly even before the upsurge in external labour migration and it is difficult to isolate the separate impact of the latter from those of other propelling forces.

Finally, the adjustments of origin country labour markets to the growth of labour migration raise another set of social issues. On development grounds, most countries give greater priority to primary, rather than to tertiary, levels in financing education. However, the demand abroad for skilled labour (i.e. IT specialists, medical doctors, teachers) has in some countries been so great that substantial shifts are occurring in the direction of resource flows, from both public and private sources, in favour of the latter. One face of the issue is the question of equity – should origin societies pay more for training and education of those going to work

in foreign countries? Is there justification for increasing subsidies to higher, as opposed to lower or secondary education?

Bilateral and multilateral agreements

While cooperation is clearly vital to managing migration, only an insignificant part of labour migration from and within the region is covered by bilateral labour agreements. Among the countries of employment Malaysia is among the very few that has bilateral agreements on recruiting foreign workers.[19] From the ILO 2003 Survey we learn that most bilateral agreements entered into by countries of Asia and the Pacific are on social security and are largely accounted for by only two countries, Australia and New Zealand (22 out of the 33 bilateral agreements, all of them with other OECD countries). Apart from social security, 11 countries reported having bilateral agreements. Seven of those countries are countries of net emigration. What is striking is that most Asian countries of origin have bilateral agreements with only one or at most three other countries even if their workers are employed in many parts of the world. Arguing that agreements would be inconsistent with their policies not to intervene in the labour market, labour-importing countries have generally refused to entertain proposals for bilateral agreements.[20] Origin countries rarely have the market power to overcome their disadvantage and must trade-off better conditions for more jobs. For example, when the Government of the Philippines adopted minimum standards for job contracts in Singapore and Hong Kong, China for domestics, Filipinos started to be displaced by workers from other countries.

Among the few exceptions were those entered into by the Korean Federation of Small Business on behalf of the Government of Korea for the recruitment and admission of so-called "trainees". Those were concluded with a number of source countries including China, Mongolia, Thailand, Viet Nam, Indonesia, and the Philippines. They included numerical targets and established procedures for orderly migration processes involving public bodies on both sides. Another is that between Taiwan Province of China and the Philippines which allowed for direct hiring by employers in order to counteract the abusive practices of Taiwanese recruitment agencies.

There are some hopeful signs that at least in some parts of the region national authorities are now convinced that inter-state cooperation is necessary for the effective management of migration. The Government of Malaysia concluded not long ago a memoranda of understanding with Bangladesh, China, Sri Lanka, Thailand, Pakistan, Viet Nam and Indonesia to regulate recruitment processes and procedures. In order to put more order in the movements of workers from its

neighbouring countries, Thailand has recently signed a memoranda of understanding with the Lao People's Democratic Republic (October 2002), Cambodia (May 2003) and Myanmar (June 2003) which required the active participation by governments of both sides (Huguet and Punpuing, 2005). The employment of workers requires prior permission of the authorized agencies of the respective countries, the submission by one country of a list of available jobs and by the other of a list of selected applicants for those jobs, and supervision by both sides to insure that appropriate visas and work permits are issued, that workers comply with requirements for health insurance, contributions to a savings' fund, taxes and employment contract.

Conclusions

This paper has reviewed the main trends in labour migration in Asia and the Pacific and the social issues that have arisen in efforts by countries to manage the recruitment and employment of migrant workers. Labour migration is a fast growing phenomenon which is likely to gain force in the future because of widening income disparities, declining work forces in the more developed regions, and changing values and attitudes to work. Policies have so far been anchored on the assumption that the need for migration is transitory and that it is a variable that can easily be manipulated at will, if the right kind of strategies and measures are adopted. Those policies have been compared with international standards, especially those contained in the ILO Conventions, and with trends and practices in other regions. This paper suggests that this is an emerging major social issue on both sides of the migration chain. To ensure that migrants do not settle, migrant workers are admitted mainly through temporary migration programmes which in many instances mean a limitation of the rights of migrant workers. Many of the concerns of receiving States could have been addressed through closer cooperation with origin countries, but unfortunately they have not in the past shown readiness to limit their sovereign rights to manage migration.

Migration is likely to increase as migrant workers and their employers become dependent on each other. Migration is changing patterns and habits of consumption in receiving countries, segmenting labour markets, and marginalizing certain groups especially the old and the unskilled. It is also causing xenophobia and racism. In origin countries it is worsening urbanization pressures, affecting income distribution and social structures, and influencing occupational choices. In brief, external migration of labour has been having profound effects on societies of the region, posing challenges for governments and other sectors to come up with ways to make migration a force for long-term growth and development, rather than a source of social conflict and discord.

Endnotes

1. See ILO, *Towards a fair deal for migrant workers in the global economy Report VI* for the 92nd Session of the International Labour Conference, Geneva, 2004.

2. *The Bangkok Declaration on Irregular Migration* was issued by the participants to the International Symposium on Migration, *Towards Regional Cooperation on Irregular/Undocumented Migration,* 21-23 April 1999, Bangkok convened by the Government of Thailand with support from IOM.

3. See also Sontisakyothin (2000) and Chitayananda, Risser and Chantavanich (1997).

4. Caning is not allowed for males aged below 16 and over 50, and females of all ages.

5. Irregular migration to the Republic of Korea is largely blamed on the country's own policies. Many of the foreign workers employed there illegally actually were admitted as "trainees" under a scheme administered by the Korea Small Business Federation. Foreign trainees, who were doing regular work but receiving "trainee allowances", quickly enough found it advantageous to leave their employers and work for higher wages elsewhere, albeit illegally.

6. For a good discussion of the issues facing women domestic helpers in Singapore, see Wong (1996).

7. See table 3. Fifteen of the responding countries actually claimed that they allowed mobility in the labour market, in some cases after completing a certain period of employment with the original employer. In practice however one seldom finds countries allowing unskilled workers to change employers without prior permission by the responsible ministry.

8. Interestingly, Singapore is unique in that its Government favours a rise in immigration.

9. This Survey was undertaken in preparation for the ILO General Discussion on Migrant Workers at the 92nd Session of the International Labour Conference, June 2004.

10. Referring to *Migration for Employment Convention (Revised),* 1949 (No.97) and the supplementing *Migration for Employment Recommendation (Revised),* 1949, (No. 86); *Migrant Workers (Supplementary Provisions) Convention*, 1975 (No. 143) and *the Migrant Workers Recommendation,* 1975 (No. 151).

11. This is also found in other regions, for example, Colombia: two thirds of the membership, Panama three fourths of the membership.

12. See "Bangkok Declaration" below.

13. In the United States, family reunification is possible for certain categories of work visa holders, but family members are not allowed to work. In the United Kingdom family reunification is allowed if the conditions regarding resources and accommodation are met. In France, temporary workers are not entitled to family reunification but there are exceptions for high-level staff. In Switzerland and in Germany, family reunification is not possible for foreigners holding short-term residence permits.

14. Unfortunately exclusion in social security and other entitlements is often considered a necessary component of strategies to insure rotation among migrants and discourage settlement even if there is no

evidence that such exclusion actually makes any difference to length of stay. Indeed, positive measures like end-of-service bonus which increase with migrants' contributions to social security are likely to have more impact on motivating return and making it a real and durable option for migrants.

15. Benefits for low-income groups that are financed from taxes.

16. Foreign professionals employed in the public sector do receive fairly similar benefits to those given to citizens.

17. One hopeful sign is the fact that at the last Asian Regional Conference there was a call from some ASEAN countries for establishing such arrangements among its member States. In response to an earlier request the ILO in 1989 drafted a multilateral treaty on social security protection for migrant workers for the ASEAN countries. Unfortunately, in spite of considerable progress made and three technical meetings held among the countries, reservations by one member State prevented the conclusion of the treaty.

18. In France and The Netherlands, restrictions on occupational and geographical mobility can be removed after three years and in Italy, after two years. Belgium, Denmark, Germany, Luxembourg, and Spain allow free choice of employment to foreign nationals after being employed for five years. In Switzerland, the qualifying period extends to up to ten years.

19. Malaysia recently concluded a Memorandum of Agreement with Pakistan on the recruitment of Pakistani workers through a public employment agency.

20. There is nevertheless much evidence of interventions in the labour market. In the Gulf States wages and salaries in the public sector are many times higher than in the private sector because of policy. In Singapore the use of the foreign worker levy is a form of intervention in the market.

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Transnational Politics and Organizing of Migrant Labour in South-East Asia – NGO and Trade Union Perspectives

Existing and emerging trends in the international migration of workers call for a rethinking and reconceptualizing of the political organizing of foreign workers as part of the constituency of the labour movement.

By Nicola Piper*

South-East Asia is part of a dynamic region in terms of labour migration comprised of source and destination countries highly significant within the broader patterns of human movement at the global level. The "import" and "export" of steadily increasing numbers of foreign workers in general and the feminization of migration in particular, has created a myriad of problems and challenges that

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require the attention of governments, trade unions and non-governmental organizations (NGOs) in origin and destination countries. In fact, new strategies are beginning to emerge within the region in the form of intra-organizational reform processes or inter-organizational alliances.[1]

Many NGOs, including trade unions are advocating or lobbying with the aim to improve migrant workers' rights – their human as well as labour rights. Migrants' rights are among the least clear and enforced group of human rights targeting marginalized groups such as refugees, women and children. The lack of recognition of migrants' rights, in practice, means that migrants have little access to their rights. This is to a large extent related to the absence of a social movement capable of supporting the rights of all migrants, whether legal or illegal.

This is partly owing to the traditionally ambiguous stance of the trade union movement which would otherwise constitute an important ally in the struggle for migrant *workers*' rights. Today, unions have been relegated to a less decisive role in labour relations globally, as reflected in decreasing membership numbers. In the name of flexibility, there has been an erosion of rights, while at the same time, the labour movement has begun to deepen its analysis of globalization, of which migrant labour is an integral part.

This paper[2] focuses on migrants' collective activism and on national and transnational campaigns by NGOs and trade unions to identify areas of collabouration on issues concerning foreign workers across South-East Asia. Occasionally, the paper will refer to Asia at large. Its objective is to highlight the importance of social action and activism in the effort to promote and implement a migrant rights' agenda. In adopting a transnational perspective, the paper seeks to reflect today's prevailing forms of migration that are characterized by their short-term nature and high levels of return and re-migration. Thus, emphasis is put on transnational political activism as a crucial element to push for a new right's agenda that would take on board the context in which many, if not most, migrants operate today.

New patterns of migration and policy concerns

Both the volume and patterns of migration have undergone important changes during the last few decades. Since the 1960s, the overall volume of international migrants has doubled. In 2000, the Population Division of the United Nations (conservatively) estimated their total number to be approximately 175 million.[3] Thus, about 2.9 per cent of the world's population or one in every 35 persons is moving across borders (IOM, 2003). Taken together, migrants would make up the fifth most populous "country" (ILO, 2004). According to the

International Labour Organization (ILO), the volume of cross border movements of workers in search for employment is likely to grow, especially in view of the fact that globalization has thus far failed to generate jobs and economic opportunities where people live (ILO, 2004:9).

Although world-wide figures of migrant labour's percentage of the labour force is relatively small (1.2 to 1.5 per cent), their importance has grown considerably in the Asian and Pacific context. A shift of direction of destinations has occurred from the Middle East to East and South-East Asia, with migration to Malaysia and Singapore becoming indispensable (ILO, 1999).

Among the major policy concerns relating to international migration highlighted in the existing literature are the rising numbers of irregular/undocumented migrants and the feminization of migration. The numbers of undocumented migrants' are especially high in certain countries. In the case of Malaysia, they amount to about 50 per cent of the workforce, with the highest percentage being in Japan with about 68 per cent. Partly owing to irregular migration, wage discrimination is rampant (ICFTU-APRO, 2003). The rate of employment in the informal sectors where many migrants can be found is also increasing. The latter also partly explains the rising number of independent female migrants.

The feminization of labour migration is most prominent in Asia. In South-East and East Asian countries that admit migrants exclusively for temporary labour purposes, the share of independent women in labour migration flows has been increasing sharply since the late 1970s (ILO, 2003: 9). In some cases, the number of women clearly dominates that of males. The Philippines has now surpassed Mexico as the world's largest labour exporting country and the majority of its newly departing (land-based) migrants are women. Unlike South-East Asian sending countries, South Asia is mainly a labour exporting subregion where women's (official) mobility is subject to serious restrictions (with the exception of Sri Lanka). Hence, countries such as Bangladesh predominantly send male migrants.

The vast majority of migrants in Asia are low- or semi-skilled workers who are participating in migratory systems with specific characteristics: labour migration is mediated by employment agencies with the effect of increasing the overall costs of migration; cross-border flows are of strictly temporary nature and highly regulated; migrants are subject to widespread incidences of abuse and rights violations. Also upon return, they face the prospect of uncertain reintegration (ILO, 1999).

In Asia, migrant workers find occupation particularly in the construction sector, in the manufacturing sectors for small firms or subcontracting companies, in services, plantation, rice mills and fisheries. They are typically paid low salaries

with little or no benefits. Large numbers of migrant women are confined to the health, entertainment and domestic service sectors but are also labouring in factories. In many of those occupations, women are inadequately covered by labour legislation.

The main characteristics of migration (feminization, irregularity, type of jobs) pose specific problems to the issue of protection and political representation of migrants' rights by non-governmental organizations.

Legal and normative framework of international migration – developments at the global level

Certain groups in society, such as children, women, refugees, and also migrant workers, have been targeted by international treaty law, and identified as a category of people particularly weak. In recent years, considerable progress has been made in establishing an international legal and normative framework for managing the movement of people across borders and for protecting the rights of international migrants. This is related to three international agreements that came into force during the past few years: the 1990 United Nations Convention on the Rights of All Migrants Workers and their Families (ICRM) which reached the minimum number of ratifications in 2003 and the Protocols on Human Smuggling and Human Trafficking. But in comparison to other United Nations conventions/covenants, the overall rate of ratification of migrants' rights-specific conventions has been disappointing. This is the same for the two migrant workers-specific ILO conventions (Nos. 143 and 97).

The core principles relevant to migrant workers are non-discrimination, equality and equal protection of the law. Migrants' specific vulnerability with regard to those principles stems from the fact that they are not citizens of the country in which they work and reside. In addition, a distinction is usually made between "legal" and "illegal" migrants, with the latter being granted basic human rights in international conventions, but not the full breadth of rights that legal migrants enjoy. This makes irregular migrants[4] even more vulnerable to exploitation and abuse.

Taken together, existing United Nations and ILO conventions provide fairly comprehensive - albeit incomplete[5] - protection, yet they exist in a fragmented and scattered manner. In addition it is not always obvious that those conventions relate to migrant workers when the focus is on the single variable of "migration status" rather than on multiple variables relevant to women and men who migrate for work – including race or ethnicity, occupation and gender (Satterthwaite, forthcoming). It is common that destination countries single out the migration status. Thus, by

treating workers as non-citizens, especially when they are irregular migrants, the rights of states clearly prevail over the rights of migrants with states retaining the ultimate right to set the conditions under which foreigners may enter and reside in their territory.[6]

Yet, there has been a gradual push in recent years (thanks mainly to trade unions and NGOs) towards treating migrants first and foremost as workers, regardless of their legal status culminating in the resolution concerning a fair deal for migrant workers in a global economy adopted by the General Conference of the International Labour Organization at its 92nd Session, June 2004. The most recent and ground-breaking development in this regard, however, is the ruling by the Inter-American Court of Human Rights that clarifies that all migrants – whether documented or undocumented – are covered by the principles of non-discrimination, equality and equal protection in the host states where they live and work and must not be excluded from the protection of labour laws on the basis of their migration status.

Furthermore, the United Nations Development Fund for Women's (UNIFEM) East and South-East Asia Regional Office is running an "empowering women migrant workers in Asia" – project with the global aim of a more effective application of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to the concerns of women migrant workers. The office has published a position paper (Satterthwaite, 2004) outlining the usefulness of CEDAW in addressing problems specific to female migrants, especially those working in the informal economy and private households. Although it is still in its first phase, this project has already yielded some positive outcomes, such as the Jordanian Ministry of Labour's path-breaking intention to amend its labour law to cover domestic workers and the endorsement of a Unified Special Working Contract for Non-Jordanian Domestic Workers on 21 January 2003 which has substantive rights provisions.

