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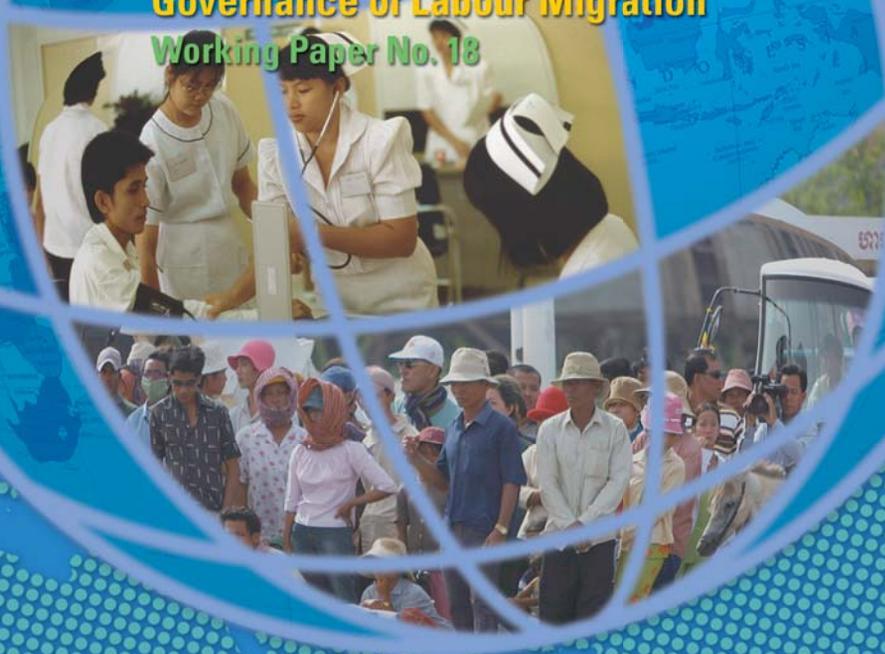
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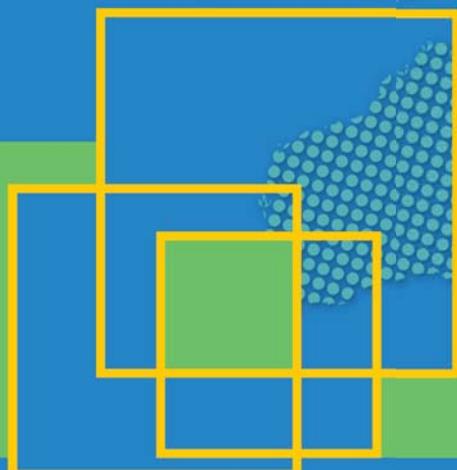


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# **Managing irregular migration as a negative factor in the development of Eastern Asia**

**Ron Skeldon**



**Regional Office for Asia and the Pacific  
March 2009**



**ILO Asian Regional Programme on Governance of Labour Migration  
Working Paper No.18**

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**Ronald Skeldon**

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# **Managing Irregular Migration as a Negative Factor in the Development of Eastern Asia**

**By Ronald Skeldon**

## **Abstract**

The paper reviews the forms and magnitude of labour migration in East Asia and examines the important factors contributing to irregular migration in the region, including immigration policy in destination countries. The paper also looks at the developmental impact of regularizing the irregular migrants from different perspectives – the countries of origin, the countries of destination, and the migrants themselves.

### **About the author**

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## TABLE OF CONTENTS

|   |    |
|---|----|
| 1. Introduction.....  | 1  |
| 1.1. Definitions.....   | 1  |
| 1.2. Irregular Migration and Development.....                 | 3  |
| 2. Irregular Migration in East and Southeast Asia.....        | 4  |
| 2.1. Patterns of Migration.....                               | 4  |
| 2.2. Forms of Irregular Migration.....                        | 6  |
| 3. Factors Contributing to Irregular Migration in Asia.....   | 9  |
| 3.1. Economic and Demographic Factors.....                    | 9  |
| 3.2. Geographical and Governance Factors.....                 | 11 |
| 3.3. Policy Factors.....                                      | 12 |
| 4. Development Impact of Regularizing Irregular Migrants..... | 21 |
| 4.1. Destination Country Perspective.....                     | 21 |
| 4.2. Origin Country Perspective.....                          | 23 |
| 4.3. Migrant Perspective.....                                 | 24 |
| 5. Policy Issues and Recommendations.....                     | 25 |
| References.....   | 28 |

## LIST OF TABLES

|   |    |
|---|----|
| Table 1: Official estimates of the total number of foreign workers in Asian economies, 1997-2005..... | 32 |
| Table 2: East and Southeast Asian economies: basic demographic and development data.....              | 33 |



# **Managing Irregular Migration as a Negative Factor in the Development of Eastern Asia <sup>1</sup>**

By Ronald Skeldon

## **1. Introduction**

Irregular migration is one of the very few policy areas in the field of migration where consensus can generally be achieved: virtually all countries seek to decrease or eliminate it. Only human trafficking, with which irregular migration is so often associated, is generally considered to be even less desirable and is the topic in migration where a virtual universal condemnation by states can be achieved. However, the association between irregular migration and trafficking is not exact, as not all migrants in an irregular situation have been trafficked. Also, irregular migration is likely to be a greater concern to destination states than to countries of origin, even if the latter may wish to see the rights of their migrants protected at destinations. The various arms of civil society, too, are generally in agreement with states of origin and states of destination in working to reduce the number of migrants in an irregular situation.

### 1.1. Definitions

The use of the word "irregular" is in many ways a euphemism for migrants who are in a country in a situation that can be defined as "illegal". These situations can come about in a number of different ways. A person might enter a country illegally, or without going through any of the legally recognized channels of entry. In these cases, a trafficker or smuggler is indeed often involved.<sup>2</sup> Those traffickers and smugglers may also place, force, or facilitate entry into specific labour markets. Particular concern has been directed towards the sex sector, although that activity is but one labour market

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<sup>1</sup> Background paper for the 2<sup>nd</sup> Global Forum on Migration and Development in Manila on 27-30 October 2008.

