Mobility, Migration & Trafficking: Concepts, ‘Grey Areas’ & Discourses

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13-19 September 2004, Seoul, Korea

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Asian Migrant Centre (AMC)
Estimated # Asian migrant workers (in vulnerable, marginalised, oppressed situations)

<table>
<thead>
<tr>
<th>Asian Receiving Country</th>
<th># Mig. Workers</th>
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<tbody>
<tr>
<td>Middle East (GCC States only: Bahrain, Kuwait, Qatar, Oman, KSA, UAE)</td>
<td>9 to 12 million [2003]</td>
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<td>Southeast Asia (Malaysia, Singapore; excluding Greater Mekong Subregion)</td>
<td>2.08 million [2003]</td>
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<td>Greater Mekong subregion (Thailand, Laos, Vietnam, Cambodia, Myanmar, Yunnan-China)</td>
<td>1.3 to 2.6 million [2003]</td>
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<td>East Asia (Japan, Korea, Hong Kong, Taiwan; excluding internal migrant workers in China)</td>
<td>2.64 million [1999]</td>
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<td>South Asia (there is an “open border” between India and Nepal)</td>
<td>4 to 10 million [2000]</td>
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<td>TOTAL</td>
<td>19 to 30.2 million</td>
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Types of migrants (in V/M/O situations) + their families

A. According to immigration status:
   – Regular (documented) – overseas contract workers;
   – Irregular (undocumented, trafficked, smuggled).

B. According to job category:
   – industrial/manufacturing workers;
   – service workers (domestic services, entertainment, hotel/restaurant, care-givers, health workers)
   – plantation/fishery workers;
   – seafarers;
   – pseudo-employed migrants: au pairs, industrial trainees

C. Families/dependents of migrants
   - family left behind;
   - spouse and/or children;
   - parents and siblings;
   - relatives
Illegal recruitment; abusive recruitment practices

(Above): Indonesian migrants illegally kept in overcrowded recruitment centres in Jakarta
Foreign domestic workers

- At least 15% of foreign domestic workers in HK are underpaid (almost 50% for Indonesians).
- 22% not allowed weekly days off.
- 27% verbally or physically abused.
- 2% sexually abused.

Source: AMC-CMR Baseline Research, Feb. 2001)
Factory workers: victims of occupational hazards

(Right) Thai migrant burned in a factory in Taiwan.  
(Left) Thai migrant factory accident victim in Taiwan.
Migrant fishworkers

- (Left) Cambodian migrants’ houses in Thailand.
- (Right) Cambodian fishworkers in Thailand live in overcrowded boats.
Migrant deaths

(Due to occupational, disease, murder, mysterious, execution, natural causes)

**Philippines:** Average of 2 dead overseas Filipino workers are sent home every day. [Source: Kanlungan Centre; government statistics, 2003]

**Bangladesh:** Average of 1 dead Bangladeshi migrant worker from the Middle East, every day. [RMMRU research, 2001]

**Thailand:** Average of 1 dead Thai woman migrant worker in Japan cremated each week. [Thai consular official in Japan, 8 Dec 2002]

**Sri Lanka:** Average of 10-15 dead migrants per month in Lebanon. [Phil. Amb., June 2004]
Undocumented migrants being deported from Sabah

Over 300,000 Filipinos and Indonesians forcibly deported by Malaysian government from Sabah in 2003.

SHIP OF FREEDOM
Freedom is just a ship away for these Filipino illegals detained in Tawao in Sabah, Malaysia. About 50,000 more are scheduled for deportation. DENNIS SABANGAN
Campaign poster of the Coalition for Migrants’ Rights (CMR) dramatically illustrates the problems faced by foreign domestic workers in HK (Dec. 2001)
DEFINITION OF TRAFFICKING

> “The illicit and clandestine movements of persons across national borders, largely from developing countries and some countries with economies in transition, with the end goal of forcing women and girl children into sexually or economically oppressive and exploitative situations for profit of recruiters, traffickers and crime syndicates, as well as other illegal activities related to trafficking, such as forced domestic labour, false marriages, clandestine employment and false adoption.” (UN General Assembly, 1994)

> Trafficking is the “recruitment, transportation, transfer, harboring or receipt 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 or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, force labour or services, slavery or practices similar to slavery, servitude or the removal of organs. (Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000)

Source of slide: Amparita Sta. Maria, Ateneo Human Rights Center
Smuggling

- Procurement of the illegal entry into, or illegal residence of a person in (a) any State Party of which the person is not a national or a permanent resident in order to obtain, directly or indirectly, a financial or other material benefit (UN protocol against smuggling of migrants, 2000)
Is DW forced labour? Trafficked labour?