Transnational politics and non-governmental organizations

In view of contemporary migration patterns being largely of short-term nature and often irregular, it is crucial to link countries of origin to countries of destination in analysing international migration issues and formulating responses. Given the tacit approval of illegal migration involving high incidences of return (and/or re-) migration, destination and origin countries both take advantage of migrant workers and are thus responsible for their treatment. Government policies rarely reflect such mutual responsibility,[7] and it is up to non-governmental forces to highlight this issue and formulate adequate responses. The emerging subject of

transnational politics offers an analytical tool allowing to combine domestic and external political factors that are of great importance when discussing the politicization of labour migrants' situation.

The emerging research area of transnational political activism has generated important studies among different scholarly disciplines, including International Relations. As a detailed literature review on this topic already exists (Piper, 2003; Piper and Uhlin, 2004), the discussion here is confined to two remarks: a) issues pertaining to labour in general and women workers in particular have been an important ingredient in the development of transnational perspectives on political activism (Macdonald, 2002; Staudt, 2002; Dominguez, 2002; Fonow, 2003). In such works, male and female workers emerge as social agents and not merely as passive bearers of the power of global capital; b) as demonstrated by social movement literature, the effectiveness of political activism is related to networking and alliance building, nationally and transnationally, to accumulate enough force to achieve change (Piper and Uhlin, 2004; Courville and Piper, 2004).

Much of the literature on transnational advocacy networks has focused on (international as well as national) NGOs or community-based organizations.[8] Unlike NGOs, trade unions' involvement has not been analysed from a transnational perspective in the specific context of international migration and protection of foreign workers. This is not necessarily to mean that transnational action is not happening in the realm of trade unionism, but rather that this perspective has been ignored in works on migrant worker organizing. Instead, in the small but gradually expanding literature on migrant worker supporting organizations, it is the rise of NGOs and other voluntary associations committed to addressing dire needs and alleviating serious problems of migrants in general and migrant women in particular that have been subject to research from a transnational perspective (see e.g. Piper, 2003). The extent to which migrant worker NGOs are able to form alliances, especially within destination countries, and assert sufficient pressure on governments to achieve change has, however, been questioned (Wee and Sim, 2005). In this context, it seems worthwhile to give the complementary strengths of NGOs and trade unions some consideration.

Recent transnational perspectives that present migration as involving social processes that bridge countries of origin and destination (Nyberg-Soerensen, Van Hear and Engberg-Pedersen, 2001) also include the realm of politics. Five major groupings have been suggested: (a) immigrant politics (political activities by migrants to improve their situation in the country of destination); (b) homeland politics (political activities directed towards the domestic or foreign policy of the country of origin); (c) home town politics (initiatives from abroad aimed at

participation in the development of local communities of origin); (d) diaspora politics (political practices confined to group barred from direct participation in the homelands' political system) and; (e) transnational politics (political activities directed at both countries of origin and destination). In this classification, however, the focus is on the aspect of migration or migrant status and not on migrants' role as workers. That tends to explain why trade unionism is left out as the classic political representation of workers' interests.

Based on the argument that unions and NGOs must strengthen their alliance in order to meet the challenges resulting from the emergence of a global labour market (Gallin, 2000), it is necessary – in addition to transnational networking among NGOs – to investigate the responses to the situation of foreign workers by traditional worker organizations, that is trade unions. Is there room for collaboration between NGOs and trade unions and are trade unions engaging in transnational activism?

Conventional and alternative forms of labour organizing

Employment in growth sectors used to be a source of workers' empowerment through trade unionism but much of today's labour migration undermines this traditional pattern, producing a class of workers who are isolated and largely invisible (Sassen, 2003). In a globalizing economy and society, trade unions are facing new challenges, such as organizing the informal sector and connecting with other civil society actors to advance a broader sociopolitical agenda. In this process, both unions and NGOs are expected to be changing (Gallin, 2000) but this is very much context- and location-specific.

In fact, evidence is emerging of trade unions broadening their constituency by becoming more inclusive of migrant worker issues (partly related to contemporary challenges with recruitment for membership of "traditional" workers etc.), but such observations largely derive from the context of western countries (for the United Kingdom, see Avci and McDonald, 2000; for the United States of America, Watts, 2003). Developing countries' unions have usually had lower levels of members to start with;[9] in addition, they have not shown much pro-active interest in migrant workers owing mainly to their preoccupation with local issues. In countries of origin, the dominant perception is that migrants are better off than local workers because of the mere fact that they have found employment abroad. From the viewpoint of local workers in the destination countries, migrant workers are perceived as job-takers and as responsible for depressing wages.

Moreover, in the Asian context, it has been observed that few national trade union movements regularly conduct activities that focus on the needs of migrant workers in the formal sector, let alone in the informal one such as domestic work (Wickramasekara, 2002). Instead, there is ample empirical evidence about the rise in non-union labour organizing that is occurring around the issues of foreign domestic labour demands in South-East Asia (Sim, 2002; Law, 2002; Piper and Yamanaka, 2003).

Non-union organizing as such is not a phenomenon triggered by labour migration only. Scholars writing on labour relations have observed that the South-East Asian experience demonstrates a myriad of non-union organizations engaged in labour activism within national borders and more recently, across nations as well. Thus, the empirical evidence from the developing South suggest more acknowledgement of the importance and influence of non-traditional, non-union labour organizing (Ford, 2004; Hutchison and Brown, 2001). Not all of those NGOs concern themselves primarily with labour issues but all contribute to a complex web (Ford, 2004).

Alliance formation or networks among NGOs

Existing NGOs can be divided into two broad categories, "migrant labour organizations" (understood as those run by migrant workers themselves) and NGOs involved in migrant labour (i.e. organizations which do not focus on foreign workers per se and are run by concerned citizens, not by the migrant workers themselves). The second type can be classified as follows: (a) faith-based organizations, (b) worker/labour NGOs, (c) women's rights organizations and (d) human rights organizations. Destination countries in South-East Asia and the region at large have at least one group of each type.

Opportunities and obstacles to the existence of certain types of NGOs and alliance formation among them rest on many issues, among which the political space given to them. A close examination of recent studies suggests three broad types of Asian destination countries, categorized by their contrasting tolerance for civil activism on behalf of migrants: (a) Singapore and Malaysia, (b) Japan and Republic of Korea, and (c) Hong Kong, China. Each category is characterized by a distinct range of rights that have evoked distinct forms and degrees of civil activism. Singapore and Malaysia are characterized by strict immigration policies, rigid labour contract systems, low degrees of state tolerance for civil activism and few entitlements for unskilled migrants. Japan and the Republic of Korea are characterized by tight immigration controls, absence of contract labour systems, large numbers of de facto migrant workers with few entitlements, and relatively high degrees of tolerance for civil activism. Hong Kong, China is characterized by

a strict immigration policy, a rigid labour contract system, more rights for migrants than those found in the other four countries, and a high degree of tolerance for civil activism (Yamanaka and Piper, forthcoming). Unique to Hong Kong, China among the Asian countries is the fact that it allows the organizing by migrants (or fellow-nationals) themselves.

Migrant labour organizations

With regard to networks among migrant worker organizations (i.e. those run by migrants themselves), the best example is provided by the Philippines which has the most extensive breadth of NGOs involved in migrant worker issues nationally, regionally and globally.

Migrant worker activism in the Philippines grew out of this grass roots democracy movement. From the onset of the Government's efforts to promote labour export in 1974, Filipino NGOs have been heavily involved in public policy debates and campaigns. The Catholic Church has also played an instrumental role at home and abroad by providing migrants with spiritual guidance and physical space for social interaction (Asis, 2002). Unlike NGOs in other Asian countries (e.g., Indonesia), following its 1986 revolution, Filipino NGOs have been able to work in a comparatively open political system and even to have access to elite allies within the governmental political machine. Although such close relationships with the Government have created frictions and conflicts in government-NGO relations, they indicate the centrality of labour migration issues in politics in the Philippines and the ability of NGOs to influence governmental policy-making (Villalba, 1997).

By the mid-1990s, the Philippines had emerged as the second largest source of the world's global labour force. In response to the strong grass roots' push for protection of worker rights both at home and abroad, the Government of the Philippines has become, among all labour sending countries, the most active protector of its migrant nationals. It did so by legislating the most comprehensive laws aimed at enhancing their rights.[10] Its first great legislative achievement was the ratification of the International Convention of the Rights of All Migrant Workers and their Family (ICRM) in 1995. This happened largely in response to the controversial case of Flor Contemplacion – a Filipina domestic worker executed in Singapore in the same year for allegedly killing another Filipina domestic worker and the child of the latter's employer (Hildson, 2000; Law, 2002: 210). This widely-publicized violent incident generated a spontaneous public outcry and massive demonstrations by Filipino NGOs and citizens at home and abroad. The sharp response to the incident reflected the hardships and harassment

experienced by many, if not most, Filipino migrants. In order to appease the public outcry, the then President Ramos ratified the ICRM and legislated a domestic law, the *Overseas Migration Act* (RA 8042), to implement the ICRM. The Philippines thereby became the first country to pass such a law, as required by the ICRM, among all signatories to it.

In addition, the most recent such legal accomplishments include the 2003 enactment of the *Absentee Voting Rights' Bill* (RA 9189) and the *Anti-Trafficking in Persons Act* (RA 9208). The latter was possible because committed NGOs and organized groups of migrants and women worked diligently, lobbying for its legislation and educating the public on the issue of trafficking in women. It is important to acknowledge that ratification of the ICRM and the following passage of migration-related bills did not occur in a social vacuum. It was in fact preceded by a number of small "success stories" achieved by women migrant worker NGOs, mainly those operating from Hong Kong, China. A recent impact study also points to the importance of civil society activism (Iredale, Piper and Ancoq, 2005).

As the above indicates, the launching of migrant NGOs abroad is deeply rooted in developments domestically, as expressed by one Filipino activist: "the key to successful campaigning abroad is a strong movement 'at home'".[11] The vibrant activism staged by Filipino domestic workers in Hong Kong, China and elsewhere is, thus, an outcome of many factors embedded in their country of origin, their destinations and in the growing transnational networks that connect them.

Although Indonesia has a less-developed system of migrant labour NGOs than the Philippines, it is nevertheless home to many tens of migrant labour NGOs (Ford, interview, June 2003, Jakarta), many of which are organized under the most prominent migrant labour umbrella organization, the Consortium for the Defence of Indonesian Migrant Workers (KOPBUMI, *Konsorsium Pembela Buruh Migran Indonesia*). KOPBUMI has been extremely active in promoting migrant labour issues through the local media, and in advocating for changes in Indonesia's labour law, for example, for a bill on the Protection of Indonesian Migrant Workers and their Families, which was introduced to parliament in 2002. In the same year, migrant labour NGOs filed a citizen's lawsuit against nine government officials, including President Megawati Soekarnoputri, in relation to the humanitarian disaster at Nunukan (Ford, 2003). It has also sponsored the formation of the Jakarta-based Federation of Indonesian Migrant Worker Organizations whose local affiliates plan to provide counselling and other assistance to prospective and former migrant workers in their provinces of origin (Ford, 2004).

"Good practices" of national and regional alliances

Arguably, the most successful of those, in terms of its widespread grassroots support as well as overseas networking is MIGRANTE International which is a global alliance of overseas Filipino organizations. Membership based, staffed by activists who were formerly migrants themselves, and supported from the grass roots level, MIGRANTE has been vital in organizing Filipino migrants on a large scale. Among its objectives are to strengthen unity and organizations of overseas Filipinos and their families in the Philippines and to defend the rights and welfare of overseas Filipinos. It has 95 member organizations in 22 countries around the world. By trying to address the root causes of migration in the Philippines, the NGO and its networks are addressing migrant workers rights "at home".

Another Philippine-based, but clearly more regionally-oriented network is Migrant Forum in Asia (MFA). It is an organization with over 260 members covering the whole of Asia (West, South, South-East, North-East and East), including NGOs from sending and receiving countries (for more details, see www.mfasia.org). Its member-NGOs support any migrant workers, female and male, of any nationality in Asia. They hold regular regional meetings, exchange information (and also engage in lobbying) via the Internet.

Another important regional network whose secretariat is located in Kuala Lumpur is the Coordination of Action Research on AIDS and Mobility (CARAM Asia), a sub-network part of MFA. It is concerned not only with domestic worker issues, but with larger health and other migration issues as well. But its work has been particularly influential with regard to Foreign Domestic Workers (FDWs). As a follow-up to a regional summit on domestic workers in 2002, CARAM Asia launched a campaign to make FDW issues visible and expose the violations of their rights. It also seeks to bring about legal and extra legal protection of FDWs and lobbies for the recognition of domestic work as "proper" work. To do so, it organized two consultative meetings with the United Nations Special Rapporteur for the Human Rights of Migrants. In addition, the network also produced a declaration called the *Colombo Declaration* in 2002 at the conclusion of a regional summit on FDWs in which NGOs and trade unions participated.[12] This network has thus included trade unions in their activist endeavours. Whether trade unions attended those meetings purely to get informed or in view of addressing FDW-related issues as part of their programmes and services remains to be seen.

The role of trade unions

Within the world of trade unionism and its policy making structure, a distinction has to be made between international unions, national centres and

sector-specific (or local) unions. The types of responses to migrant labour differ accordingly.

International unions and policy

At the global confederation level, the International Confederation of Free Trade Unions (ICFTU) has advocated migrant rights in many venues. It was a very crucial participant in the 2004 International Labour Conference in Geneva. It has also made numerous solidarity actions for migrant issues around the world and its affiliates in many countries have started addressing the problems of migrant labour – not only employment issues but also in terms of the social fall –outs like racism and xenophobia. In a recent policy paper, ICFTU (2003) argues that a discussion among affiliated organizations is needed to deliberate on "mainstreaming" migrant workers into unions' broad activities. In 2000, a workshop was organized on this very topic.

The ICFTU's Regional Organization for Asia and Pacific (APRO) has also organized a few regional consultations on the role of trade unions in the protection of migrant workers (ICFTU-APRO, 2003). ICFTU-APRO's Action Plan for 2003 includes two major recommendations: a) establish a migrant workers' desk or committee; b) recruit migrant workers as union members. The first recommendation has been put into practice by some national centres, such as Singapore's NTUC.[13] Malaysia's Trade Union Council (TUC) has a subcommittee/section on foreign workers but does not have the funding for more full-time staff to work on migrant labour-related issues, let alone on legal assistance (interview, July 2005, Kuala Lumpur). The second ICFTU-APRO addresses recommendation an underdeveloped aspect of trade union work in South-East Asia (as elsewhere).

Being a member of another global confederation (the Global Union Federation), the International Federation of Building and Wood Workers (IFBWW)[14] concerns itself with "the promotion and enforcement of workers' rights in the context of sustainable development". It is reported as having stressed the need to find ways to make contact with illegal migrant workers (Johansson, 2005). According to the education officer at IFBWW in Kuala Lumpur (interview, June 2005), they are currently running a programme on labour migration involving the Philippines; Indonesia; Viet Nam and Mongolia as origin countries; Malaysia; Taiwan Province of China; Republic of Korea; Hong Kong, China; and Japan as destination countries. Those kinds of initiative (if successful) are worth observing in view of emulating them in other contexts.

National level

In a recent paper prepared for the ICFTU, Johansson (2005:2) observes that the union movement considers "reaching out to the unorganized and vulnerable" groups as a way to ensure the future relevance of trade unions. He goes on describing unions as "one of the most progressive actors in the migration debate" and as "active in organizing and defending the rights of migrant workers". But that is not the case everywhere – or at every level (i.e. international unions' policies might not trickle down to local unions or vice versa). Also, the extent to which rhetorics are translated into action (projects and programmes) remains to be seen. In receiving countries, one major problem seems to resolve around finance and the justification of spending parts of the union budget on foreign worker issues considering that foreigners are not fee-paying members. In sending countries, the major hinderance to greater engagement with migrant workers seems to be the local labour issues.