<sup>2</sup> A clear difference has emerged in the international definitions of "trafficking" and "smuggling" with the former involving coercion, deception and exploitation, while the latter is seen to involve a degree of agency on the part of the migrant. In practice, however, such a clear distinction is difficult to sustain and this paper will include the two in the same category.

among many where irregular migrants are found. It is important to realize that irregular migration covers a much broader spectrum than being trafficked or smuggled into any labour market in general, and the sex sector in particular.

In other cases, a person may have entered a country legally through one of the recognized channels but has subsequently breached the terms of their legal entry by, for example, staying on after the term of their visa or entry permit has expired (an "overstayer"). Or a person could engage in work while on a tourist visa. Thus, it is perfectly possible to be a "legal migrant" but an "illegal entrant" into the labour force. Illegal entry into the labour force may be facilitated by an illegal broker with the full knowledge of the employer or, unwittingly, by both a legal broker and an employer. The entry into a country could either be legal on the entrant's legal travel documents or illegal through the use of false documentation that deceives immigration officers to allow passage through the legal channel. The use of false documentation will again imply the involvement of a trafficker, smuggler, or member of a criminal fraternity.

Not all traffickers and smugglers belong to large-scale organized criminal groups, although many do. Even here, however, the distinction may not be clear. Small-scale smuggling organizations, perhaps simply a family with connections, may link with others of a similar type in order to achieve economies of scale. These groups in turn may use criminal groups to gain access to safe houses or false documentation. Thus, trafficking and smuggling tend to be highly segmented activities, very flexible in their operations, and hence difficult to control. Centralized, organized criminal gangs are involved in the trade in human beings but their relative importance varies from region to region. Possibly, the trafficking of women from Eastern to Western Europe is more in the hands of organized criminal groups than the movements in Asia, where a plethora of small-scale informal groups, not all of them necessarily criminal, are found. Within Asia, differences also exist, with the involvement of criminal groups being greater in Japan than in the movements in Southeast Asia, or even in the organization of the illegal emigration from China (Skeldon 2000).

Finally, people fleeing persecution can enter a country without passing through legal channels but have a certain time after arrival to declare their presence to the authorities and claim asylum. However, the terms of asylum may prohibit employment and breaking this requirement will also lead to the person entering into an irregular situation. Thus, a whole series of pathways into the status of irregular migration exists. The common feature is that irregular migrants, because of some aspect of illegality of status, are liable to arrest and possible deportation. This vulnerability may make them more liable to exploitation by employers or others who may take advantage of their irregular status. Hence, a critical aspect of reducing the number of irregular migrants is to reduce the numbers of people in potentially vulnerable positions.

For obvious reasons, rarely does any country have accurate information on the number of irregular migrants within its borders. Irregular migrants, virtually by definition it might be thought, are under the government's radar and outside the data-gathering net. Were data to exist, it would indicate that some official system to record them existed, and that they then must be, to some extent at least, "regular". However, even here, the situation is not quite so clear-cut and, as will be seen below, some countries in East Asia have remarkably precise numbers.

## 1.2. Irregular migration and development

While the types and numbers of irregular migrants in a country are both various and indeterminate, the linkages between irregular migrants and development are still more obscure. Irregular migration, like all migration, is a function of economic development. However, it is more than simply a result of differences in levels of development, or that migrants move from relatively poorer to relatively richer economies. The critical point is that irregular migration is essentially the result of political development not keeping pace with economic and demographic development. By political development, the reference is not so much to the nature of the political process, whether a state is ruled by one or multiple parties or is more open or closed. Political development in this case

refers simply to the nature of governance and whether the policy system responds to changing economic and social realities. More specifically, immigration policies, or migration management policies, do not keep pace with the other major shifts in the economy or society. Other important factors exist, too, particularly geographic factors, and these will be elaborated below.

While irregular migration may be largely a consequence of these aspects of development, it itself can influence development to the extent that irregular migrants may play a key role in the economic development of destination states. Irregular migrants also affect development in their countries of origin through remittances and other impacts on home economies and communities. However, given the difficulty of estimating the number of irregular migrants in any economy, it is problematic to separate their particular impact on both economies of destination and economies of origin. This brief paper can only offer a few pointers to the role that irregular migration and irregular migrants play in the overall process of development, using the economies of East and Southeast Asia as examples.

## **2. Irregular Migration in East and Southeast Asia**

### **2.1. Patterns of migration**

A difference exists between the destination economies in East Asia and those in Southeast Asia in terms both of migration in general and irregular migration in particular. In the cases of the developed economies of East Asia, migrants make up a very small proportion of the total population and labour force. In Japan and the Republic of Korea, foreign labour accounts for only around 1.5 percent of the labour force, although that proportion rises to around 5 percent in the case of Taiwan Province of China. In Japan, a country of some 128 million people in 2005, the total stock of foreign population was only around 2 million. The Republic of Korea, with a total population of 47.8 million, had a stock of foreign population of around 550,000. In

contrast, the United States, with a population of 298 million in 2005, had a stock of foreign population of 38.5 million representing virtually 13 percent of the total. The proportion of foreigners in the countries of Western Europe was similar at 12 percent, representing 22 million people in a combined population of 186 million.<sup>3</sup>

The most developed economies of East Asia have progressed to high levels of development without admitting large numbers of immigrants. The situation in Southeast Asia is different. There, foreign labour accounts for between one in four workers in Malaysia and up to one in three in Singapore, although Thailand is similar to Taiwan Province of China with foreign labour accounting for just over 5 percent of the labour force. In terms of absolute numbers, United Nations estimates for 2005 place the stock of foreign born in Malaysia and Singapore at 1.6 million in a total population of 25.3 million, and 1.8 million in a population of 4.3 million respectively. That estimate for Malaysia is almost certainly too low as official government estimates suggest that the number of foreign workers alone in 2005 was in excess of 2.6 million (Skeldon 2006b: 279). United Nations estimates suggest a foreign population of 1 million in Thailand, a country of over 64 million in 2005, which again seems low, given that reliable estimates indicated almost 1.8 million foreign workers in 2004 (cited in Skeldon 2006b: 279). Thus, immigration has been a relatively unimportant element in the development of the most advanced economies in East Asia, while it has been a much more important factor in the rapidly developing economies of Southeast Asia. This background always has to be kept in mind when examining the importance of irregular migration in East Asia.