International migrant DW

Internal migrant DW

Non-migrant DW

People in forced labour situations

A = FDW & FL & T
B = FDW & FL only
C = FDW & T only
D = DW & FL

Sizes do not suggest relative magnitude

Sept 2004

13
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People in forced labour situations

Sept 2004
MOBILE POPULATIONS (crossing international or internal borders)

MIGRANT WORKERS / ECONOMIC MIGRANTS

Irregular migrant workers

Irregular (cross-border) asylum-seekers, IDP

Trafficked (for labour; for sex)

Smuggled

Undocumented (but not trafficked or smuggled)

Regular

Regular

Documented, Irregular, Trafficked Migrants

Sizes are not necessarily proportionate

Asian Migrant Centre

15 Sept 2004
INTERNATIONAL INSTRUMENTS

TITLE: Convention for the Suppression of White Slave Traffic
YEAR: Adopted: 1910, Entered into force: 1912
NATURE: Treaty
SIGNIFICANCE /FEATURE:
• Sought to address the problem of procuring women and girls for immoral purposes (Art. 1)
• Engaged State parties to enact laws and make “white slave traffic” punishable

TITLE: Convention for the Traffic in Women and Children
YEAR: Adopted: 1921, Entered into force: 1922
NATURE: Treaty
SIGNIFICANCE /FEATURE:
• Extended the application of the offense mentioned in the 1910 Convention to children of both sexes (Art. 2)

Source of slide: Amparita Sta. Maria, Ateneo Human Rights Center
International Instruments

- Migrant Workers Convention (2003)
TITLE: Universal Declaration of Human Rights  
YEAR: Adopted: 1948  
NATURE: Treaty (customary IL)  
SIGNIFICANCE /FEATURE:  
• Emphasized the inherent dignity of all human beings  
• Prohibited slavery, servitude and slave trade (Art. 4)

TITLE: UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others  
YEAR: Entered into force: 1951  
NATURE: Treaty  
SIGNIFICANCE /FEATURE:  
• Consolidated the earlier treaties on trafficking and declared prostitution and traffic of persons as incompatible with the dignity and worth of the human person

Source of slide: Amparita Sta. Maria, Ateneo Human Rights Center
INTERNATIONAL INSTRUMENTS

TITLE: Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery

YEAR: Entered into force: 1957

NATURE: Treaty

SIGNIFICANCE /FEATURE:
• Sought the abolition of the practice of giving a woman in marriage for a consideration; the “transfer” of a woman by her husband for value received; inheriting a woman by another person upon the death of her husband and the delivery of a child to another by his or her parents or guardian for exploitation or labour (Art. 1)

TITLE: International Covenant on Civil and Political Rights


NATURE: Treaty

SIGNIFICANCE /FEATURE:
• Contained similar provisions against slavery, servitude and compulsory or forced labour (Art. 8)

Source of slide: Amparita Sta. Maria, Ateneo Human Rights Center
TITLE: Convention on the Elimination of All Forms of Discrimination Against Women
NATURE: Treaty

SIGNIFICANCE /FEATURE:
- It imposed obligation on a State to refrain from any act or practice which is discriminatory against women (Art. 2[d])
- It mandated the State to address said discrimination at the institutional and societal levels: Adopt legislation to suppress trafficking and exploitation of prostitution of women (Art. 6); modify social and cultural patterns of conduct of people to eliminate practice based on “inferiority of women” (Art. 5[a])
- It tasked the State to adopt temporary special measures to address the de facto inequality of men and women (Art. 4[1])
- It has a complaints/inquiry procedure in its Optional Protocol for violations committed by States under the convention (Arts. 2 & 8)