Gallin (2000) presents a more negative view of Johansson's assessment, arguing that with trade unions' core actions revolving around wages and conditions of employment, the issue of migrant labour tends to be covered only in the realm of advocacies and statements by trade unions. Direct organizing and provision of services as well as institutional representation of migrants seem to be beyond the scope of normal trade unions' work, i.e. collective bargaining.

Yet, changing attitudes of unions towards migrant workers are reflected in two questionnaires (sent to national centres world-wide) conducted by the ILO in 1994 and 2003. According to the findings from those surveys, the most common two issues that trade unions were engaged in with regard to migrant labour concerned discrimination and wages (Johansson, 2005).

An important challenge for many unions is undocumented migration. In some European countries, it is not uncommon for trade unions to support the organization of irregular migrant workers.[15] New developments in Asian countries are also under way. In Malaysia, where undocumented migration is rampant, trade unions are recognizing this issue and initiatives in certain sectors such as construction are appearing. Those initiatives were introduced even when the official stance by the Malaysian Trades Union Congress (MTUC) was firmly against the protection of undocumented workers. The recent change in leadership at the MTUC might result in a more inclusive policy direction placing migrant labour (both legal and undocumented) firmly on their agenda. In Singapore, although the National Trades Union Congress (NTUC) has set-up the Migrant Workers Forum in 2002, it is strictly against reaching out to undocumented

migrants. This, however, has to be seen in light of the Government's clear policies, the availability of legal avenues for unskilled labour (unlike in many other destination countries), and comparatively small numbers of undocumented migrants.

There are also evidences of union work in Asian sending countries. The national seafarers unions (e.g., Associated Marine Officers' and Seamen's Union of the Philippines or AMOSUP) traditionally focus on monitoring contract standards and providing services like health care and training. The Alliance of Progressive Labour (APL) for its part has deployed a union organizer in Hong Kong, China to help the Filipino Domestic Helpers General Union (FDHGU). The union is in the process of being affiliated to the Hong Kong, China Congress of Trade Unions and the APL and is also being assisted by an NGO; the Asian Migrants Center (AMC). This is an interesting model to observe as it establishes union-to-union and unions-to-NGO partnerships.

Encouraging the participation of migrants in trade unions is not always an easy endeauvour. Sending countries usually experience difficulties offering services to migrant when those are living abroad. Migrants often work for many different employers and in a variety of sectors. Migrants are rarely accessible and face problems owing to language and culture gaps. Often the migrants are not well educated and have no informed knowledge about trade unions. Particularly when they are undocumented, migrants do not feel encouraged to become members. Restrictive policies and practices in receiving countries and widespread pressure (and threat) exerted by employers to discourage trade unions membership force migrants to keep a low profile. Furthermore, unions tend to suffer from lack of resources (ILO, 1999) and lack of knowledge and expertise (especially in countries of origin) (Johansson, 2005).

On the whole, the prevalent view of migrant workers is still that of competitors for local workers, despite evidence to the contrary: a recent study in Malaysia has shown that this is not the case in many sectors. It seems so in agriculture but definitely not in construction.[16] It is interesting to note that domestic workers are rarely considered competitors on the employment market as local women have largely moved out of this sector owing to social stigma, low pay and bad working conditions. Yet, trade unions have not shown any interest in organizing them.

Much of trade union's engagement with foreign migrant workers remains rhetorical. It is, therefore, important to identify areas and modes of cooperation between trade unions in the labour sending and receiving countries in order to reach to

the next level of designing and implementing concrete projects/programmes. A workshop organized by the ICFTU-APRO in 2000 called, among others, for an integrated approach by unions in sending and receiving countries in the context of skill development, training, information exchange, networking and re-absorption of migrants. But no concrete plans or ideas have emerged yet on how to go about it (ICFTU-APRO, 2003).

NGOs and trade union collaboration

Commonalities/differences

Both trade unions and NGOs are civil society actors. Trade unions and NGOs have in common that they have specific agendas for the improvement of society and that they can legitimately claim to be serving the interest of the society in general. As a result, there are numerous of examples of cooperation on a variety of issues between them (Gallin, 2000).

At the same time, they constitute very different sets of sociopolitical institutions. Those differences are largely based upon:

a) Membership mandate but bureaucratic procedures of the unions as against the speed and flexibility of NGOs; trade unions have a clearly defined constituency; unions are usually seen as more democratic with high levels of transparency and accountability; NGOs are not subject to the same rules; they are membership organizations and have a self-appointed and coopted leadership; there is no clear monitoring and evaluation procedures. This also gives them greater flexibility and mobility (Gallin, 2000);

b) Ideological positions and ways of organizing; unions castigating NGOs to concentrate on certain measures that may ignore or undermine worker power; NGOs criticizing union organizations and strategies as inadequate for the needs of migrant workers, especially undocumented and domestic workers (and their non-recruitment) (cf. Waterman, n.d.);

c) Class-based cultural differences; with many NGOs being largely middle-class, they are seen as having a culture of charity which differs from trade unions' culture of solidarity; many NGOs have been criticized for having a welfare and basic needs agenda rather than a social change agenda; yet in parts of the developing world, the radicalization of parts of the middle-class has led many NGOs to adopt a radical agenda of fundamental social change (Gallin, 2000).

At the same time, there are also misconceptions about both organizations' advantages and disadvantages. As Waterman points out, the union movement is

not always the most democratic institution in every society. He describes NGOs as being "marked by polemical overkill". In terms of funding, both trade unions and NGOs are dependent on similar, if not identical sources. This leads Waterman (n.d.) to argue that with NGOs and trade unions constituting two very considerable world-scale sociopolitical-cultural actors, both types of organizations have in fact as much in common as they share differences. Unions have to realize that they will not be able to turn around their continuing decline unless they engage in a profound, open dialogue with labour NGOs (Waterman, n.d.). The real issue is how to exploit those commonalities and make the most of the differences in order to promote greater collaboration.

Strength/weaknesses

The main weakness of NGOs and community-based organizations (CBOs) is that they tend to be small with little, if any, regular budgets. Few have full time staff and all operate with very limited resources. Some NGO/CBO initiatives for migrants focus on specific nationality groups. Considering their limited resources, this is understandable. But this partly results in unequal service provision among the various nationalities. For some nationality groups, there are no services available at all. Foreign-worker led-NGOs (such as a Filipino NGO led by Filipino activists) are also rare.

Among NGOs' advantages, by contrast, is the fact that they can concentrate on a smaller agenda and on non-traditional labour issues. They often organize public fora/events and bring issues to the attention of the wider public as well as policy makers. In addition, the service oriented/para-legal NGOs that focus on FDWs fill an important gap as there are no other non-governmental channels for this group of migrants. Grass-root based groups have a crucial role in channeling cases to government ministries or to national union centres.

As for trade unions, their strength is their sheer size and availability of resources. Promoting non-discriminative and equal treatment, they do not prioritize certain nationality groups. However, they focus on traditional sectors so that no trade union in South-East Asia to date (except for Hong Kong, China) offers any concrete projects or programmes for FDWs. As it stands, the nature of household work is not understood by trade unions and misconceptions abound.

However, unions as general worker organizations cannot focus exclusively on migrant workers, unlike NGOs. Similarly, they cannot easily justify the spending of membership fees on foreign worker related issues.

According to ILO recommendations from 1999, trade unions in receiving countries are encouraged to:

- negotiate for the implementation of internationally accepted standard employment contracts;
- make representation for the reduction of fees charged to migrants in view of the abolition of recruitment fees.

Those two issue areas are not tackled by unions in South-East Asia.

In general, trade unions are part of the overall labour movement and function thus as mass organizations, whereas NGOs are usually micromanaged and grass-roots oriented and more suitable to deal with concrete cases. Trade unions argue that they cannot easily justify putting more resources into foreign worker issues as their membership is largely comprised of local workers. NGOs, by contrast, feel that trade unions have a clear role to play and should take over some of the tasks that NGOs have been fulfilling. This points to the importance of a greater involvement of trade unions in the sending countries.

Cooperation

Cooperation between unions and NGOs depends on whether they share common objectives and on issues relating to their methods of operation. At the international level, there seems to be extensive cooperation between unions and human rights organizations on defending workers' rights against state or para-state repression (Gallin, 2000). NGO-trade union alliances also play a role in organizing workers in regions or employment sectors with traditionally low levels (or complete absence of) union organization, such as agriculture and domestic service.

There is generally very little contact and concrete cooperation between trade unions and NGOs on the issue of foreign workers. Whatever cooperation there might be, this usually occurs on an ad hoc basis to respond to a specific "crisis". This is partly attributed to trade unions' leadership (taking a pro-government stance) while unions generally adopt the conventional stance, often viewing migrants as job-takers and associating them with social problems.

Also, there is often little or no mutual trust between NGOs and trade unions. To address this, there is a need for dialogue between trade union and NGO leaders to understand one another's mode of operation, limitations and strengths and emphasize that the two are not competitors but complementary actors in the struggle for workers' protection. The documentation of good practices of trade union and NGO collaboration in the field of migrant labour as well as the failures would also help to achieve this and gain deeper insights into trade union-NGO connections.

Conclusion

Existing and emerging trends in the international migration of workers call for a rethinking and reconceptualizing of the political organizing of foreign workers as part of the constituency of the labour movement. Fragmented relationships between NGOs and trade unions within countries in South-East Asia contribute to the lack of solidarity and collaboration on certain issues such as migrant labour.[17]

This paper took the concept of transnationalism as a starting point to discuss migrant worker organizing by non-governmental organizations. Political activism aimed at promoting migrant workers' rights has taken place by way of transnational networking and alliance building to reflect the nature of much of today's cross-border migration. This has, however, not occurred equally in all countries and across all types of organizations. In fact, it is NGOs that have considerably engaged in this form of organizing.

In the present transnational context where the majority of foreign workers hold temporary contracts, the methods of political organizing must change to adequately respond to the needs and issues relevant to those workers. Trade unions must wake up to this reality and catch up with NGOs. Profound dialogue between the two sets of actors needs to take place at the national level on terms of engagement and areas of cooperation based upon their very respective strengths and weaknesses. Transnational partners need to be identified and brought into this process in order to build a complex web of transnational interactions that would improve the complex situation that migrant workers are facing today.

Acknowledgement

Endnotes

1. Also across the region, for example between Asia and Europe, as discussed elsewhere (Piper, 2005).

2. This paper is based on data collected for a baseline study funded by the Friedrich Ebert Foundation on labour organizing in South-East Asia (carried out in 2005). In addition, it also draws on fieldwork carried out between 2002 and 2004. The latter was partly done in connection with a UNESCO-funded project as well as the Discovery Grant No. DP0343303 by the Australian Research Council.

3. This number includes refugees and displaced persons, but it does not capture irregular migrants who often escape official accounting. For this and other reasons, United Nations figures on migration undoubtedly understate the migration actually occurring and must be seen as the lower bound of probable levels.

4. Migrants without documentation or work permits are often referred to as "illegal". However, this can be misleading as it conveys the idea of criminality. Many studies have shown that migrants shift between legality and illegality for various reasons, often beyond their control or knowledge. The term "undocumented" is preferable, but does not cover migrants who enter the destination country legally but later violate their original entry visa. At the 1999 International Symposium on Migration in Bangkok, 21 participating countries agreed to use the term "irregular migrants". It has become common practice since then.

5. See Gosh' discussion on the inadequate recognition of migrants' rights in international and national law (2003).

6. See Pêcoud and de Gutcheneire (2005) for a summary of the literature on the "no border" debate as well as Martin (2003) on the rights of states.

7. Memoranda of Understanding or Bilateral Agreements are no exception to that as they rarely contain any clauses on rights issues.

8. For further elaboration of the meaning of transnational in this context, see Piper (2005).

9. In Malaysia, for instance, only 10 per cent of all workers are unionized (Piper, 2005).

10. Problems with their implementation are discussed in Iredale, Piper and Ancoq (2005).

11. Nicola Piper, interview, Manila, November 2003.

12. For wording and more details, see http://www.caramasia.gn.apc.org/page.php?page=regional _summit/

13. According to a recent questionnaire by the ILO sent out to trade unions around the world (to which 42 trade unions responded, among them NTUC Singapore), 16 unions (two of which are in South-East Asia, Hong Kong, China and NTUC Singapore) replied affirmatively to the question of whether they have a designated migration officer. The main responsibilities of such migration officers were mostly: (a) training and information, followed by (b) policy advocacy, (c) individual assistance and lastly (d) recruiting members. NTUC Singapore's designated migration officer is part of the "Migrant Workers Forum" (MWF) set up in 2002 and chaired by Mr. Yeo Guat Kwang.

14. The IFBWW, headquartered in Geneva, has more than 10 million members spread over 287 trade unions in 124 countries around the world and dealing with building, building materials, wood, forestry and allied industries.

15. For some examples, see Piper (2005).

16. Presentation by Dr. Suresh Narayanan ("Migrant Labour and the Malaysian Economy") at the UNHCR Roundtable on Migration and Refugee Issues, Kuala Lumpur, 13-14 June 2005.

17. This was one of the main results that emerged from the country studies presented and discussed at the recent workshop on "Migrant Labour in South-East Asia" that was instigated and funded by the Friedrich Ebert Stiftung and co-organized by the Asia Research Institute in Singapore (25-27 August 2005, Singapore).

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Enhancing the Development Impact of Migrant Remittances and Diaspora: The Case of Viet Nam

As a failure of development but increasingly as an integral part of the whole process of development with a potentially important role to play in the alleviation of poverty.

By Dang Nguyen Anh*

In a traditional viewpoint, migrants are both pushed by lack of opportunities at home and pulled by the hope of economic gain. A search for a better life is often underlying the movements. Development processes affect and are affected by migration flows. Migration can help to achieve this by associating people more closely with available economic opportunities, employment and services. This thesis remains relevant today. Both internal and international migration is on the whole contributing to development and poverty reduction (IOM, 2003). The

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monies sent back by migrants contribute more to national and local economies than trade in several countries. Registered remittances to the countries of origin were estimated at US$100 billion in 2004. It represents roughly one and a half times official development assistance (Newland, 2004). In addition, a large, unknown amount is transferred through informal channels or to countries that do not report statistics on remittances. A major reason to transfer money through informal channels is the still inadequately developed banking systems in countries of origin. The effects of remittances on development are often complex and contradictory, but seen in a positive light by a majority of researchers.

As most remittances, either in cash or in kind, are sent back to the migrants' family members and relatives, the most obvious impact of remittances is to support the subsistence and incomes of households in the places of origin. Remittances do not only increase the individual household income, a part of them can also be channeled into investments and contribute to the growth of local economy. The use of remittances for private consumption may even stimulate demand, which may create local markets and jobs for non-migrants. Although the proportion of total income from remittances may be less in poorer households, the relative impact is likely to be greater (Skeldon, 2002). Among the poor, a larger proportion of remittances may possibly be spent on consumption rather than on investment, but remittances directly increase the household income of those families and amount, in many cases, to over 50 per cent of the total household income (Dang, 2003).

Maximizing remittances and their development impacts

The label "remittances" subsumes a variety of transfer types that have different potentials for development. First, there are classical and most common intra-family transfers that are usually associated with the word remittances: money or gifts sent by a migrant to his or her relatives in the country of origin. Second, there is what might be called "personal investment transfers", either in the form of regular deposits, or in the form of a one-off transfer upon visit or return. Third, there are collective transfers, usually directed towards a shared beneficiary, for example through a village/hometown association. Finally, remittances can be charities that overseas migrants support for the neediest in home countries. Those different types of transfer have different relative importance, depending upon destinations of migration and the maturity of the diaspora as well as the diaspora management (Shain and Barth, 2003).

The links between migration and remittances are self-evident. Both have a strong correlation to poverty reduction in home countries. New empirical findings resulting from an international study of 74 low and middle-income developing

countries reveal that on average, a 10 per cent increase in the number of international migrants in a country's population can lead to a 1.6 per cent decline in the poverty headcount. Similarly, a 10 per cent increase in the share of remittances in a country's GDP can lead to a 1.2 per cent decline in poverty (see Page and Adams, 2003). It should be noted that the impacts of international migration on poverty vary by region, probably owing to the fact that migration statistics fail to accurately capture the numbers of undocumented migrants. The tendency to remit varies depending upon factors such as the strength of the migrant's kinship ties and his/her intent to return to the country of origin. Migrants who intend to return tend to remit more funds than migrants who are permanently integrated into host countries.