The exception among the dynamic economies of East Asia is China. International migration to China is as yet limited to foreign professionals, although increasing numbers come from Hong Kong and Macao SARs and from Taiwan Province of China. One estimate places some 500,000 migrants from Taiwan Province of China in the Shanghai area alone (Lee 2006). These movements of the more skilled are legally

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<sup>3</sup> All population and migrant stock estimates are taken from United Nations, *International Migration 2006*, New York, Department of Economic and Social Affairs, Population Division, 2006. The United Nations does not produce estimates for Taiwan Province of China.

migrations within China itself. Unskilled migrants to meet China's rapid demand for workers are drawn from sources within China itself.

The majority of international migrants in both East and Southeast Asia tend to come from within the Asian region, although there is a small but significant number of highly skilled workers from other developed economies.

## 2.2. Forms of irregular migration

Significant differences also exist between the economies of East Asia and those of Southeast Asia in terms of irregular migration. In East Asia, migrants in an irregular situation tend to have entered the countries legally and then breached the terms of their visas. Many simply stayed on after the expiration of their visas; others breached the conditions of entry or employment by changing employers, or working after entering as a visitor or student. In the early years of the twenty-first century, about one quarter of the total number of foreign workers in Japan were estimated to be overstayers that included these categories of irregular migrants (Iguchi 2006). In the Republic of Korea, the proportion of overstayers was much higher, ranging between a low of about 35 percent in January 2004 to a high of almost 80 percent in December 2002 (Park 2006). In Taiwan Province of China, the proportion of irregular migrants appears much smaller at just over 5 percent in 2004 (Lee 2006).

In all three cases, the government can provide a very precise figure for the number of irregular migrants within their borders, which is achieved simply by balancing the number of arrival cards against departure cards. In Japan in January 2005, official Ministry of Justice figures placed at 207,299 the number of overstayers in the country. In the Republic of Korea in May 2005, the number of overstayers was 199,183, and in Taiwan Province of China in 2004, 16,593 foreign workers had gone "missing". It is assumed that few enter these insular or peninsular economies illegally, although clearly

some do. Japan again maintains precise figures. Of the 55,351 migrants who became irregular in 2004, fully three-quarters, or 41,175 people, overstayed. There was an "illegal influx" of 11,217 who attempted to enter through ports and airports and an additional 992 who made an "illegal landing" (Iguchi 2006; see also Friman 2001: 299). Most of the latter were Chinese.

In terms of the size of the labour forces of the economies of East Asia, the numbers of irregular migrants are small. They are irritants in developed economies rather than being a major challenge. In effect, irregular migration in East Asia is already "managed". The authorities know, more or less, the magnitude of the issue and know not just how many there are, but also where they are. Migrants in general and irregular migrants in particular tend to be "visible" minorities, in terms of language or dialect, if not always ethnicity. Authorities tend to turn a blind eye to irregular migrants as long as they do not transgress the law. For an insightful account of what it means to be an irregular migrant in Japan, see Ventura (1992). While migrants in general and irregular migrants in particular take on positions that Japanese, Koreans or Taiwanese may not want to fill, their presence has not been essential to the development of the economies of East Asia. Whether this remains to be the case, as the ageing of the populations rapidly occurs, remains to be seen.

Irregular international migration to China does not appear to be an issue. However, much of the vast internal movement in China that occurs outside the household registration system (*hukou*) and has given rise to the so-called "floating population" has created situations that have clear parallels with those of international irregular migrants. Essentially, the migrants have moved from their villages and are in the major cities without official sanction and are unlikely to have job security and are vulnerable to exploitation because of their ambiguous residential status. Labour shortages in some coastal areas and the sustained rapid urban-based development have led to a relaxation of the strict application of the law in recent years, even if the framework of residential

registration still exists. See Solinger (1999) for a penetrating review of the situation up to the late 1990s.

Returning to the situation of irregular international migration, the position in the economies of Southeast Asia is quite different from that in East Asia. There, migrants are essential to the development of economies, and particularly to the continuation of rural-based activities such as plantation agriculture in Malaysia, rice milling and fishing in Thailand, and urban-based construction in both economies. In these economies, too, the role of irregular migration has been much more prominent. In Malaysia in 2004, the number of irregular migrants, at 1.2 million, almost equalled the number of registered migrants, even if that number, through government policies, was reduced markedly in 2005 (see table 1). In Thailand, the situation is complex, with irregular foreign workers being divided into "registered" and "unregistered". Perhaps the "best guess" for the number of foreign workers in Thailand places the total number in 2004 at just under 2 million, of whom some 500,000 were overstayers, and 1.2 million were registered workers from Cambodia, Lao PDR and Myanmar (Huguet and Punpuing 2005). In addition, another 200,000 other unregistered workers from these three countries were estimated to be in Thailand in that year.

Even with the quite substantial numbers of foreign workers in Thailand, one estimate placed the number of job vacancies at 1.2 million in 2005, mostly in low-skilled positions in agriculture and construction (Chalamwong 2006). Malaysia, too, reported negative effects on the economy of labour shortages (Kanapathy 2006). Although irregular migrants are found throughout the countries in low-paying jobs, established communities of irregular migrants are found, particularly in towns along the Thai border with Myanmar and Cambodia (Chantavanich et al 2000a and b; also Koetsawang 2001). For example, the 77,500 migrants in the Muang district of Ranong on the border with Myanmar outnumber the Thai residents, with more than one quarter having been residents for five years or longer. Fishing is the dominant occupation of the migrants.

Singapore is an exception in Southeast Asia with a significant proportion of migrants but a relatively small number of irregular migrants. Like the economies of East Asia, most migrants in an irregular situation entered legally and stayed on. However, a concerted campaign against employers and harbourers of illegal workers has reduced the estimated number of irregular workers to a few thousand. Those who entered illegally declined from 10,400 in 2001 to 5,400 in 2004 while the number of those arrested for overstaying remained quite constant at between 5,600 and 6,400 over the period (Yap 2006).