Source of slide: Amparita Sta. Maria, Ateneo Human Rights Center
INTERNATIONAL INSTRUMENTS

TITLE: Optional Protocol to the Convention on the Elimination of Discrimination Against Women
YEAR: Adopted in 1999, Entered into force in 2000
NATURE: Treaty
SIGNIFICANCE /FEATURE:

• It has complaints and inquiry procedures in its Optional Protocol for violations committed by States under the convention (Arts. 2 & 8)

TITLE: Convention on the Rights of the Child
YEAR: Adopted in 1989, Entered into force in 1990
NATURE: Treaty
SIGNIFICANCE /FEATURE:

• It mandated States parties to take measures to combat the illicit transfer and non-return of children abroad (Art. 11)
• It enjoined States parties to take all appropriate national, bilateral, and multilateral measures to prevent the abduction of, the sale of, or traffic in, children for any purpose or in any form (Art. 35)
• It has an Optional Protocol that gave special emphasis to the criminalization of serious violations of children’s rights: sale, illegal adoption, child prostitution and pornography
TITLE: ILO Convention No. 182 or the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

YEAR: Entered into force: 2000

NATURE: Treaty

SIGNIFICANCE /FEATURE:

• It enumerated the worst forms of child labour, the first of which is all forms of slavery or practices, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including the forced or compulsory recruitment of children for use in armed conflict. (Art. 3 [a])

• It required States to take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour. (Art. 1)
INTERNATIONAL INSTRUMENTS

TITLE: Convention Against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children

YEAR: Adopted: 2000

NATURE: Treaty

SIGNIFICANCE /FEATURE :

• It defined trafficking to include means of recruitment or transport, other than through falsity or force; and that when children are involved, the means employed become irrelevant
• Underscored need for broader cooperation including extradition and mutual legal assistance (Arts. 16 & 18)
**INTERNATIONAL INSTRUMENTS**

**TITLE:** Vienna Declaration and Programme of Action  
- adopted by representatives of 171 States  
**YEAR:** Adopted: 1993  
**NATURE:** Declaration  
**SIGNIFICANCE /FEATURE :**  
• It recognized the human rights of women and the girl-child as inalienable, integral and indivisible.  
• It declared that gender-based violence including those resulting from international trafficking are incompatible with the dignity and worth of the human person.  
• It recommended the elimination of violence through legal measures, national action and international cooperation
TITLE: Beijing Declaration and Platform for Action  
- endorsed by 189 countries and participated in by 2,600 NGOs  
YEAR: Adopted: 1995  
NATURE: Declaration  
SIGNIFICANCE /FEATURE:  
• It recommended the elimination of trafficking in women and assistance be given to victims of violence due to prostitution and trafficking (Strategic Objective D.3)  
• It advocated for the ratification and enforcement of international conventions on trafficking, strengthening of laws against trafficking for the greater protection of women and girl-children and more cooperation and concerted action among law enforcement authorities with a view of dismantling national, regional and international networks in trafficking
REGIONAL INSTRUMENTS

- All members of the Association of Southeast Asian Nations (ASEAN) are now parties to the CRC, except for Brunei, also to the CEDAW.

  - ASEAN Vision 2020 (1997)
  - ASEAN Declaration on Transnational Crime (1997)
  - SAARC Convention on Preventing and Combating Trafficking in Women and Children in Prostitution (1998);
  - Bangkok Declaration on Irregular Migration (1999);
  - Asian Regional Initiative Against Trafficking in Women and Children Regional Plan of Action (ARIAT; 2000)
Points to think about

- Anti-trafficking regulations: can be misused by governments to justify their crime-prevention/control approach on migration (instead of human rights/protection approach).

- Blanket classification of FDW as all trafficked, all victims (including by compulsion of poverty):
  - can be disempowering – generalises that FDW and women have no capacity or ability to make informed decisions, choices IN ALL INSTANCES;
  - can create victim mentality (instead of working class/social actor mentality); NGO strategies primarily become redress-oriented; client-NGO dependency.
Thank you very much!

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