Remittances have generally better local investment potential where modern and flexible financial infrastructures exist and where government policies are capable of supporting migrants' financial needs. Specific challenges include improving financial infrastructures in terms of reliability and outreach, adjusting existing regulations to reduce obstacles to formal remittances and improving the quality of data on migration and remittances. From the perspective of the migrants, informal transfer systems offer inexpensive and reliable alternatives to formal transfers where those are lacking or inadequate.[1] Indeed, weak banking infrastructures and restrictive regulations have the effect of encouraging the use of informal channels making remittance flows even more difficult to quantify and lessening their development impact. The challenge is therefore to devise regulatory regimes, which are flexible and inclusive enough to encompass both informal and formal sector approaches.

In the case of the Philippines and India, rapid increase in volume of remittances over the past few decades and the fact that remittances have remained less volatile, impervious to economic slowdowns, and will most likely increase in the foreseeable future in tandem with continuing emigration from those countries. In the Philippines, remittances in 1974 amounted only to US$ 103 million annually. Today, the country receives US$ 7 billion annually. Moreover, over 800,000 Filipinos continue to migrate annually creating the potential for further significant growth in remittance flows to the country. In India, 74 per cent of the trade deficit is financed through remittances receipts. Both India and the Philippines have engaged in proactive strategies to attract remittances and foster the use of formal channels and enhance development impacts. For instance, over the past 20 years, the Philippines has promulgated legislation granting incentives and privileges for remitters in terms of investment options, purchases of land, tax breaks, etc.

The role of overseas Vietnamese in Viet Nam's socio-economic development

Overseas Vietnamese includes any Vietnamese citizens, former Vietnamese citizens or descendants permanently residing abroad. It does obviously not include Vietnamese citizens temporarily working abroad for a fixed period such as diplomats, students and labour-exported workers. Viet Nam which once observed a massive outflow of refugees, technical experts and skilled workers, now acknowledges its overseas communities as a precious source of much needed capital and human resources on which it can draw. Today, there are about 3 million overseas Vietnamese all over the world, regardless of the timing of their migration, different generations and the circumstances under which they migrated (Committee for Overseas Vietnamese, 2005).[2]

Remittances

Before 1987, as the recipients of remittances were forced to withdraw the money in Vietnamese currency at the bank, many people preferred to receive goods and gifts that they could resell on the free market such as medicines, clothes, cosmetics, electrical and electronic devices, etc. The value of goods and money sent to Viet Nam by overseas Vietnamese in the 1908s was estimated to reach US$ 100-200 million per year.

With the policy reforms introduced in the mid-1980s, the whole economy started to benefit from the large-scale inflow of remittances from abroad. The level of remittances by overseas Vietnamese is already rather high in terms of the total inflow to the country and the level of sending by each overseas Vietnamese household. If one divides the figure for the total remittances from abroad in 2001 by 2.7 million, the average amount of remittances sent by one overseas Vietnamese is about US$ 1,000 per year. The impact of remittances seems to vary considerably at the individual and regional levels. For example, out of US$ 1,754 million as remittances from overseas Vietnamese in 2001, US$ 880 million was repatriated via banks in Ho Chi Minh City.

In an effort to encourage more overseas Vietnamese to remit and invest in the country, the Government announced in February 2000 that it would begin to dismantle the two-tiered pricing system that offers lower prices to Vietnamese than to foreigners for travel and many other services (*Migration News*, March 2000). In an effort to further facilitate the flow of remittances, in 2002, the Prime Minister's Decision 78 was issued to expand the types of institutions that could receive and deliver foreign currency remitted by overseas Vietnamese to their relatives in the country.

A remarkable amount of remittances of over US$ 3 billions was reported in 2004. Over 90 per cent of remittances were received in cash while the remaining 10 per cent were in kind. The figure is equivalent to the total export value in the given year. This does not include the amount of remittances, both in kind and cash, sent directly by migrants to their families. If those informal flows were included, the level of remittances sent by Vietnamese overseas would be much higher. Migrant remittances have contributed significantly to foreign exchange, living standard improvement, and economic development.

Although overseas Vietnamese were not senders of the highest cash remittances, the rapid increase in the total amount of remittances through official channels from the late 1990s until 2004 indicates that government policy towards facilitating remittances have generally been successful. About US$ 1 billion of the remittances sent by overseas Vietnamese have been used for small-scale investment purposes, not directly for consumption. Greater efforts should be made to record the amount of remittance monies that are transmitted through private, informal or unofficial channels. A full and complete accounting of the impact of the remittances on development needs more accurate data on the large and currently unknown level of unofficial remittance transfers.

While remittances seem to have distributive consequences that may merit the concern of policy makers, there is no doubt that this capital inflow has supported Viet Nam's economy in its most critical time and crises in 1970s and the 1980s to the new stage of development in the late 1990s. Remittances from overseas migrants have played important economic and social roles. Successful migration can provide adequate incomes to prevent the migrant's family from falling into poverty, and even raise its living standards. It is very obvious that family incomes in rural areas are significantly improved by migrant remittances.

Remittances are often used to improve the living standards of migrants' families, and are used for consumer goods, better housing, education of children, rather than for immediate needs (Dang, 2003). Remittances are less volatile than other financial inflows and their use can have a number of multiplier effects in the local economy.[3] Investment in education and health care have investment type effects which can help raise families out of poverty in the long-run.

Diaspora investment

Aside from remittances, there is strong evidence on investment that overseas Vietnamese have made in their local communities. As of 2002, there were 60 projects under the Foreign Direct Investment Law (with a total registered capital of about US$ 440 million) and about 700 enterprises under the Domestic Investment

Promotion Law (with a total registered capital of about US$ 65 million) set up by overseas Vietnamese. Those figures indicate that the number of enterprises established by overseas Vietnamese has been increasing since the Domestic Investment Promotion Law came into force (1996).

Despite efforts by the Government to improve the investment climate for overseas Vietnamese, the number of enterprises established by overseas Vietnamese has not been increased throughout the 1990s. It is noted that projects by overseas Vietnamese are generally small. Except for a few large projects in the oil and gas sector, the majority of projects are just over US$ 2 million, in such sectors as trade, tourism and other services. The Vietnamese authorities also welcome investment in agriculture as a means of modernizing the rural society and farming production in Viet Nam.

Another investment-related role of overseas Vietnamese is a "bridging" role between Viet Nam and foreign investors. Many overseas Vietnamese are holding in key position in major foreign companies located in Viet Nam. Those people are expected to be able to facilitate interactions between the foreign and Vietnamese sides by helping the foreign investors to better understand the business environment of the country, and introducing different potential business, advanced management techniques, etc. Besides the direct investment, overseas Vietnamese also contribute to increasing indirect investment through remittances to relatives in-country for investment purposed, as mentioned above.

Knowledge/technology transfer

Compared with remittances to and investment in home country, technology transfers are areas where the potential of overseas Vietnamese does not seem to have been fully utilized. Indeed, figures such as 60 FDI projects and 700 domestic enterprises do not seem very impressive, especially considering the recent policy drive to improve foreign and domestic investment environment. One way for overseas Vietnamese skills and knowledge to be repatriated is undoubtedly through investment (including cases where those workers are employed by foreign-invested projects as experts or managers).

Some factors can be identified to account for those modest figures. First, the figures for investment do not show the real scale of overseas Vietnamese investment in the country, as many people use their relatives' names when operating in the country. Second, as acknowledged by the Government, the capital accumulated by overseas Vietnamese is no match for that accumulated for example by overseas Chinese. The Vietnamese diaspora has only a short history, and some of the most successful cases are found among professionals rather than

entrepreneurs and business men. Third, there also seems to be psychological factors that make potential overseas Vietnamese investors hesitant to initiate or expand operations in Viet Nam. Those psychological factors often derive from the remaining sensitivities in the relations between overseas Vietnamese and their homeland.

A visible attempt to mobilize overseas Vietnamese's talent for national development is the Transfer of Knowledge Through Expatriate Nationals (TOKTEN) programme, which aims to match available expertise in the overseas Vietnamese community with domestic demand. The programme was first initiated in Viet Nam in early 1990 but it developed slowly. In its first 10years of operation, only 20 overseas Vietnamese experts were recruited under the programme. In 2002, the reformed programme established a roster of about 150 overseas Vietnamese professionals covering a wide range of sectors including information technology, industry, engineering, management and finance, medical and public health. It still remains to be seen how effectively the programme can operate.

Another area where the overseas Vietnamese are most welcomed to participate is education and training. The Government has organized several hearings and other events in recent years to gather the opinions of members of the Vietnamese diaspora on how to improve the education and training system in Viet Nam. Besides acting as lecturers in seminars and short-term courses, some overseas Vietnamese also invest in education and training sector projects or work with foreign educational institutions seeking to operate in Viet Nam. The initiatives can have a substantive impact on the development of the nation's human resources.

However, the contribution of overseas Vietnamese to Viet Nam's socio-economic development is not limited to the above cited three areas. For instance, Vietnamese residing in the former Soviet Union and East European countries are reportedly playing a significant role in the trade relations between Viet Nam and those countries. Many overseas Vietnamese are also involved in charitable activities in Viet Nam, through local organizations and networks or directly. The importance of the above three areas has been particularly emphasized by the Government.[4]

Discussions

Recent salient trends in international migration have included shifts in migration patterns such as the emergence of new origins and destinations for global migrant flows, the changing gender and age composition of migrant flows (as women and children migrate more and more independently from parents or

spouses), increasing importance of temporary migration and South-South migration, and the increasing incidence of irregular migration including trafficking and smuggling of migrants. It was pointed out not only that migration patterns are changing, but also that the perception of migration is itself changing (IOM, 2003). It is no longer simply seen as a failure of development but increasingly as an integral part of the whole process of development with a potentially important role to play in the alleviation of poverty.

In this context, it can be reaffirmed that remittances constitute one of the most visible contributions of migration to development in poorer countries. While the full extent and impact of remittances cannot be properly assessed without developing better data, those transfers contribute very significantly to poverty alleviation, by increasing the income of poor households. Migrants' remittances may have a greater effect even than traditional foreign aid. Remittances can constitute a form of reinvestment by migrants in their home countries and are part of a much wider spectrum of developmental effects of international migration. Interestingly, it is the contribution of human capital through skills and knowledge acquisition abroad (taken together with remittances) that will have the greatest long-term development impact, beyond that of remittance transfers alone.

With the increasing importance of migration in Asia, governments will need to put in place comprehensive policies designed to maximize the contribution of migration to economic growth and poverty alleviation. Available estimates and official data cover only the remittances flowing through the formal transfer system and hence underestimate the true level of remittances sent to home countries. There is a pressing need for better migration and remittance data. Even in those countries that do collect migration data, the data often remain unpublished and the same recurring open question persists as to how much money is transferred through informal channels.

In this regard, the roles of diaspora communities in home countries are yet to be well explored, especially in relation to the economic development of the countries of origin, poverty reduction and the economic exchange between sending and receiving countries. Remittances are far from being the only vehicle for the diaspora's influence on the incidence of poverty in home countries. For many countries, those transfers are a major source of foreign direct investment (FDI), market development (including outsourcing of production), technology transfer, philanthropy, tourism, and more intangible flows of knowledge, new attitudes and cultural influence.

The present paper examines the impact of the established Vietnamese diaspora on the national development and identifies ways in which policy

interventions could strengthen that impact. The Government should consider providing assistance and logistical support to build and strengthen diaspora networks that have a strong developmental potential, such as those devoted to cooperation in business or information technology.

In the past quarter of a century, Viet Nam has shed more than two million people who have settled in the United States of America, Europe, Australia and various other countries. Hundred of thousands of overseas Vietnamese have returned to visit their home country and run new business. A couple of billion dollars is remitted from abroad every year; those remittances have become an increasingly important feature of the Vietnamese life. In addition, a few hundreds of experts and intellectuals travel to Viet Nam annually on short-term assignments with Vietnamese counterpart organizations, and several dozens have brought in a more or less large amount of capital.

The overseas Vietnamese community has been and will continue to be a great asset to the home country. The question that requires to be addressed is how policy makers can create conditions to mobilize this asset more effectively for national development purposes. While there remain various technical problems, measures to specifically promote investment by overseas Vietnamese center on issues such as entry-exit regulations, prices and fees for certain services, ownership of in-country housing and property (to expand areas where overseas Vietnamese may enjoy equal treatment with the Vietnamese citizens and/or preferential treatment over foreigners). Many overseas Vietnamese investments have been implemented in another person's name (typically their relatives) to avoid possible disadvantages.

Although the general policy regarding overseas Vietnamese has been reasonably clear, decisive and consistent, a review of a number of policies at a more technical level reveal that specific regulations remain complicated, ambiguous and restrictive. Besides, there is the challenge of slow and inconsistent policy implementation at different administrative levels. Those obstacles are also likely to be part of the reason why the Vietnamese diaspora tends to invest under the names of local Vietnamese.[5]

The good news is that the Government is stepping up efforts to remedy the shortcomings in current policies. New demands are met step by step, despite many apparent entanglements. The gaps in harnessing the development potentials of the Vietnamese diaspora can be identified and overcome by addressing some of the major problems facing overseas Vietnamese investors; Viet Nam has committed to ensuring overall non-discriminatory treatment and eliminating unfair dual prices and fees for foreign investors.

Till recently, Viet Nam has been applying different investment policies between foreign investors and domestic investors. Overseas Vietnamese (together with foreigners permanently residing in Viet Nam) are entitled to choose between the two regimes when they invest in economic activities in Viet Nam. When the country enters the World Trade Organization (WTO) in the future, the same policy shall be applied to investors from all country members, including the Vietnamese diaspora, without requiring proof of the investors' origin, nationality and status. More importantly, the general investment environment in Viet Nam is likely to continue to improve as the country proceeds with intensive economic and administrative reforms.

It would be necessary to go beyond the realm of "policies towards overseas Vietnamese" to rebuild relationship between overseas Vietnamese and their home country. The attention is focused particularly on the economic and cultural cooperation with the Vietnamese diaspora. In this regard, the Government is not only devising financial incentives to try and attract remittances, but is also increasingly showing concerns about broader issues related to the lives of overseas Vietnamese, such as their cultural and information needs. Altogether, Viet Nam has so far been successful in handling this sensitive and complex issue, but there still remains an ongoing process that requires sustained effort to fully reap the benefits.

Lastly, while international migration is often recognized as an important source of foreign exchange and beneficial investment, the roles of internal migrants are often "invisible", reaching poorer stratum of the society. Many development-focused policy prescriptions seem to neglect the contribution that internal remittances can make to poverty alleviation and national development. As internal migration can serve as one of many livelihood strategies for poor people and a part of the development process, policies for domestic and international remittance flows are complementary, especially as internal migrant remittances are usually supporting households that are poorer and more vulnerable than households receiving international remittances.

Endnotes

1. For example, in Bangladesh, only 46 per cent flowed through official channels, 40 per cent through the informal *hundi* or *hawala* system (Siddiqui and Abrar, 2002).

2. Major groups of overseas Vietnamese (*Kieu bao*) include 245,000 persons in Australia, 1,300,000 persons in the United States, 200,000 persons in Canada, 250,000 persons in France, 100,000 persons in Germany, 300,000 persons in Russia and Eastern Europe, 40,000 persons in the United Kingdom of Great Britain and North Ireland, 15,000 persons in the Neatherlands, 12,000 persons in Belgium, 30,000 persons in Northern Europe, 12,000 persons in Japan, 110,000 persons in Taiwan Province of China and 100,000 persons in Thailand (Commission for Overseas Vietnamese, 2005)

3. Even when remittances are unproductively used to satisfy basic consumption needs, buying medicines, food, property, building houses or spending on wedding/funerals as well as daily life, they can affect local economy, create jobs and generate income (Taylor, 1999).