### **3. Factors Contributing to Irregular Migration in Asia**

#### **3.1. Economic and demographic factors**

At the simplest possible level of generalization, all the migration in the East and Southeast Asian region can be explained by the rapid economic development that has been occurring in certain economies over the last half-century. Japan, the Republic of Korea, Taiwan Province of China, Hong Kong SAR and Singapore have all emerged as developed economies. Malaysia and increasingly Thailand are not far behind and all have acted as magnets for migrants. The PPP measure of development and the average rate of growth of GDP per capita are given in table 2. The economic development has been accompanied by a sharp and sustained decline in fertility, the only exception being Malaysia, which still has above replacement-level fertility. Population growth rates have declined as has the growth in labour force - with a lag of 15-20 years. Japan, as the most developed economy in Asia, has now begun an actual decline in population and its population in 2030 is projected to be almost 10 million fewer than in 2005, at 118.3 million. Hence, those economies which have made the transition from labour-intensive to high-tech industrialization and service activities, and from high to low labour-force growth, have emerged as destination countries for migration. Those economies that have not moved so far along a transition to high-tech industrialization

and still have more rapid rates of population growth tend to be areas of origin of migration.

Such a simple explanation does not adequately account for the actual patterns of migration and particularly the patterns of irregular migration. As seen from the discussion above, the most advanced and dynamic economies in the region do not have the greatest proportions, or even absolute numbers, of migrants. Generally, the economies in Northeast Asia have larger populations and were able to draw on substantial rural populations at early stages in their industrialization. It is only with the exhaustion of the rural sector as a source for urban migrants that countries such as Japan, the Republic of Korea and Taiwan Province of China have turned to overseas sources of supply, substituting international for internal migration (Skeldon 2006a).

Irregular migration in the East and Southeast Asian region is most prominent where primary activities such as fishing and agriculture are still a significant, even if a relatively declining, part of the economy. Migration, and particularly irregular migration, maintains the importance of this sector in the face of decreasing domestic rural labour forces but only in those economies with important export agriculture such as Malaysia (plantations and particularly rubber and oil palm) and Thailand (rice). The economies of East Asia, with their export-led industrialization, have experienced migration and irregular migration that have been primarily urban-oriented.

Thus, the economic dynamism of parts of the region is only part of the explanation for migration in general and irregular migration in particular. Nevertheless, the patterns of economic development and of demographic evolution are important contextual factors in any explanation of population movements in the region.

### 3.2. Geographical and governance factors

Geography plays an important part from two points of view. First, studies of migration since the early work of Ravenstein some 120 years ago have showed that most migrants move over short distances and, thus, propinquity is important. Movements between neighbouring countries are an important factor: Indonesia to Malaysia; Cambodia, Lao PDR and Myanmar to Thailand; Malaysia to Singapore; China to the Republic of Korea, and, increasingly, vice versa; China and the Republic of Korea to Japan. However, migration is not simply geographically determined and important exceptions exist. A substantial migration from Brazil and Peru to Japan exists, determined primarily by common ethnicity. Ethnicity, too, does help to explain the China to Republic of Korea flows as well as Taiwan Province of China to China and Lao PDR to Thailand flows.

Second, geography plays an important role in accounting for irregular migration. Where countries share a long land border, irregular migration is likely to be more prominent. The most significant such border in the region is Thailand's border with Myanmar, Lao PDR and Cambodia, although the border between East Malaysia and Indonesia on the island of Borneo is also a case in point. It is extremely difficult to police long land borders effectively as they often traverse forested hilly terrain and migrants can simply walk across in many places without detection. It is here that the role of local smuggling and trafficking cells is particularly effective in bringing people across and "dealing" with local border-control officials. Conversely, in places where states have sea borders, as in the case of Japan and Taiwan Province of China, entry is more difficult and surveillance easier. The same principle applies to relatively short and heavily defended borders: for example, that on the Korean peninsula between the Republic of Korea and the Democratic Republic of Korea, and even the border on the Kowloon peninsula where the old colonial boundary between Hong Kong and China has been maintained by both Chinese and Hong Kong SAR administrations.

Yet again, geography is but a partial explanation. As important is the penetrative power of the state (Weiss and Hobson 1995). Development implies much more than economic growth: political development is also a significant factor and particularly the evolution of effective systems of governance. The economies of East Asia, and also Singapore in Southeast Asia, have developed more complex bureaucracies on more extensive tax bases. This allows a more effective monitoring and recording of immigrants, as seen in the recording systems of these economies, and more effective surveillance of borders and of employers within country. The data discussed above clearly show that where the structures of governance are most effective, the numbers of irregular migrants are fewest. As countries develop and their bureaucratic structures evolve, one might hypothesize that the number of irregular migrants should decrease, as appears to be happening in the case of Malaysia and also possibly of Thailand. However, these same bureaucratic structures contribute to irregular migration in other key areas and this discussion introduces the critical issue of migration policy in destination economies.

### 3.3. Policy factors

The issue of "migration management" is a recurrent theme in current debates on migration at the global level. However, as implied above, the economies of East Asia, together with Singapore, have been able to manage, more or less successfully, their immigration. In East Asia, the numbers of migrants in general and irregular migrants in particular are relatively small. In Singapore, although proportionately large numbers of migrants exist, the situation appears to be tightly monitored and under control and the numbers of irregular migrants appear to be quite limited. The small physical size of Singapore is certainly a factor in facilitating this control and, in common with the economies in East Asia, as seen above, other geographical factors and the effective penetration of state institutions have also been significant contributory factors. However, immigration policy is yet another variable to factor into the equation.

No state in Asia operates an inclusive immigration equivalent to those in Australia, Canada or the United States that offer settlement to immigrants of all origins. Hong Kong has long offered settlement to those with family connections to Hong Kong residents, but only to those who have relatives living in China. With this partial exception, Asian economies operate essentially exclusive immigration policies. That is, the only migrants admitted are those with specific contracts for specific jobs and they are expected to leave the country after their work contracts terminate. Based on their skill level, those admitted can generally be divided into the two categories of high and low-skilled.<sup>4</sup>

Highly skilled migrants are generally not seen to be an issue as far as policy is concerned. Governments, in common with those in North America and Europe, devise policies to attract greater numbers of the highly skilled, as they are viewed as essential for economic development. The highly skilled often operate within the networks of transnational corporations. They generally move on or home after the termination of their contracts as they are marketable individuals who can sell their skills globally. According to World Bank estimates, the United Kingdom has more skilled migrants overseas than any other country, at 1.4 million in 2000, followed by the Philippines with 1.1 million (Docquier and Marfouk 2006: 175). Germany had 848,000 skilled migrants outside the country in 2000 but several Asian economies also participated in these highly skilled migration flows, with the Republic of Korea having 653,000, Viet Nam 506,000, Hong Kong 290,000, Taiwan Province of China 276,000 and Japan 269,000 skilled migrants outside their borders. Taiwan Province of China, for example, had the highest selection rate for skilled migration, with 78 percent of the migrants leaving its territory classified as highly skilled (Docquier and Marfouk 2006: 175). The majority of skilled Asian migrants work in other Asian countries or the developed countries of the West.

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<sup>4</sup> The high and low-skilled migration systems are closely interlinked in reality, but this bipolar division offers a useful heuristic device for the discussion of immigration policy.

The policy situation with low skilled workers is quite different. Larger numbers are required for jobs that local workers are unwilling to take on, given their own levels of training and job expectations. Although these workers are needed, they are only brought into destinations reluctantly. They are needed but not wanted. The difference in level of development and income-earning opportunity between the country of origin of low-skilled workers and the destination in Asia is great and they may not wish to return home at the end of their contract. The experience of European countries in the 1960s and 1970s, with guestworkers leading to permanent immigrant communities, gives Asian policymakers pause for reflection. In East Asia, the idea of homogeneous societies, usually more imagined than real, together with nationalistic sentiments, has resulted in the adoption of policies that restrict the development of communities that might deviate from accepted norms and create social conflict; hence, the perceived need to control low-skilled migration intensely.

It might be assumed that the lack of legal channels for settlement or for entry in general might be a contributory factor in the creation of irregular migration. However, in the case of most East Asian economies, this is not the case. As seen, irregular migration is not particularly important in terms of proportions and absolute numbers, and most people become irregular by breaching the terms of their entry or their labour contracts. In the case of Malaysia, recent attempts to open up more legal channels of labour migration does indeed seem to have reduced sharply the numbers of migrants in an irregular position. However, opening up more legal channels of migration does not necessarily resolve the issue of irregular migration. The United States, with one of the largest and most open immigration policies in the world, also has one of the largest irregular migrant populations in the world at perhaps 12-13 million. In Asia, recent policies have focused in two main areas: regularization of irregular migrants in country and the systematization of labour migration policies.

*(a) Regularization policies*

Thus, the most striking trend in recent years has been the concerted effort to register or "regularize" irregular migrants, deporting many but, most importantly, recognizing the numbers of foreign migrant workers within their borders.<sup>5</sup> For example, until 2003, Malaysia provided only estimates of numbers of regular migrants varying from about 1.4 million in 1997 through 0.8 million in 2000 to 1.2 million in 2003. From that year the number shot up to around 2.6 million upon the formal recognition of the number of irregular migrants in the country. Malaysia has pursued a policy of amnesties, the latest of which was in mid-2002, and this was then followed by a longer period from 29 October 2004 to 28 February 2005. These amnesties involved forcible expulsions of those found to be illegally in the country back across the border into Indonesia only for the majority of them to be recruited back into Malaysia on a legal basis. Initially involving considerable hardship for the migrants, the authorities adopted a "softer" approach to expulsions, particularly after the tsunami of late December 2004 (Kanapathy 2006). The result appears to have been an overall reduction in the numbers of irregular migrants in the country from well over one million to around 700,000.

In Thailand, too, considerable effort has gone into registering those in the country illegally. Some 1.3 million workers from Cambodia, Lao PDR and Myanmar had registered with the Thai Ministry of Immigration by July 2004. Thus, virtually overnight, many previously irregular migrants became legal workers, *de facto* if not *de jure*, by receiving permission to stay in the country until July 2005 – later extended for a further 12 months (Huguet and Punpuing 2005: 53). This registration immediately significantly increased the official estimates of the number of workers in the country from around 1 million to around 2 million. However, in addition to the regularized irregular migrants, perhaps some 700,000 others from the three neighbouring countries remain in the country in a wholly irregular situation (Huguet and Punpuing 2005: 53). Thus, in the two countries most affected by irregular migration across their borders, considerable steps have been taken to register the number of irregular migrants, which

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<sup>5</sup> The following three paragraphs are from Skeldon 2006b: 285-286.

should at least allow migrants access to basic services and protection. However, given the tight labour markets of both Malaysia and Thailand, the problem of migrants entering illegally is unlikely to disappear in the near future. What is equally clear is that the two countries have become much better prepared to recognize and react to the whole issue of irregular migration compared to a few years ago.

Elsewhere in the region, increased vigilance and action against irregular migration are evident. Measures range from limiting the number of legal entries of those who may later break the conditions of their stay through increased border surveillance, to general crackdowns through arrest and deportations. An example of the former was Taiwan Province of China's restriction on the entry of workers from Indonesia from August 2002 after that government's initial refusal to cooperate in attempts to reduce the number of workers who "disappeared" into the local labour market during their time in the economy. Once an agreement was reached in December 2004, legal recruitment from Indonesia recommenced (Lee 2006).

(b) *Systematization of labour importation policies*<sup>6</sup>

Policies to bring in low-skilled migrants revolve round a whole series of government-to-government bilateral agreements. Bilateral agreements incorporate intergovernmental agreements, memoranda of understanding, memoranda of agreement and protocols of agreements. They cover schemes that deal with seasonal workers, contract workers or project-linked workers, guest workers, and trainees among others. Some may be directed at skilled workers only and others at workers to fill jobs in particular sectors of the economy where shortages exist. In the design and implementation of the various schemes in OECD countries, employers and their organizations, as well as non-

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<sup>6</sup> The following three paragraphs and the policy case studies below are taken from Skeldon 2006b: 288-291, with minor modifications in order to provide more detailed information on the actual form of the policies being implemented. The information itself comes from papers presented at the Workshop on International Migration and Labour Market in Asia organized by the Japan Institute for Labour Policy and Training, the Organisation for Economic Co-operation and Development (OECD) and the International Labour Organization (ILO), Tokyo, 2 February 2006.

governmental organizations and trade unions, have played important roles in a mix of public and private interests in labour recruitment.