4. Different from Viet Nam; China; Taiwan Province of China; and India focus less on remittances in favour of pursuing three very different business-oriented models in seeking diaspora's contributions to national development. Taiwan Province of China has pursued a "brain trust" model, focusing on attracting human capital from the diaspora. China has long worked to attract direct investment and open trade opportunities through overseas Chinese communities. India's recently launched diaspora policy is multi-pronged, pursuing direct investment, portfolio investment, technology transfer, market opening and out-sourcing opportunities.

5. Such an example is the implementation of a regulation which allows overseas Vietnamese to buy houses. The process is too slow and its practical obstacles may well have a negative effect on those who already have mixed feelings about their roles and relationship with their home country.

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Child Migrants and Children of Migrants in Thailand

The children of many migrants in Thailand are in a vulnerable situation, yet the issue has not received adequate attention from policy makers and programme planners.

By Jerrold W. Huguet and Sureeporn Punpuing*

The situation of children of migrants in Thailand has not received the attention it warrants from government policy makers, government and other programme planners, international organizations and social researchers. This neglect has no doubt occurred because of a focus on the larger issues represented by the presence of migrants in Thailand, particularly regular migrants, irregular migrants, refugees and displaced persons. When the Ministry of Interior invited migrants from Cambodia, the Lao People's Democratic Republic and Myanmar to register in July 2004 to receive permission to remain in the country until 30 June 2005 in order to work or seek work, more than 93,000 persons under age 15 were registered. This number would be only a fraction of the total number of foreign

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migrants in Thailand yet it indicates that much of the migration from those neighbouring countries involves families rather than individual workers.

This paper reviews the scant knowledge about the children of migrants and migrant children in Thailand. Those two categories largely overlap but it is important to keep in mind the distinction between them. Some children of migrants were born in Thailand and are not migrants themselves. Some young persons have migrated to Thailand without their parents and are not children of migrants. The paper does not discuss the estimated half million children of Thai nationals who are working overseas (Bryant, 2005).

For the most part, this paper considers the age group 0-14 years to be children, although the age group 10-19 years is usually categorized as adolescents. The age group 0-14 is used because the legal age of employment in Thailand is 15 years. Thus, all those under age 15 are not legally permitted to be employed, which affects their status in the country as well as their economic and social well-being. Data cited from the Office of the United Nations High Commissioner for Refugees (UNHCR) use the age groups 0-4 years and 5-17 years. Thai law prohibits the employment of persons under the age of 18 in certain establishments, such as restaurants with entertainment, karaoke bars and massage parlours. The use of the age group 0-14 years in this paper implies that underage workers in those workplaces are generally not considered. While the situation of persons who have been trafficked for sexual exploitation will be mentioned, the subject is covered by a number of other studies and reports and is thus not focused on in this paper.

There are many circumstances that result in children of migrants and migrant children residing in Thailand. There are probably between 1 and 2 million migrant workers from other countries in Thailand. Significant numbers of those are families who have brought their children with them or whose children were born in Thailand. There are over 135,000 displaced persons from Myanmar residing in camps along the Thailand-Myanmar border, and a high percentage of the camp population consists of children. There are several thousand asylum seekers from over 40 countries in Thailand and many of them are children. There are over 1 million persons from minority groups (largely highland populations) in the country but only about half of them have been granted Thai nationality. Most of the others have been issued "colour cards" that permit them to remain in their district but do not convey the rights of citizenship. Those who have arrived in the past 5 or 10 years may be considered migrants and the situation of their children would be covered by this paper. With few exceptions, children of migrants have not been the focus of research and there exists very little quantitative information about them.

The issue of obtaining a birth certificate for children born in Thailand to foreigners affects many of those categories and will be reviewed below.

Migrant workers

The magnitude of the issue of children of migrants in Thailand was confirmed by the registration carried out by the Ministry of Interior in July 2004, when 93,082 persons under age 15 were among the total of 1.28 million migrants from neighbouring countries who registered. Most labour and migration specialists in Thailand assume that the registration was far from complete but no systematic effort has been made to estimate the number of migrants in the country who did not register. Realistically, it must be assumed that the actual number of children of migrants and child migrants is well over 100,000.

Among the children who were registered by the Ministry of Interior, 74,000 were under 12 years of age and 19,000 were aged 12-14 (table 1). The highest proportion (6.9 per cent) of children under age 12 was found among migrants from Myanmar. The highest proportion aged 12-14 years (1.9 per cent) was found among Laotian migrants. Overall, 45 per cent of the registered migrants were females but among the migrants from the Lao People's Democratic Republic, the figure was over 55 per cent. Among Laotian females, 2.4 per cent were aged 12-14. This relatively high percentage may indicate that many of those females aged 12-14 are in Thailand for employment.

The high percentage of women and children below legal working age among registered migrants in Thailand implies that many families are involved. This has social implications different from those if migration consisted largely of individuals unaccompanied by family members. It may imply a greater permanence of migration and mean that the migrants require more social services.

It is likely that the children of migrants and child migrants in Thailand have little access to social services, including health and education. Migrants who registered with the Ministry of Interior were permitted to enroll in a health insurance scheme. They needed to pay THB 600 (1 US$ = 40.91 THB) for a medical exam and THB 1,300 for health insurance valid until 30 June 2005. If they required medical care, they could go to a local government hospital and be treated as if they were enrolled in the Thai Government's Thirty Baht Health Scheme. Some 817,254 migrants had enrolled for health insurance by November 2004 but the statistics on the programme are not disaggregated by age. Children under age 15 are probably under-represented in the health insurance programme. As they are not legally permitted to work, few would have a source of income, an important consideration when the total enrolment expense was THB 1,900. Migrants who

had registered with the Ministry of Interior in July 2004 were permitted to apply for work permits in June 2005 that would be valid until the end of June 2006 (whether or not they had obtained a work permit in 2004). Prior to doing so, they needed to have a medical exam and enroll or re-enroll in the health insurance scheme, with the same fees as in the previous year.

Table 1. Number of migrants registered with the Ministry of Interior of Thailand, by sex, broad age group and country of origin, July 2004

Country and age group	Both sexes	Percentage	Male	Female
Total				
All ages	1,284,920	100.0	709,339	575,581
Under age 12 years	73,973	5.8	38,711	35,262
12-14 years	19,109	1.5	9,163	9,946
15 years and over	1,191,838	92.7	661,465	530,373
Cambodia				
All ages	183,541	100.0	126,482	57,059
Under age 12 years	6,032	3.3	3,052	2,980
12-14 years	1,817	1.0	895	922
15 years and over	175,692	95.7	122,535	53,157
Lao People's Democratic Republic				
All ages	179,887	100.0	80,099	99,788
Under age 12 years	4,787	2.7	2,388	2,399
12-14 years	3,418	1.9	991	2,427
15 years and over	171,682	95.4	76,720	94,962
Myanmar				
All ages	921,492	100.0	502,758	418,734
Under age 12 years	63,154	6.9	33,271	29,883
12-14 years	13,874	1.5	7,277	6,597
15 years and over	844,464	91.6	462,210	382,254

Source: Unpublished registration data from the Local Administration Department, Ministry of Interior, Thailand.

Children who registered with the Ministry of Interior are, in principle, permitted to attend Thai public schools at their place of residence. The data presented in table 2 indicate, however, that only a small percentage do so. The number of children from Cambodia, the Lao People's Democratic Republic and

Myanmar combined who were enrolled in Thai public schools at secondary level or lower equaled only 14 per cent of the number of persons aged 0-14 from those countries who registered with the Ministry of Interior in 2004. Those hypothetical enrolment rates equaled 28 per cent for Cambodian children, 17 per cent for children from the Lao People's Democratic Republic and 13 per cent for those from Myanmar. (Actual enrolment rates would be somewhat higher if the number of migrant children aged 0-4 were subtracted from the denominator and if the population of 2003, rather than 2004, were used). Those rates assume that no unregistered children of migrants were attending school.

Table 2. Number of students without Thai nationality attending Thai schools by nationality and level, 2003

Nationality	Kinder-garten	Primary	Lower second-ary	Higher second-ary	Bachelor or lower	Higher than bachelor	Total
Myanmar	2,442	6,644	624	115	33	0	9,858
Lao People's Democratic Republic	183	1,077	136	24	62	39	1,521
Cambodia	347	1,527	232	108	17	27	2,258
Hilltribe	4,288	16,829	3,213	376	34	3	24,743
Other	1,779	7,766	1,924	539	2,378	784	15,170
Total	9,039	33,843	6,129	1,162	2,524	853	53,550

Source: Samienrum, 2004, table 6.1.

Apparently many local schools do not accept migrant students, partially owing to language difficulties. In many cases, it may be difficult for a migrant family to meet the expenses of attending school – for the purchase of uniforms, books and other materials. Because migrant workers in Thailand are in a precarious position, most would be reluctant to assert the right of their children to attend school.

A substantial proportion of the migrants aged 12-14 years are no doubt working in Thailand, although not legally permitted to do so. Because of poverty in their home countries, many have probably migrated to Thailand for the purpose of employment. Such children are especially vulnerable to trafficking and smuggling. Because their employment is illegal, there is a greater likelihood that it is also exploitative, with substandard working conditions and wages. In studies conducted along the border with Cambodia, Wille (2001:64) found that the

migration of children to Thailand was usually voluntary, and often organized by families or friends. It was only when the children were in Thailand that they were often recruited into employment in exploitative conditions.

The migrant children in Thailand who are not registered are clearly in an inferior position to those who are registered. The unregistered children would mostly be considered illegal immigrants and subject to detention and deportation. Because they are not registered, they are not eligible for the Government health insurance scheme, nor are they eligible to attend Thai schools. Their precarious legal, economic and social situation increases their vulnerability to exploitation in employment and otherwise.

Refugees and displaced persons

Mass movements of people from Myanmar into Thailand have occurred since 1984, when the Burmese army moved into Karen State and established bases near the Thai border. The number of persons from Myanmar seeking refuge in Thailand increased rapidly from 10,000 in 1984 to 92,505 at the end of 1995 and 127,914 at the end of 2000 (Burmese Border Consortium, 1994, 1996 and 2000). As of June 2004, there were 117,559 persons from Myanmar registered in nine camps along the border, according to the United Nations High Commissioner for Refugees (UNHCR) Regional Office in Thailand. Because the Government of Thailand had suspended official admittance to the camps at the end of 2001, another 19,000 persons were residing in the camps but were not officially registered.

Thailand is not a signatory of the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, and Thai legislation makes no provision for the status of asylum seeker or refugee. The persons from Myanmar who have sought a safe haven in Thailand are considered by the Government of Thailand to be displaced persons who are fleeing fighting. The camps along the border are deemed temporary shelters although about 90,000 persons have been residing in them for nine years.

A high proportion of the camp population consists of children. Forty-seven per cent are under age 18. Among those, 51 per cent are males (table 3). Apparently some families in Myanmar send their children across the border to the camps because of the schooling offered, which may be superior to that available to them at home. That partially accounts for the high proportion of young people in the camps.

Health services and sanitation in the camps are provided by non-government organizations (NGOs) and follow international standards. The camps provide inpatient and outpatient medical services, and more serious cases are referred to local hospitals. The Ministry of Public Health and the World Health Organization monitor the morbidity and mortality situation in the camps.

Table 3. Population of camps for displaced persons at the Thailand-Myanmar border as of 31 December 2003 by sex and broad age group

Age group	Male	Female	Total	Percentage
All ages	60,058	56,653	116,711	100.0
0-4 years	7,393	7,065	14,458	12.4
5-17 years	20,780	19,636	40,416	34.6
18-59 years	29,735	27,895	57,630	49.4
60 years and over	2,150	2,057	4,207	3.6

Source: Data provided by the United Nations High Commissioner for Refugees, Regional Office in Thailand.

Education in the camps is provided in schools run by the refugees themselves, with logistical support from non-governmental organizations (NGOs). The NGOs help with school construction and provide language training and teacher preparation. In most camps, education goes only through 10th grade. After that, a few students transfer to Mae La camp in Tak Province to receive teacher training. The quality of the education provided is limited by a number of factors. Teachers are recruited from among the camp residents. The classrooms are crowded and teaching materials are limited.

UNHCR and the United Nations Children's Fund (UNICEF) have identified a number of ways in which children in the camps for displaced persons may be vulnerable. Some have been factional soldiers in Myanmar or are at risk of recruitment as soldiers, some are separated from family members or caregivers, they may be subject to sexual and gender-based violence, and some may be vulnerable to being recruited for exploitative work. As the displaced persons in the camps are not permitted to leave them, they can find work outside the camps only illegally, often placing them in exploitative situations. The rudimentary education and skills training that young persons receive in the camps do not equip them well either to work in Thailand or to return to Myanmar.

In addition to the displaced persons in border camps, there were some 4,600 persons from over 40 countries in Thailand in late 2004 who had applied for or

been granted refugee status by UNHCR, and who were recognized by the Government of Thailand as "persons of concern to UNHCR". As many of those are in family units, some proportions of them are children. The Bangkok Refugee Centre (BRC) provides them free medical services and, in case of an emergency or serious illness, will refer the patient to a government hospital and reimburse the hospital for expenses directly.

The BRC coordinates with over 20 Thai public schools to allow refugee children to attend them. UNHCR covers the tuition and related expenses for refugee children in public schools and subsidizes the expenses for those in private schools. The BRC provides classes in the Thai and English languages in order to prepare children to enter formal education. It also provides vocational training for both males and females.

Migration processes

Recent research has yielded much valuable information concerning the processes of migration to Thailand from neighbouring countries, although most of the studies have not focused particularly on children. One study that focused on labour migrants was conducted by the World Vision Foundation of Thailand (WVFT) in collaboration with the Asian Research Center for Migration (ARCM) at Chulalongkorn University. That study carried out a survey of nearly 400 migrants in Mae Sai (Chiang Rai province), Mae Sot (Tak province) and Ranong. While only 1 per cent of the respondents were under age 15, it is likely that much of the information obtained from the respondents would also pertain to children and youth.

The WVFT/ARCM (no date) study ranked the reasons for migration from Myanmar. Out of nine types of response, the three most important related to poverty: (a) low wages in Myanmar, (b) unemployment at the origin and (c) family poverty. The fourth most important reason for migrating out of Myanmar was the traumatic experiences suffered in the country, including forced labour and a combination of many problems. The study demonstrated that migration to Thailand had become nearly routine for many persons in Myanmar. Some 77 per cent of the respondents had entered at an immigration checkpoint. While most had paid a broker to assist with documents or crossing the border, 36 per cent had entered Thailand by themselves and another 48 per cent had entered along with family members or friends.

Save the Children (United Kingdom) conducted a two-year participatory action research project from 1999 to 2001 among migrant children along the borders of China, Myanmar and Thailand. The reports of the project (Caouette, no

date and 2001) contain many direct quotes from adult and child migrants in Thailand or who have returned home from Thailand. They make it clear that family poverty in Myanmar and Yunnan Province of China had prompted their migration to Thailand. In spite of the harsh conditions they often faced, many of the respondents felt that they could earn much more working in Thailand than at home.

Migrants typically pay brokers to transport them to Thailand and cross the border. The same brokers or others in Thailand find work for them for a commission paid either by the migrants themselves or by employers but the migrants have little choice in their employment. Migrants to Thailand usually do not know what kind of work they will find until they arrive. In the WVFT/ARCM survey, 72 per cent of the respondents were not aware of the type of work they would do. Even if they knew the type of work, they did not have any information about working conditions or wages.

Many migrants cross into Thailand illegally or overstay border passes. At the time of entry, none of them has a work permit. The process of migration, which involves the use of brokers, in which the migrants have little information about their fate and which involves working illegally initially, places the migrants in extremely vulnerable situations. This is especially true for children. The migrants are often cheated or exploited by brokers and may end up in exploitative work situations. Children are sometimes abandoned when their parents are arrested for illegal entry (Caouette, no date).

The United Nations Convention against Transnational Organized Crime was approved in 2000. A supplement to the Convention defines trafficking of persons as the recruitment and transfer of persons "by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability … for the purpose of exploitation". The supplement further states that "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if it does not involve any of the means set forth" in the article (United Nations Inter-Agency Project Newsletter, first quarter, 2001:4).

Measuring the extent of trafficking is imprecise because there are degrees of such concepts as "coercion" or "deception". Because children cannot work legally, they may be more likely to be employed in exploitative situations and, thus, be considered to have been trafficked by the international definition. The WVFT/ARCM survey attempted to determine if migrants had been trafficked and estimated that 12.2 per cent of the sample could be defined as having been trafficked for employment. That would imply that tens of thousands of migrants in Thailand have been trafficked. In 2003, however, only 422 victims of trafficking

were placed under the protection of the Social Development and Welfare Department prior to being returned home. Among those, 165 were from Myanmar, 108 were from Cambodia and 256 were girls (table 4).

Table 4. Number of victims of trafficking under the protection of the Social Development and Welfare Department, 2003*

Nationality	Girls	Boys	Women	Total
Cambodia	43	60	5	108
Myanmar	96	4	65	165
Lao People's Democratic Republic	80	1	14	95
China	6	-	2	8
Hilltribe	31	12	3	46
Total	256	77	89	422

Source: Yodpayoung and Archavanitkul, 2004. Table 7.6.
* Data up to September 2003.

Children from Cambodia

The circumstances of children from Cambodia, the Lao People's Democratic Republic and Myanmar who are in Thailand are similar in many respects but it is worth reviewing the particular situation of children from Cambodia because a detailed study is available. The United Nations Children's Fund (UNICEF) supported the Asian Research Center for Migration (ARCM) at Chulalongkorn University to carry out a survey of child labour along the border with Cambodia from September 2002 to January 2003 (Angsuthanasombat and others, 2003). Many children from Cambodia work in border towns on day-passes or for only a week or two.

The ARCM study found that 500-700 children per day from Cambodia work in and around the town of Aranyaprathet, opposite Poipet in Cambodia. They work in agriculture, in the market and shops, as sex workers, or providing such services as guarding vehicles. Many of them lack adequate nutrition and, as a consequence, are below standard in physical growth. Many of the children are quite young; the survey identified child workers as young as five years of age.

Some 50-200 children per day work in Chantaburi Province in agriculture, shops or the market. Another 50-200 children per day work in Trat Province in agriculture, the market or seafood processing. The youngest of those workers is 8-10 years of age. Their health was observed to be better than that of the Cambodian children working in Aranyaprathet. There are two distinct

communities of persons from Cambodia residing in Trat Province that have been issued "colour cards" by the Ministry of Interior, granting them permanent residence but requiring them to remain in the province unless they obtain permission to travel to other areas of Thailand (Angsuthanasombat and others, 2003:34).

The ARCM study found that the children were driven into work in Thailand by the poverty of their families. In most cases, their families had migrated within Cambodia to a border town in order to seek employment. The children earn THB 50-70 per day working in agriculture, but only THB 30-50 per day working in services or the market. Many are able to attend school for half a day in Cambodia and work in Thailand for half a day but those who work farther inside Thailand do not have an opportunity to study. Recognizing that the children are compelled to work by poverty, Thailand authorities generally permit them to do so but attempt to arrest those who engage in such illicit activities as robbery or selling drugs.

Children and women are often brought from Cambodia to Bangkok in order to work as beggars in the street. Table 5 shows the number of beggars identified by the Ministry of Social Welfare, by nationality, during the 10-month period from October 1996 to July 1997. The data indicate that nearly two thirds of all beggars were from Cambodia and that 80 per cent of the children were.

Migration and the family

The situation of children of migrants and migrant children generally reflects the circumstances of their family. The economic position of the family often determines that some members will migrate in order to earn money for the family. Although a minority, many migrants travel to the Thai border and cross it in the company of their family. The type and location of employment of the parents clearly affects the situation of the children. In spite of the importance of their family in determining the situation of children of migrants, very little is known about the role of families in migration to Thailand. This gap exists largely because of the way in which data about migrants are collected. The registration of migrants carried out by the Ministry of Interior in 2004 treated migrants as individuals and no information about family relationships was obtained. Similarly, the main sample surveys and qualitative studies of migrants in Thailand have also used the individual as the unit of analysis.

The survey carried out by WVFT/ARCM (no date) in early 2003 interviewed 1,187 migrants, nearly all of whom were from Myanmar. The interview questionnaire was addressed to individuals but a small amount of information concerning their family was also obtained. The results indicate that families are

directly involved in the migration of many individuals but also point to the stress placed on the family by migration of a member to Thailand. About one fifth of migrants reported that they had traveled to the Thai border with other family members. Twenty-five per cent of the migrants said that they had assistance from family members in crossing the border. Migration into Thailand often results in a prolonged separation from the family. Twenty-four per cent of the respondents reported that they never contact their family in Myanmar. When asked about any savings accrued in Thailand, only 48 per cent of the migrants surveyed in Mae Sai reported sometimes sending remittances to their family.

Table 5. Number of beggars, by sex and nationality, identified by Ministry of Social Welfare, October 1996 to July 1997

Nationality	Children				Adults				Total	
	Female	Male	Total	Percent-age	Female	Male	Total	Percent-age	Num-bers	Percent-age
Cambodia	222	274	496	79.7	564	161	725	55.8	1,221	63.7
Myanmar	12	22	34	5.5	22	2	24	1.9	58	3
Viet Nam	0	0	0	0	0	3	3	0.2	3	0.2
Thai	23	69	92	14.8	175	369	544	42.1	636	33.1
Total	257	365	622	100.0	761	535	1,296	100.0	1,918	100.0

Source: Yodpayoung and Archavanitkul, 2004. Table 7.4.

The qualitative studies reported by Caouette (no date) also focused on individual migrants, many of whom were children, but found evidence that some had migrated with family members. For example, a 17 year-old woman who had returned to China stated that, "I went with my mother to Thailand when I was 13 because things were hard at home; there was no money. I couldn't help around the house very much at that age anyway so mother brought me to Thailand to work" (Caouette, no date:36).

Many of the young persons interviewed for the studies reported by Caouette indicated that their migration had been part of a family survival strategy. Usually the family had faced extreme poverty but in many cases factional fighting or forced labour in Myanmar had also threatened the family. An 18 year-old vendor from Myanmar reported, "I came here because there is not enough food in our house for everybody. After my father passed away, all the responsibilities for taking care of my mother and two younger sisters fell on me. Because I could not earn enough money for us all, I came to work in Thailand" (Caouette, no date:39).

A similar family situation was reported by an ethnic Shan who had returned to China from Thailand, "I remember I was a little more than ten years old and my little brother and sister were so small. None of us could help our parents much. In fact, we were a burden to our parents, who had to pay our tuition. The border regions have not seen much development…. We didn't have much of an income, just the crops, but when it wasn't harvest season there was no money at all. So, I had to go to find work outside" (Caouette, no date:40).

Birth registration and nationality issues

Article 7 of the Convention on the Rights of the Child states that children have the right to be registered immediately after birth, the right from birth to a name and the right to acquire a nationality, and further states that the implementation of those rights shall be ensured in particular where the child would otherwise be stateless. Although Thailand is a party to the Convention, it has recorded reservations with regard to Article 7, stating that its application "shall be subject to the national laws, regulations and prevailing practices in Thailand" (UNESCO, 2004). Thailand has also recorded a reservation with regard to Article 22, concerning the nationality of children and the children of refugees and asylum seekers. Article 24 of the International Covenant on Civil and Political Rights, which Thailand has signed and ratified, states that children have the right to be registered immediately after birth, to have a name and to acquire citizenship. There exist many barriers to the implementation of those rights for the children of migrants, displaced persons and highland population in Thailand, however.

To obtain a birth certificate in Thailand, it is first necessary to have a delivery certificate, which is issued by a hospital. The delivery certificate is then taken to the district office, where a birth certificate is issued. Migrant women and urban refugees who give birth in government hospitals receive the delivery certificate and can obtain a birth certificate. The birth certificate issued to them clearly indicates that the certificate does not confer Thai citizenship on the child. If a migrant or refugee woman gives birth at home or in an NGO medical facility, she will not have a delivery certificate and thus not be able to apply for a birth certificate. The number of children born to foreigners in Thailand is not insignificant. According to the Ministry of Public Health, there were 14,296 births to foreigners in 2001 and 15,928 in 2002 (Acthichat and Kongkhunthot, 2004). The actual number could be considerably higher.

Although highland populations in Thailand may not be migrants, only about half of them currently hold Thai citizenship. Their situation is in some ways similar to that of international migrants in that they lack many of the rights of Thai

citizens and require permission from local authorities to travel outside of their province. Unless they give birth in a government hospital their children are not able to obtain a birth certificate.

Prior to May 2003, delivery certificates were not issued for births occurring in the camps for displaced persons. After an agreement was reached between the Government and UNHCR, the Ministry of Interior gave instructions to issue delivery certificates for children born to registered camp residents in Mae Hong Son, Tak, Kanchanaburi and Ratchaburi provinces. Medical NGOs in the camps are to issue the delivery certificate and it is to be endorsed by district officials. Problems remain in many cases, however. The instruction from the Ministry of Interior applies only to children born after 1 March 1999 and only to registered persons in the camps. At the end of 2004, there were approximately 20,000 persons residing in the camps who were not officially registered. Thus, many children born in the camps remain unable to receive delivery and birth certificates. Furthermore, the Government of Thailand does not record births to refugees in an official system of birth registration, making verification of the birth in case of lost documents virtually impossible.

Problems with medical documentation for migrants, particularly the children of migrants, extend beyond birth registration. Because migrant families are mobile, they often do not hold their medical records. The WHO office in Thailand carries out a Border Health Programme (BHP), under which technical publications and information are produced, technical meetings are organized and coordination is strengthened. The Programme operates in ten Thai Provinces bordering Myanmar from Chiang Rai to Ranong. The BHP has developed and distributed widely a Maternal and Child Health Booklet (in Burmese, Thai and English) that mothers retain and that can be used to record basic information about pregnancy history, growth and immunization of the child.

Many thousands of births that occur in Thailand are not registered and no birth certificate is issued for the reasons cited above. If a birth certificate is issued for a child born in Thailand to a woman who is a refugee, displaced person, registered or unregistered migrant, or member of a highland group, the child may still confront the problem of acquiring nationality. If neither the mother nor the father is a Thai national, the birth certificate clearly indicates that it does not confer the right of citizenship. In many cases, however, it is difficult or impossible for the child to acquire the nationality of the parents. Even the 921,000 migrants from Myanmar who registered with the Ministry of Interior entered Thailand in an irregular manner and the Government of Myanmar has not yet taken any steps towards implementation of the Memorandum of Understanding it has signed with

the Government of Thailand that provides for the recognition of those workers as nationals of Myanmar. Without official recognition by the Government of Myanmar that the parents were legally resident in Thailand, the parents may face difficulties in obtaining Myanmar nationality for their children born in Thailand even when they hold a valid Thai birth certificate.

In the case of parents who come from an area in Myanmar where there are armed factions actively opposed to the central government, it might be impossible for either the parents or children to obtain any official identification documents from the central government. This is likely to be the case among the displaced persons in camps along the Myanmar border. The authors do not have data on the number of births in the camps but if the crude birth rate is 35 per 1,000 population, there would be 4,900 births per year to the 140,000 persons in the camps (including both the registered and unregistered residents).

Aside from the displaced persons in the camps, there are 4,600 asylum seekers and refugees in urban areas and some camps in Thailand. As all of those persons have claimed persecution in their own countries, most would be unable or unwilling to acquire that nationality for their children.

Children born to the approximately half million highland population in Thailand who do not have Thai nationality are unlikely to acquire nationality individually. They will obtain nationality only when their entire village is able to do so.

Conclusion

The number of children of migrants and migrant children in Thailand is not known but definitely exceeds 150,000 (including the children of displaced persons). Nearly all are in a vulnerable position because of inadequate social services and various legal restrictions. Many will not wish to return to their parents' countries but are not being adequately prepared for the Thailand labour market. The Government of Thailand should give greater attention to the situation of those children in the context of more-comprehensive migration policies that are designed to promote widespread social and economic development.

While 93,000 persons from Cambodia, the Lao People's Democratic Republic and Myanmar under age 15 registered with the Ministry of Interior in 2004, their actual number no doubt exceeds 100,000. Only 13,637 persons from those countries were enrolled in Thai schools in 2003, however, implying that upwards of 80,000 such children are not attending school. Those who are in school are studying with Thai as the language of instruction, which means they may be

poorly prepared for a return to their countries. In addition, many migrant children, especially those who are not registered, face obstacles to accessing health services.

The authors do not advocate lowering the official working age in Thailand but it should be recognized that many children under age 15 are in a type of limbo because they are not in school and cannot work legally. Those who wish to work are vulnerable to exploitation because they have no recourse if the employer does not comply with minimum work standards. Because of poverty in their own countries, children are vulnerable to being trafficked to Thailand for employment.

While the 55,000 persons under age 18 registered in camps for displaced persons receive primary and secondary education, it is of low quality and the certificates obtained are not officially recognized by any country. Displaced persons are not currently permitted to leave their camps, thus are not being well-prepared to live or work in either Thailand or Myanmar.

There is a danger that an undocumented and uneducated underclass of foreign migrants will grow in Thailand, beginning with the tens of thousands of children of migrants who are not attending school and are not legally permitted to work. They will have poor language skills in either Thai or the language of their parents. Many such young persons will not wish to return to the countries of their parents because they lack any documentation with which to do so, re-crossing the border without documents can be expensive. In addition, they lack any useful contacts for finding employment in those countries.

The Government of Thailand should address the issue of children of migrants and migrant children in the context of a thorough review of its international migration policies. Suggestions for achieving greater policy coherence are presented in the following section.

Policy recommendations

Policies concerning the children of migrants and migrant children are likely to be effective only if they are a component of comprehensive migration policies that are integrated with broader policies of social and economic development. In order for migration policies in Thailand to achieve their objectives, greater policy coherence is necessary. The International Organization for Migration (2005) observes that policy coherence for development implies that countries pursue policies that support, and do not undermine, specific efforts they are making to help and sustain the development process. Policy coherence is intended to avoid conflicting policies, which may result from diverging interests of different

stakeholders, indirect effects of other policies or simply from a lack of information. It ultimately aims at achieving development objectives in the broadest human, social and economic sense.

In order to achieve policy coherence concerning international migration, initially more information, research and analysis are required. International migration should be assessed in a cost-benefit framework. The volume of migration should be incorporated into five-year development plans and projections of the population and labour force.

The Government of Thailand should devote greater attention to finding permanent solutions for the approximately 140,000 displaced persons currently residing in camps near the Myanmar border. Up to 90,000 displaced persons have been living in the camps for nine years. They are not legally permitted to leave the camps or to be employed.

The Ministry of Education should cooperate with local school districts and relevant NGOs to ensure that children of migrants and migrant children living in Thailand receive an appropriate education. In fact, the Ministry of Education submitted in July 2005 a proposal to the Cabinet to ensure education for all children in Thailand.

Migrants who are registered with the Ministry of Interior are encouraged to enroll in a health insurance scheme, which costs THB 600 for a medical examination and THB 1,300 for the insurance for a one-year period. The Ministry of Public Health should introduce a package health insurance scheme designed for the families of migrants, with lower fees per person, as an incentive for migrant families to provide health insurance for their children.

The Government should take steps to ensure that all children born in Thailand receive birth certificates and that the births are officially registered. The Government should cooperate with neighbouring governments to ensure that those governments recognize the nationality of children of their citizens born in Thailand.

The most effective way to reduce trafficking of persons into Thailand for employment is for the Government to be pro-active in enforcing labour legislation and humane working conditions and standards. The control of irregular migration, including the smuggling and trafficking of migrants, can only be effective if sanctions are applied to employers who hire irregular migrants.

Much more policy research concerning international migration to Thailand is required. At a minimum, a survey should be conducted to estimate the completeness of registration of migrants, which would also yield an estimate of the number of unregistered migrants in the country.

More research is required specifically on the situation of children of migrants and migrant children. Such research should cover at least their registration status, health status, school enrollment and employment of migrant children under age 15.

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Raising Our Own Awareness: Getting to Grips with Trafficking in Persons and Related Problems in South-East Asia and Beyond

Although it is important not to forget how far we have come in a relatively short space of time, there is clearly much more that can be done to strengthen responses to human trafficking.