Although the various bilateral agreements can be examples of "best practice", such agreements are arguably best negotiated within the context of multilateral or regional agreements that provide a strong framework to ensure that government-to-government arrangements conform to international norms (Wickramasekara 2006). The various conventions and recommendations of the International Labour Organization (ILO) provide such a framework to guide the design of bilateral agreements. In Asia, until recently, countries have been reluctant to enter into labour agreements for a number of reasons, not the least of which was that governments saw recruitment as a matter that could be dealt with by the private sector. Most Asian countries had access to such a ready supply of labour locally that governments did not need to become involved (Wickramasekara 2006). However, the increased volumes of irregular migration, the production of "invisible" minorities as migrants "disappeared" into local populations, human rights abuses, and pressure from national and international sources all argued for greater government involvement. Official attempts to regularize migrants for their own protection can ensure that they are paid at least the minimum wage, are allowed trade union membership, and are provided with access to basic services. However, governments also realized that having a substantial labour force of unregistered workers within their economies also deprived them of a sizeable source of tax revenue.

The bilateral agreements that are emerging between countries in Asia, while providing some examples of good practice, still cause concern. Amongst the great variety of agreements in existence the focus is primarily on the procedures for regulating the flow of workers rather than on matters of worker protection. Agreements may have no provision for minimum standards of employment. Travel documents may be held by employers and mandatory withholding of wages for minor infringements is common. Monitoring or enforcement of the agreements may be weak and some groups, for example domestic workers, may be excluded from agreements altogether

(Wickramasekera 2006). Despite the difficulties, countries in East Asia are moving ahead with bilateral agreements and the experiences of three economies – Malaysia, the Republic of Korea and Taiwan Province of China – are examined in more detail.

*(c) Policy case studies*

Malaysia has signed memoranda of understanding (MOU) with seven countries: Bangladesh, China, Indonesia, Pakistan, Sri Lanka, Thailand and Viet Nam (Dairiam 2006). However, workers can still be recruited from another nine countries in Asia depending upon the sector: Cambodia, India, Kazakhstan, Lao PDR, Myanmar, Nepal, Philippines, Turkmenistan and Uzbekistan (Kanapathy 2006). The MOU has three clear components: responsibilities of employers; responsibilities of the government-licensed recruitment agencies; and the responsibilities of the migrant workers. Because employers can apply to various Malaysian government ministries for permission to import workers a "One-stop Approval for Migrant Workers" has been established in the Ministry for Internal Affairs that combines officials from government departments in the Ministry of International Trade and Industry, the Ministry of Human Resources, the Ministry of Agriculture and Agro-based Industry, the Ministry of Plantation Industries and Commodities and the Construction Industry Development Board.

Once the employers have approval from the Malaysian authorities to import workers, they can approach the relevant ministry in the origin country to arrange recruitment. It is understood that the employer pays for all costs of transportation and the security deposit to the immigration authorities in Malaysia. The deposit varies by country of origin of the worker from about US\$70 for Cambodia, Indonesia and Thailand to US\$400 in the cases of the Central Asian republics, Lao PDR and Viet Nam. The recruitment agency in the origin country has to supply workers according to the employers' specifications and ensure that the terms and conditions of the contract are fully explained to the worker. The workers have to bear all the costs incurred in the country before leaving. Workers must also provide written evidence to demonstrate clean health status and, if found to be unfit at one of the regular examinations after reaching Malaysia, are

deported. In 2004, over 25,000, or 2.8 percent of those tested, were found to be unfit after a year in Malaysia (Kanapathy 2006). An innovation introduced in the agreements for all countries except Indonesia was a 10-day induction course to provide workable communication skills in English or Malay, to introduce workers to Malaysian customs, and to provide awareness of appropriate laws and regulations relevant to their employment. However, such has been the demand for workers that, to expedite the process, the induction course has been waived in certain situations.

The Republic of Korea introduced a bilateral system of labour recruitment, the Employment Permit System for Foreigners, in August 2004. Its aim is to strengthen immigration control, eliminate illegal employment and hiring, and prevent the settlement of foreign workers (Ha 2006). Countries of worker origin were selected on the basis of the number of overstaying workers each had in Korea and, as of the end of 2005, MOUs valid for two years had been signed with Indonesia, Mongolia, Sri Lanka, the Philippines, Thailand and Viet Nam. These countries are allocated quotas of workers in March of each year and employers are offered workers who meet the requirements of the job. Thus, in contrast to the Malaysian system, the initiative appears to lie more with the workers in the country of origin who apply for jobs in Korea. However, any recruitment of workers within the origin country must be carried out by public agencies. The matching of potential employee and employer is done online through an automated system. For those selected, like in Malaysia, a pre-departure training course exists, in this case for 20 hours within 15 days of departure. Provision is made for counseling and legal advice for workers, job change once in Korea can be supported, employers are exempted from the mandatory pension contributions, and worker contributions are also waived.

Taiwan Province of China has signed bilateral agreements with Viet Nam and Thailand, and has signed MOUs with Indonesia, Mongolia and the Philippines. Again, the objective is to bring a greater degree of control to the recruitment of labour but with the additional goal of working with the origin countries to eliminate some of the

intermediaries and reduce the brokerage fees for the migrant workers (Lee 2006). However, a detailed study of the implementation of the scheme between Taiwan Province of China and Viet Nam showed that it was virtually impossible for government-controlled agencies on either side to carry out the recruitment. Although the agreement might be government-to-government, the central government ministries had to work through, on the Vietnamese side, government-operated employment agencies who then worked with both local government organizations and individual job brokers, and on the Taiwanese side, job brokerage firms and small employers. The network of subcontractors on each side added to the costs of recruitment that were estimated at around \$US 6,343 for each worker, that was divided 60:40 between Taiwan Province of China and Vietnamese agencies (Lee 2006). Thus, the network of middlemen that has become institutionalized to recruit labour nullifies the good intentions in the design of the bilateral system.

Bilateral agreements are in their infancy in the East Asian region. If they can become more open to design, monitoring and implementation within some common regional or multilateral facility, they indeed may evolve to become effective tools for the management of migration in the interests of both country of origin and country of destination, as well as the migrants themselves. What the three case studies show is that the countries have come to realize that a long-term labour shortage exists. The three countries stress that the residence of the labour migrant must be temporary and the government-to-government agreement is seen as one way in which to guarantee that the migrants will go home at the end of their contract. The Vietnamese agency is fined just over US\$900 by the Taiwanese brokerage firm for every worker who "disappears" into the economy of Taiwan Province of China, for example. Thus, the thrust of the bilateral agreements is to guarantee the temporary nature of the regional labour migration system and ensure that guest workers do not become settlers.

However, the extent to which a foreign labour force that makes up 24 percent of the total, as in the case of Malaysia, can ever be fully temporary is as yet a moot point.

Also, disadvantages exist in turning over imported labour on a regular basis through constantly having to train new recruits. Experience is lost and training costs increase. Admittedly, the types of jobs currently filled by migrants are of a fairly basic nature. However, should the types of employment change to more service and urban-based activities, as has occurred in Taiwan Province of China (Lee 2006), experience and training costs may become factors for consideration that would argue for a more stable immigrant population. Such issues largely remain in East and Southeast Asia's future for the moment, but already signs exist that some economies are modifying their immigration policies to look towards longer-term immigrant populations. Singapore, in particular, granted permanent residence status to 40,000 people a year between 2001 and 2005 with 8,000 new citizenships given annually over the same period (cited in Skeldon 2007: 434). All countries, however, are modifying their policies to systematize and regularize the flows of immigrant labour.

#### **4. Development Impact of Regularizing Irregular Migrants**

##### 4.1. Destination country perspective

It is not in the interest of any destination economy to have large numbers of irregular migrants within its borders and, as seen above, governments in East and Southeast Asia have made significant efforts to reduce the numbers of such migrants within their borders. Amnesties, deportations, the punishment of both irregular migrants and employers, and the establishment of bilateral agreements have all been part of the battery of policy approaches applied by destination economies in the region. What the development impacts of such attempts to regularize or better manage migration have been are much more difficult to assess. Regularization, theoretically, should integrate the migrants more closely into the destination society and economy. However, experience has shown that regularization does not guarantee that minimum wage standards will be applied or access to health services ensured. In societies where minimum wage legislation or basic rights to association are not necessarily extended to

all domestic workers, it would be unreasonable to expect migrants to be given special treatment, no matter how desirable that might be. The links between political development and migration are as yet still poorly understood.

Regularization may, in effect, constrain migrants in a number of ways. Any change in employer may be clearly forbidden, family members may be prohibited from joining the migrant, and a return to the home country after the period of employment may be mandatory, with no return allowed for a specified period. Migrants in an irregular situation, assuming they are not detained and deported, have greater flexibility of employer and can remain for as long as they are not caught. Where states turn a blind eye to such matters, the period of illegal residence might be long indeed. Freeing a migrant from the fear of deportation, and guaranteeing him or her a specified period of residence, could allow migrants to be more productive, although evidence to support such a hypothesis seems to be largely lacking. Moves to allow migrants to change employers would go some way towards making labour markets more competitive and less segmented, placing migrants in a more open and efficient marketplace.

In the most developed economies of East Asia, the numbers of migrants in general and irregular migrants in particular make up such a small proportion of the labour force that they have been more a useful, rather than an essential, component of their development. In Southeast Asia, on the other hand, migrants have been, and are, critical to the development of countries such as Singapore and Malaysia. In both regions, however, and from the state's point of view, regularization means that the migrants can be taxed and they become a "visible" minority rather than "underground": groups that can be more easily managed and controlled. A possible downside of programmes of regularization from the destination state's point of view is that they may actually give rise to further migration and an increase in the number of irregular migrants. Such a scenario has parallels with programmes designed to reduce urban unemployment in developing countries by creating more jobs. The result is often the opposite of the one intended and unemployment actually increases. Word passes back to the sources of

migration in the villages that the government is creating jobs in the cities or improving housing or other infrastructure that results in yet further migration to the cities and the arrival of more workers than the number of jobs created. Thus, in areas with long land borders and significant numbers of irregular migrants, amnesties may have the result of stimulating yet further irregular migration. Again, this is but a hypothesis that needs to be tested against available data but is tabled here as an indication that certain programmes may have the opposite result to the one intended. Even in economies with fairly effective state penetration such as the Republic of Korea, policies to reduce the numbers of irregular migrants through deportation have proven to be largely ineffective, as well as costly. The migrants simply turn around and come back.

#### 4.2. Origin country perspective

It has been generally argued that only destination countries would have the interest to reduce the number of irregular migrants. However, it has been shown that some countries, and particularly the Philippines in Asia, have acted to reduce the probability that migrants leaving their country become irregular. The Philippines has conducted awareness campaigns amongst prospective migrants against illegal recruitment and introduced penalties for recruiters who violate the law (Battistella and Asis 2003: 27). These authors also point out that it has been mostly origin countries that campaigned for and ratified the 1990 United Nations Convention on the Protection of the Rights of All Migrant Workers and their Families. However, apart from attempting to ensure that their citizens outside their country are offered basic protection, other developmental impacts are less clear. Whether irregular migrants send back less (or more, for that matter) in remittances than regular workers is not known from the available data, but almost certainly they will vary by destination country or by migration corridor. Whether irregular migrants deported to countries of origin are able to integrate successfully into those societies and economies is again not known. In fact, separating out an "irregular-migrant" factor in a matrix of change may be problematic.

One area where origin country conditions are likely to impinge on the creation of irregular migration lies in the nature of the bureaucratic process of exit. Irregularity may be as much a function of origin country conditions as it is of destination country immigration policy. For example, costs and ease of obtaining a passport are important. Then a prospective migrant will almost certainly have to obtain some kind of certificate of no-criminal conviction and medical clearance before even approaching a labour recruiting agent or foreign consulate for a work visa. Although these requirements are imposed by prospective destination countries, the ease of obtaining the documentation, apart from that from consular visits, is largely in the hands of origin country bureaucracy. Official charges, but also the time required to navigate one's way round complex government departments where "tea money" is the only way to ensure that cases are passed on to the correct official, may mean an interminable and increasingly costly process just to obtain permission to leave. The obvious alternative is to go to a "one-stop" smuggler or trafficker who will arrange all documentation, perhaps fraudulent ones, to allow a speedy exit. Smuggling and irregular migration are likely to be as much a function of bureaucratic failure in origin countries as immigration policy failure in destination countries.