By Phil Marshall*

It is generally agreed that the problem of trafficking in persons is increasing, perhaps rapidly. This has not happened in a vacuum, however, but against the background of an unprecedented growth in programmes and policies to combat this problem.

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It is thus difficult to escape the conclusion that we have yet to fully come to grips with trafficking and that, while we might be having some impact around the edges, or in particular geographical areas, the economics of this phenomenon remain largely unaltered.

This is not at all to invalidate efforts to date. That would be to disregard every victim that has been rescued, every community that has benefited from programmes to improve their lives, and every person whose understanding of the risks of migration has led him/her to make safer decisions and avoid the abuse and exploitation inherent in trafficking.

It would also be to disregard the reality that, though it has gathered pace in the last few years, the international response to the challenge of trafficking in persons is generally still at a relatively young stage. Lessons are being learned, programmes are being adapted accordingly and innovative responses are arising in response to emerging issues. In fact, for almost any gap that can be identified in the response, an intervention can be found which is seeking to address it. We need to get better at sharing such interventions and information on success and lessons learned. This is not as easy as it sounds, for it requires integrity about what is actually working and what is not, and it is challenging given issues such as the competition for funding resources among different agencies. However, the fate of those currently in situations of gross exploitation and abuse, and those who may be in the future, demands that this challenge be met.

This paper essentially suggests that there are several important problems in the anti-trafficking response, many of which emanate from the way that the issue is conceptualized and are reinforced by gaps in data and information available to inform anti-trafficking work, and a general lack of rigorous analysis of the impact of specific programmes and activities. Meanwhile, there are examples of how changes in the conceptualization and understanding of the issues (based on experience and new information) are leading to promising new approaches. Some of those new approaches are highlighted later in the paper.

While the paper focuses on South-East Asia, with particular reference to Mekong countries – Cambodia, China, the Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam – lessons have also been drawn from South Asia.

Overview of trafficking in South-East Asia

An overview of trafficking in South-East Asia is provided below. This is necessarily brief and aims primarily to set the scene for the discussion that follows.

Patterns and trends

There is no single pattern of trafficking in persons but rather a range of them. Examples of patterns in South-East Asia include:

- Trafficking into Thailand from neighbouring Lao People's Democratic Republic, Myanmar and Cambodia against a background of widespread irregular migration, owing to spatial differences in the supply of, and demand for, labour. Women and girls are more likely to be trafficked into forced prostitution or domestic servitude while men and boys are more likely to be held captive on fishing boats. Both male and female victims may end up in forced labour in sweatshops, on plantations or constructions sites;

- A similar pattern of trafficking to Malaysia and Singapore from Indonesia, the Philippines and, to a lesser extent, countries of the Mekong region;

- Trafficking of children from the Cambodian border to beg or sell flowers on the streets of Bangkok or Ho Chi Minh;

- Trafficking of Vietnamese boys and girls for sexual exploitation in Cambodia;

- Trafficking from several destinations in the region to China for forced marriage or sexual exploitation, and trafficking within (false) marriages to Taiwan Province of China in particular;

- Trafficking from Thailand, the Philippines and other places for sexual exploitation in Japan, and sexual and labour exploitation in various parts of the Western world and the Middle East. Importantly, much of this trafficking happens in the context of legal migration, rather than illegal migration;

- Internal trafficking in most South-East Asian countries, particularly for sexual exploitation, on which quite a bit is known, and domestic servitude, on which little is known;

- Kidnapping of young boys in China, Myanmar and Viet Nam for adoption in China.

The final example is one of the few types of trafficking where direct force is commonly used. Most traffickers use more subtle means of coercion and deceit. Depending on the level of organization required, those traffickers may be part of

small-scale "cottage industry" type networks, or large global networks capable of moving victims around the globe.

Smuggling versus trafficking

There are a number of basic differences between trafficking and smuggling, which can be summarized as follows:

- Trafficking is a crime against an individual, whereas smuggling is a crime against the State;

- In a classic smuggling situation, the relationship between a migrant and a smuggler or smuggling ring is a short-term one, ending when the journey is completed, while in trafficking, the relationship is ongoing as the victim is kept in a situation from which he/she cannot escape, owing either to physical restrictions or other binding factors; and

- The source of profit is different. In smuggling, the profit comes from the movement of the individual and is one-off. In trafficking, the bulk of the profit comes from the ongoing exploitation of the victim and can, therefore, continue indefinitely.

It is this last point that makes trafficking a particularly profitable and therefore appealing proposition for criminal groups. In practice, the lines between smuggling and trafficking can obviously become blurred, particularly as many trafficking victims commence their journey as smuggled migrants, only to lose control over their situation at some point. Not all trafficking involves smuggling, however. As noted previously, trafficking can occur through legal migration channels while smuggling is not a factor in internal trafficking.

Responding to trafficking – the four P's

One of the difficulties to date in collecting information on interventions against trafficking is that they are often classified in different ways. In particular, the term "protection" has been used to refer to law enforcement responses (notably in the fight against commercial sexual exploitation of children) and/or to the range of support services provided to victims. There is certainly a need to standardize such interventions. This paper uses the categorizations contained under the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) – a recent regional initiative by the six Mekong governments. Those categorizations can be summarized as the 4 P's:

1. Policy and Cooperation;

2. Prevention;

3. Legal Frameworks, Law Enforcement and Justice (Prosecution); and

4. Protection, Recovery and Reintegration – referring to interventions from the identification of the victim to their eventuɩl (successful or unsuccessful) reintegration.

The types of interventions contained under each heading include:

- Policy and Cooperation: national planning; information collection and dissemination; bilateral and regional cooperation; research, experience sharing and analysis; and monitoring and evaluation.

- Prevention: awareness raising; vulnerability reduction (including education, job creation, microcredit, etc.); community action/protection; promoting safer migration; and various "demand side" initiatives, including any to address social attitudes and norms.

- Prosecution: legal frameworks; specialist police responses; general police responses; judiciary; victim identification; victim protection; and legal sector cooperation.

- Protection: shelters; referral systems; services to victims, family tracing and assessment; reintegration and monitoring.

Within those broad categories, there are also a range of cross-cutting issues, such as gender, human rights and participation.

The remainder of this paper will concentrate on the area of Prevention. While all areas of the response present challenges and difficulties in implementation – many of them major – there are a number of conceptual issues which make Prevention a little more complex, for reasons to be discussed below.

Analysing prevention

Throughout the region and beyond, prevention efforts have overwhelmingly been focused on the supply side of trafficking, that is, on attempting to reduce vulnerability at community level, primarily by discouraging migration, on the often unspoken premise that people who do not moved cannot be trafficked. The specifics of those activities do not vary greatly between countries at present, although there are some interesting new approaches, which are highlighted below.

Despite a large number of activities, however, there is little concrete evidence that such activities are having an impact on trafficking on a localized basis and even less that they are impacting trafficking in overall terms. Most prevention activities to date can be classified under three strategies – awareness-raising, vulnerability reduction and controls on movement – and it is helpful to look at each of those separately, to try and identify possible reasons for the lack of impact.

Awareness-raising

The majority of prevention projects in many countries are aimed at raising awareness of communities about the risks of trafficking and the tricks and techniques of traffickers, through a range of mechanisms including mass media campaigns, community programmes, peer education, posters and calendars, and inclusion in formal and non-formal education curricula.

Support for such initiatives continues despite, or perhaps because of, limited monitoring of their immediate impact in terms of increased awareness and even less information as to whether this increased awareness is leading to behaviour change in the form of less, or safer, migration.

Moreover, much of the awareness- raising initiatives with regard to trafficking imply that those who are raising awareness have a greater understanding of the situation facing target communities than the communities themselves. This supposition is highly questionable at times. One survey in Northern Thailand, for example, found that women were choosing debt bondage arrangements, not because they were ignorant of the risks, but rather because they had a better understanding of the risks than those seeking to raise their awareness. Those women were migrating to work in Japan and had no legal avenues through which to do so. Debt bondage was actually seen as a risk minimization strategy as the cost of any failed migration attempt was met by the end employer, not the migrant, who would have little chance of repaying such a debt (Sobieszczyk, 2002).

Those are just two of many examples which suggest that the awareness of anti-trafficking practitioners also needs raising. This is discussed further in a later section entitled "Raising our own awareness". A final point to consider in the awareness-raising area is that much trafficking appears to be of an almost opportunistic nature. Could it be that efforts to raise awareness of the risks of being trafficked, are also serving to raise awareness of the money that can be gained by becoming a trafficker? Such a consequence is almost unthinkable but may be one that should not be immediately ruled out.

Vulnerability reduction

Vulnerability reduction strategies involve helping communities to protect themselves against trafficking by offering choices and alternatives, such as vocational training, microcredit and other forms of poverty alleviation, or by support for general development activities such as improved access to education. The theory is that providing communities with alternatives will reduce the need to migrate. Again, this approach has limitations, including the lack of suitability of many vocational training programmes and the fact that many communities see often with good reason migration as their best poverty alleviation strategy. A recent workshop hosted by the Asian Development Bank in the Laotian province of Savannakhet for example, suggested that remittances to the province from migration accounted for 80 per cent of the Province's income.

In addition, it is not always clear that the issues being addressed are those that have the most impact on vulnerability to trafficking. For example, Omelaniuk (2005:15) notes that "there is no clear evidence that a low level of education is necessarily a high risk factor". The same paper highlights the greater risks of children in large families. Yet, while there are many anti-trafficking programmes addressing the former factor, few links are drawn between trafficking prevention and family planning.

Controlling population movements

A third strategy, increased controls on population movements, is regularly mooted as a way to reduce trafficking. This includes tightening of migration policies and border controls, specific policies such as controls on the movement of young women and fines for those returning from illegal migration. However, apart from the fact that most borders within South-East Asia are so highly porous as to make genuine border control impractical, evidence tends to suggest that attempts to restrict the movement of people are counter-productive in that they tend to force people into more organized and dangerous forms of migration (see, for example Marshall and Thatun, 2005). As a side point, this suggests that policies to combat smuggling and those to combat trafficking may not always be compatible.

Push-down, pop-up

In addition to the limitations of each of the above approaches, it is important to acknowledge that trafficking is a dynamic phenomenon and traffickers can quickly adjust to changing environments. Research from several countries in the region has indicated that community-level trafficking interventions that appear successful on the surface may simply be shifting the problem from one community to another, a phenomenon known as the "push-down, pop-up" effect (see DAI, 2004).

A striking feature of all those approaches is that they almost exclusively focus on the movement aspects of trafficking, rather than the exploitative aspects, and overwhelmingly place the emphasis on preventing trafficking in the source communities and countries, often far away from where most of the exploitation takes place. To understand why this is, it is useful to review the way that trafficking is generally conceptualized, particularly in terms of its "root causes".

Conceptualizing trafficking – the root causes

In analysis of the root causes of trafficking, poverty, lack of economic opportunity and lack of awareness about trafficking almost invariably feature prominently. In fact this is so common that one could probably call it a consensus view. The majority of interventions to date, particularly in the area of prevention, have centred around addressing those issues.

But what if one was to drop the term "trafficking" and try and relate those "root causes" directly to what they are purported to cause? For example (actual cases):

- A young girl from Cambodia crossed the border looking for work because of poverty. This caused somebody to slip a drug in her drink to render her unconscious and take her to a third country. There, it caused a brothel owner to beat her with electrical wire and force her to have sex with clients.

- Another young woman from Myanmar left her village because of a lack of economic opportunity. This caused someone to sell her into domestic servitude, which in turn caused the family to accuse her of stealing a mobile phone, set fire to her and then lock her up for three days without food, water or medical treatment.

- Three young men from Cambodia did not fully understand the risks of migration. This caused someone to put them on a ship where they were kept for months and forced to take drugs to enable them to work very long hours. It also caused the captain of the boat to murder them when they became too sick to work.

Put in this way, the attribution of course can appear rather strange. Ultimately, trafficking involves gross abuses of human rights, including physical and mental abuse, rape, forced drug use, deprivation of liberties and sometimes even murder. To suggest that those acts are "caused" by factors such as poverty, lack of employment opportunities and lack of awareness is simply not correct.

Those factors, along with others such as lack of education, lack of legal status and problematic individual situations, certainly contribute to the vulnerability of individuals and groups to being trafficking, but they cannot be said to "cause" it.

This is not to suggest that addressing those vulnerabilities is not important. Clearly it is, and not just in the trafficking context, but because many are problems in themselves. The threat of trafficking should not be required to generate our concern about poverty or lack of job opportunities, for instance.

But this dominant discourse on the causes of trafficking has had important implications for the anti-trafficking response to date. Indeed, throughout the region and beyond, prevention efforts have overwhelmingly been focused on the supply side of trafficking. Far less attention has been paid to the factors that create the "demand" for trafficking, and policy discordances and failures which create an enabling environment for traffickers.

The current attribution of the root causes of trafficking has two other very important consequences. First, it encourages a focus on the movement aspects of trafficking, rather than the exploitation aspects, which are ostensibly the main source of global concern. Second, and crucially, the suggestion that trafficking is caused by factors such as poverty, lack of opportunity and lack of awareness, implicitly puts the prime responsibility for addressing the issue on the countries, areas and communities from which victims originate, rather than the destination countries, areas and communities in which the greater part of the exploitation and abuse is taking place.

In looking at how responses to trafficking can be improved, there appears to be a need to return to the beginning, in terms of how the issues are conceptualized, what data and information are needed and what is known about what is working so far.

Going back to basics

Reconceptualizing the causes of trafficking

If poverty, lack of opportunity and lack of awareness are not the root causes of trafficking, then what are? Perhaps it is easier to tackle this question from another point of view; that of the traffickers. Like all forms of organized crime, trafficking is a business. It is currently a business which yields significant profit, at generally little or no risk, particularly for those at the end of the trafficking chain, who generally stand to make the most profit and are often complicit in the most egregious forms of exploitation and abuse.

From this point of view, the level of economic disparity between areas and regions contributes to the existence of a large potential supply pool of workers open to exploitation. Mismatches between immigration policies and labour market realities serve to make much of the cross-border migration illegal and therefore increase the vulnerability of those potential migrant workers. This is further exacerbated by the lack of recognition of the rights of migrants at points of destination.

Supply of potential victims is therefore plentiful, while demand for the low-cost goods or services produced by the victims is high, and profits continue to accrue over time. Compared to drug trafficking – where profits are one-off, the chances of being apprehended and successfully prosecuted are much higher and punishments generally more severe – it is not hard to see why this is an appealing proposition.

In addition, law enforcement responses in human trafficking often target victims rather than perpetrators, particularly as illegal migrants or for involvement in the sex trade. In one country in South-East Asia, for example, it was reported that seven traffickers were in jail and more than 300 victims (United States Department of State Department, 2004). When law enforcement does go after the perpetrators, it tends to target the smaller links in the trafficking chain, the recruiters and transporters rather than the managers and owners of institutions into which people are trafficked. Most of the former group are replaceable, particularly given the large potential supply source, and the additional potential to transfer any additional costs of recruit and transport onto the victim by increasing their "debt". It is important also to acknowledge the complicity of public officials throughout the region in many aspects of trafficking, ranging from taking bribes to ignore the crime, to direct involvement in the transportation, harbouring and abuse of victims.

Taken together, all those factors create a virtual impunity among those who benefit most from the crime. This is well illustrated by the case of a farmer from the Lao People's Democratic Republic who went to Thailand and managed to locate his daughter who had been trafficked into a brothel. Far from cowering and attempting to, for example, make a deal whereby the daughter was released and no charges laid for a crime in which he had been caught red-handed, the owner demanded payment of Baht 15,000 (1 US$ = 41.18 THB) from the father – a sum that the father could not meet.

If trafficking is indeed a business, then one of the most important responses would seem to be to go after the money. There are a number of strategies that can be

used here. Ultimately, the apprehension of perpetrators and punitive confiscation of their assets would almost certainly have the most effect. Other, less ambitious strategies include simple disruption and/or hassling by authorities of traffickers for less serious misdemeanours which are easier to investigate and punish. Law enforcement therefore needs to be seen not just as a way of bringing justice to victims and perpetrators but as a key strategy in making trafficking less profitable and therefore less common. In other words, and without wanting to once more re-arrange the way anti-trafficking interventions are conceptualized, better law enforcement needs to be seen as a form of prevention.

It is also important to acknowledge that human trafficking, and responses to it, do not occur in a vacuum but against a background of social tolerance grounded in discriminations against such groups as women, children, migrants and ethnic minorities (see ARCPPT, 2003 and 2005 for an excellent discussion of those issues). Increased efforts in the criminal justice field need to be complemented by measures to begin to address those equally challenging issues.

The point is not that work on what is currently termed "prevention" should be abandoned. But, like all aspects of the response, realism is needed about how much impact can be expected from such interventions, while a critical reflection is required about how they may be improved.

Whose reality counts?

In seeking to improve our interventions, however, it is difficult to escape the conclusion that trafficking may not be the ideal paradigm for the many and varied problems affecting migrants and their communities in South-East Asia. A very interesting piece of research in the Lao People's Democratic Republic (UNIAP/UNICEF, 2004) found that in many communities with high levels of migration, the migration experience was not seen as trafficked/non-trafficked but lucky/unlucky. A lucky migrant came back with money in his/her pocket while an unlucky one came back without money or with an injury, illness or drug addiction.

Some of what those communities classify as an unlucky migrant would be classified as a trafficking victim but some would not. For example, a young woman is forced to work long hours in a domestic home for six months without pay and then deported as an illegal migrant. A second woman is forced to work under similar conditions but is paid. She leaves voluntarily only to be robbed of all her savings by guards at the border as she is returning home. The first would generally be regarded as a trafficking victim but the second would not. But from a villager's point of view, what is the difference? The lucky/unlucky migrant view also helps to

explain why there is so much of what we call "re-trafficking" in that a migrant with an unlucky experience might simply choose to try again.

The unilateral imposition of outside views and realities on target populations is regarded in most other instances as bad development. A case could certainly be made therefore that the first-best solution would be to throw out the trafficking paradigm completely and replace it with one that focuses on the broader issue of gross abuse and exploitation of migrants.

That is unlikely to happen in the foreseeable future. Therefore, there is a need to work within this paradigm for the time being. A good first step would be to reach agreement that the exploitation of migrant women, men and children is not "caused" by their being poor but by the actions of perpetrators, acting against a background of general impunity and social tolerance, or at least indifference. The next few sections identify some of the other key outstanding issues and make some suggestions about what could be done about them.

Raising our own awareness

A striking feature of the anti-trafficking sector in many countries is a lack of clear information about the specifics of trafficking and the effectiveness of different interventions. Trafficking differs from other sectors, where it is possible to distil a number of basic facts that are widely applicable. In the HIV/AIDS sector, for example, we can state as a fact that HIV is passed through unsafe sex, sharing of needles and from mother to child, etc. We can also state that the spread of HIV can be reduced through consistent use of condoms, reduction in sharing of contaminated needles, screening of blood donations and use of various drugs. No such universal truth exists in trafficking. Factors contributing to trafficking and appropriate solutions may differ, even within communities.

With regard to the specifics of trafficking, basic information is not always freely available. In many countries, it is not commonly known with any degree of certainty, whether the majority of those involved in recruiting trafficking victims are known to the victim or whether they are strangers. Nor is it known whether the majority of those involved in transporting victims of trafficking are men or women.

Even less information is available as to what trafficking victims knew or understood about trafficking beforehand. Had they heard of trafficking? Did they understand what it was? Did they perceive the risks as applying to them? If not, why not? If so, what factors led them to take the risk in any case? This information, much of which could be collected from victims, would be extremely valuable in better targeting interventions.

It would also assist in assessing the impact of awareness-raising activities. In fact, information on the impact of trafficking programmes is currently limited. This is often attributed to dearth of good quality indicators. Yet it is arguable that the lack of meaningful indicators is more a reflection of the lack of clearly established baselines and end targets. In other words, the link between the issue to be addressed, the current situation, the end target and the method of getting there, is seldom explicit and sometimes questionable.

Other topics on which we currently have insufficient information include:

- Trafficking in men – while growing anecdotal evidence exists, research on trafficking in men is almost non-existent;

- Prevalence of, and community attitudes to, debt bondage arrangements, which are often grounded in traditional practices;

- Approaches developed independently by communities with a long history of migration to make this migration safer; and

- Knowledge and attitudes of clients of those forced into the sex trade. How many of those clients are aware that they are having sex with a victim of trafficking, foe example?

While calls tend to be couched in terms of the need for more research, it is important to be clear that what is needed is more information. Research is one of the methods through which more information can be obtained, and there would certainly be benefit in increased research, particularly of a longitudinal nature and into areas of trafficking which have currently had limited attention.

But a considerable number of information gaps could be addressed in other ways, often at low cost. The collection and collation of basic information from victims is the most obvious example of this. In addition to the information on awareness and knowledge mentioned above, this could shed additional light on who is involved in the trafficking, the main source areas of trafficking, and importantly, the point from which the victims lost control of their lives. This may not always be at the point of departure but at certain points along the journey, including border crossings, train, boat or bus stations at which traffickers prey on those appearing vulnerable, or recruitment spots for casual labour. It would surely make sense to ensure that interventions are targeted at the points of greatest vulnerability.

Much of this information is already collected by agencies working with victims, but is not shared and collated. Reasons for this include an unwillingness

among some agencies to share "their" information with others. A country in which this information collation has been done is Bangladesh where a database was established about four years ago by a non-governmental organization (NGO) coordination body, ATSEC, to collect and analyse non-confidential victim information. By the time the first 200 cases had been entered, ATSEC members already had enough information to cause them to review their assumptions about who was doing the trafficking. Previously it had been assumed that people were being trafficked by strangers but more than two thirds of the initial cases ran counter to this. The establishment of such a mechanism should be an immediate priority in countries where this has not already been done.

It is important to acknowledge that the collection of information from victims will, however, be skewed by the nature of policies and mechanisms in place for their identification. In countries which do not recognize trafficking in men, for example, in either policy or law, the misconception that men are not trafficked will simply be reinforced by the information collected. This point raises two additional issues. It highlights the need to be careful with what information is telling us (a concern which also applies to indicators) and it flags the importance of the whole area of victim identification which is discussed below.

Starting from the beginning: the identification of victims

It may seem strange to suggest the identification of victims as a starting point for intervening on trafficking. Prevention would appear the most obvious place to start. As the example from Bangladesh shows, however, without important information about the specifics of trafficking, the development of effective prevention programmes can be somewhat problematic.

In fact, one could argue that victim identification lies at the heart of all intervention areas. The fact that victims of trafficking can provide important information to help focusing and targeting anti-trafficking efforts is central to improving Prevention programmes and the overall Policy framework. It is obviously also central to Protection as victims must be identified for support to be provided to them.

Finally, the prompt and accurate identification of victims (and their appropriate treatment) is one of the cornerstones of an effective criminal justice response. At the present time, and in the foreseeable future, the successful apprehension and prosecution of traffickers is highly dependent on the cooperation of victims as witnesses. Without effective mechanisms in place to identify victims, it will simply not be possible to start to remove the impunity that continues to surround many traffickers.

Victim identification within the region is currently uneven. In some countries, there appears little effort to distinguish trafficking victims from illegal migrants. By contrast, some countries such as Thailand and Cambodia have a range of mechanisms and processes through which victims may be identified. Even in countries where the response to trafficking is reasonably advanced, however, there is an agreement that the number of victims officially identified represents only a small proportion of the total number of victims.

There are various reasons for this. In many countries, legal definitions of trafficking and trafficking victims are lacking or, more often, incomplete. Where such definitions do exist, they are often complex and difficult to apply to on-the-ground realities. This is in turn compounded by a lack of understanding about trafficking among some front-line officials (including police, immigration officials and embassy staff) and the resulting overlooking of trafficking victims or their arrest and/or deportation.

In addition, there are few mechanisms for the identification of victims, particularly for self-identification. Currently, most victims are identified either through screening at international detention centres or through raids undertaken on brothels, often based on information received from clients.

Some countries have hotlines or other phone-lines through which assistance can be accessed. Cambodia, for example, operates a national hotline in three languages (Khmer, English and Vietnamese). While the effectiveness of this hotline has yet to be formally evaluated, identification of victims of trafficking and related crimes has increased 10-fold since its inception. More analysis is needed of such hotlines, including their links to services, but there is clearly much information on trafficking cases held by, for example, source communities, that currently does not reach the authorities.

An emerging barrier to self-identification of victims is the long delay in the formal repatriation process in some countries. One NGO reports that they identified 66 trafficking victims at an international detention centre. However, when the length of the repatriation process – often upwards of six months – was described to them, only four of the 66 chose to identify themselves as victims, the other 94 per cent forfeiting their rights to a range of support services and possible legal remedy in order to return home. This is a staggering "drop-out" rate and highlights the unintended consequences that can occur from well-intentioned anti-trafficking responses.

Encouragingly, victim identification is now being increasingly recognized as a crucial issue. Thailand, is taking the lead in developing operational guidelines

for the identification of victims, simplifying the comprehensive legal codes into more accessible working definitions. Screening of deportees at the border to identify those who have been trafficked is another area of growing attention. In addition, recognizing its importance, the Mekong countries have identified improved identification of victims as one of the main priority areas under the regional COMMIT process mentioned above.

This greater acknowledgement of the importance of better victim identification procedures and practices is just one of a number of very positive examples of how the trafficking response is evolving to take account of new developments and knowledge. The next section looks at a few more of those examples.

Building on what we have learned

Many initial anti-trafficking messages centred largely on attempts to discourage migration, with the basic objective being to highlight the existence of trafficking and encourage potential migrants to stay at home. Particular warnings were given about strangers in the now-revised assumption that the majority of victims were trafficked by people they didn't know, "lurking in the shadows" outside their communities.

Three realities have gradually been recognized. The first, as explained earlier is that many people are trafficked by persons that they know. The second is that people will continue to migrate, legally or illegally, in an effort to improve their lives. The third, is that the vast majority of those who migrate do improve their lives by doing so.

This has long been known. As far back as 1983, the World Bank's first country report on China criticized the Government restricting the movement of its population and "locking them into poverty" (see Harris, 2002). Similarly, Rubens Ricupero, in his role as Secretary-General of UNCTAD, described international migration as "the missing link between globalization and development" (IOM, 2001). Yet it has taken some time for this understanding to filter into the anti-trafficking movement. Migration has tended to be seen as a symptom of the failure of poverty alleviation strategies, rather than as an important poverty alleviation strategy in its own right.

Slowly but increasingly, acknowledgement that migration is not only inevitable but generally beneficial to both sending and receiving areas, is being reflected in prevention approaches. Messages are moving towards the idea of "Be Smart, Be Safe …", combining information on the risks and realities of migration,

with advice on ways to make migration safer. Coupled with this, new bilateral agreements are being developed to attempt to regularize a lot of the migration which is currently illegal. Those include Memoranda of Understanding (MOU) on Employment Cooperation between Thailand and Cambodia, the Lao People's Democratic Republic and Myanmar, respectively.

Those are all positive steps forward. However, increasing the proportion of migration that is legal and ensuring that migrants are better informed are only part of the solution. Rights are only useful if they can be accessed. The next step is thus to ensure that more mechanisms are in place to support migrants in points of destination, where, as noted above, most of the exploitation and abuse is taking place. Currently few programmes exist to provide such assistance.

Hand-in-hand with increased protection for migrants, campaigns have to be conducted to reduce public tolerance for their abuse. While some fledgling efforts have been made in this area, it is clear that much more needs to be done.

Learning from others

This paper has identified a number of constraints and it is important to highlight that many of those are already being identified and acted upon. As a result, a number of interesting and promising new initiatives are being introduced, some of which may have scope for wider applicability. Apart from a general move towards safer migration initiatives, moves to strengthen victim identification among others, those initiatives include:

- Moves to identify job placements for target groups before vocational training takes place, leading to much higher success rates in job placements;

- Initiatives to identify and address specific or localized vulnerability factors such as lack of citizenship and birth registration, land insecurity and debt caused by unexpected shocks (such as a major illness to a family member);

- Provision of information to potential migrants prior to potential departure concerning which agencies might provide assistance should difficulties arise;

- Outreach programmes in strategic locations at destination points, such as boat and bus terminals, to identify potential vulnerable migrants and provide assistance as appropriate; and

- Nascent work on social attitudes and tolerance for exploitation and abuse of migrants and other vulnerable groups.

The impact of many of those programmes is not yet fully known, but they are all certainly worth wider attention and consideration. Other programmes are also needed to fill gaps in the overall response and some suggestions are highlighted below.

Moving ahead – Recommendations for the future

Although it is important not to forget how far we have come in a relatively short space of time, there is clearly much more that can be done to strengthen responses to human trafficking. The following are a number of recommendations for moving ahead in the response, most of which have been covered in this paper.

Policy framework

- Continuing moves to locate migration policies more centrally in the anti-trafficking response. This would include moving to bring immigration policies more into line with labour market and geographical realities, greater acknowledgement of the Convention of the Rights of Migrant Workers and Their Families as one of the international instruments relevant to trafficking, and including migration policy and practices in any criteria to assess national responses to trafficking;

- Strengthening monitoring and evaluation of the impact of anti-trafficking programmes. For each programme, this would begin with clearer articulation of the problem being addressed, the end objective and the assumptions underlying the proposed approach. Evaluations could also be undertaken of programmes that were completed two to three years ago; and

- *Addressing information gaps* through increased collation of existing data, more research and greater sharing of experiences.

"Prosecution"

- *Widespread measures to improve identification of trafficking victims,* including establishment of guidelines, training for front-line officials, increased mechanisms for identification, particularly self-identification;

- *Establishment and support of specialist anti-trafficking law enforcement units* to anchor the criminal justice response, mitigate the impact of corruption and act as a focal point for cooperation with other countries;

- *Increased targeting of bigger players* and moves towards confiscation of assets; and

- Explicit acknowledgement of, and measures to combat, the impact of corruption on the apprehension and successful prosecution of traffickers, including acknowledgement of the Anti-Corruption Convention as one of the international instruments relevant to trafficking, adjustment of laws, policies and practices to reduce opportunities for corruption, and institution of checks and balances throughout the legal process.

Protection of victims

- *Development and monitoring of standards of care for victims,* including on issues relating to detention of victims by law enforcement and victim support agencies;

- *Acknowledgement of the important role played by victims in strengthening law enforcement*, drawing on lessons from throughout the world indicating that victims who are treated first and foremost as victims of crime are more likely to testify than those treated primarily as potential witnesses (see Pearson, 2002);

- *Streamlining of repatriation procedures* to improve the welfare of victims and reduce disincentives to victims identifying as such and accessing available services; and

- *Finding meaningful ways for victims to contribute to the anti-trafficking response*, including through collecting information on their experiences and authentic participation in development of policies and practices relating to trafficking.

Prevention

- *Reassessing the analysis of the "root causes" of trafficking* to place more emphasis on the actions of the exploiters and abusers rather than the victims;

- *Reviewing the whole area of awareness-raising* including any assumptions that raised awareness will automatically lead to behaviour change;

- *Developing increased support mechanisms and structures for migrants at points of destination*; and

- *Commencing work in earnest on the attitudes and norms which provide an "enabling environment" for traffickers*, including discrimination based on sex, ethnicity, class, age and other factors.

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Asia-Pacific Population Journal Guidelines for contributors

The *Asia-Pacific Population Journal* is a periodical produced three times a year by the Emerging Social Issues Division of the Economic and Social Commission for Asia and the Pacific (ESCAP), with support from ESCAP and the United Nations Population Fund (UNFPA). Its purpose is to provide a medium for the international exchange of knowledge, experience, ideas, technical information and data on all aspects of the field of population in order to assist developing countries in the region in improving the utilization of data and information for policy and programme purposes, among others.

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A complete list of references arranged alphabetically by author should also be included at the end of the manuscript. Please refer to examples in any issue of the *Journal*. Figures and tables should be supplied on diskette, preferably in any major spreadsheet program or in Microsoft Excel.

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