#### 4.3. Migrant perspectives

Most of the migrant perspective has been touched upon in earlier sections of this paper and cannot be separated from the more structural and institutional aspects of the issue. The critical issues from the point of view of the migrants are, first, that a safe and secure channel for leaving the country of origin and entering the country of destination can be made available legally, efficiently, and at reasonable cost; second, that the migrant is provided with a safe and secure environment in which to work at the destination; and third, that the migrant is accorded all the labour rights and privileges of a domestic worker in destination areas. If these three conditions can be met, the issue of irregularity, if not eliminated, will be greatly reduced.

## 5. Policy Issues And Recommendations

Given the experiences of the most developed countries in North America, Australasia and Europe, it appears unlikely that irregular migration can ever be eliminated. Migration is a response to the demands for labour induced by development but the supply, given the demographic structures of potential origin countries, outstrips the demand. Nevertheless, policies can be implemented that can act to reduce irregular migration. These involve a balance between opening or broadening legal channels for the migration that a destination country needs and monitoring that the conditions of their opening are being adhered to. Policies are unlikely to be effective unless close cooperation exists between origin and destination countries; hence the space devoted to the development of bilateral agreements earlier in the paper. Successful implementation, too, however, will require not just the commitment of destination and origin countries to open transparent and efficient channels for entry and exit, respectively, but action in two other critical areas:

- Monitoring employers in destination areas. The temptation of capitalist development is to seek out the cheapest labour, which can usually be achieved through a supply of irregular workers. Programmes to reduce irregular migration are unlikely to be successful if they do not provide for fining employers who employ irregular migrants. Here, apart from government, civil society and organized labour can play important roles.
- Monitoring recruitment agents, as well as other groups that facilitate migration, in both destination and origin countries. The International Labour Organization has already established recommendations for codes of conduct for private recruitment agencies.<sup>7</sup> Nevertheless, the situation is complex. Because of the cumbersome emigration and immigration requirements, some, irregular recruitment agencies, in effect, make the market work more efficiently by moving the migrants to where they are needed more cheaply and quickly. Not all these irregular agencies are part of

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<sup>7</sup> These, together with other international standards for international migrant workers' rights, are summarized in ILO 2007.

criminal networks, although some undoubtedly are. While the criminal elements need to be eliminated, others agencies need to be "regularized" and brought into a partnership to produce a more effective system for the transfer of labour from where it is located to where it is needed.

In East and Southeast Asia, migration is not new but population movements that have resulted from rapid development in the second half of the twentieth century have brought challenges to the governments in the region. However, it cannot be said that either migration in general, or irregular migration in particular, is out of control. In fact, governments in the region are managing migration in a fairly effective way. Nevertheless, inefficiencies in movements of labour do exist and exploitation of migrant workers occurs too frequently. Much remains to be done in the area of employment standards and the human rights of migrants in the region. With a view to reducing the number of irregular migrants in the region, the following ten recommendations are made:

1. Irregular migration should be recognized as more a labour market than a security issue.
2. Destination economies need to open new channels and broaden existing channels of entry for legal migration.
3. Sanctions on employers of irregular migrants need to be enforced strictly and with impartiality.
4. Origin economies need to ensure that exit procedures are transparent, efficient, and at reasonable cost.
5. Bilateral agreements should be explored as the most likely way to bring about more open, transparent and efficient systems for the transfer of labour.
6. The agreements between countries should include the recruitment, treatment and return of migrant workers.
7. Mechanisms need to be in place to allow migrant workers to change employers for "reasonable cause".

8. Destination and origin countries should adhere to international conventions and agreements on the treatment and rights of migrant workers.
9. Given demographic shifts in the region, countries need to begin to think more in terms of a comprehensive immigration policy rather than simply policies on migrant workers.
10. Data systems on exit, entry and employment of migrant workers need to be maintained and improved.

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Table 1. Official estimates of the total number of foreign workers in Asian economies, 1997-2005

|                                | 1997      | 1998      | 1999    | 2000    | 2001    | 2002      | 2003           | 2004   | 2005  |
|--------------------------------|-----------|-----------|---------|---------|---------|-----------|----------------|--|---|
| Hong Kong SAR <sup>a</sup>     | 171,971   | 180,604   | 193,700 | 216,790 | 235,274 | 237,104   | 216,863        | 218,430  |   |
| Japan <sup>b</sup>             | 630,000   | 660,000   | 670,000 | 710,000 | 740,000 | 760,000   | 790,000        | 800,000  |   |
| Republic of Korea <sup>b</sup> | 245,399   | 157,689   | 217,384 | 285,506 | 329,555 | 362,597   | 381,634        | 423,597  |   |
| Taiwan Province of China       | 245,697   | 255,606   | 278,872 | 326,515 | 304,605 | 303,684   | 300,150        | 314,034  | 322,771   |
| Singapore                      |           |           | 530,000 | 612,233 | 590,000 | 590,000   | 599,800        | 620,000  |   |
| Indonesia <sup>c</sup>         | 37,837    | 33,950    | 29,008  | 14,863  | 24,319  | 27,715    | 18,138         | 20,008   |   |
| Malaysia <sup>b</sup>          | 1,471,645 | 1,127,652 | 818,677 | 799,685 | 804,984 | 1,057,156 | 1,239,862      | 1,359,500<br>(plus an estimated<br>1.2 million<br>irregular<br>migrants) | 1,940,000<br>(plus an<br>estimated<br>700,000<br>irregular<br>migrants) |
| Philippines <sup>c</sup>       | 6,055     | 5,335     | 5,956   | 5,576   | 6,858   | 10,739    | 9,168          | 9,408  |   |
| Thailand <sup>b</sup>          | 1,125,780 | 1,103,546 | 766,543 | 780,617 | 827,649 | 879,532   | 1.1<br>million | 1.63<br>million<br>(1.99<br>million)                                     | 1.9 million   |
| China <sup>c</sup>             | 82,000    | 83,000    | 85,000  |         | 400,000 |           | 90,000         |  | 250,000   |
| Viet Nam <sup>c</sup>          |           |           |         |         |         |           |                | 6,000-<br>8,000  |   |

<sup>a</sup> Includes an estimate of foreign domestic workers only; there are no stock figures for the highly skilled.

<sup>b</sup> Includes estimates of undocumented workers, although for Malaysia and Thailand definitions change significantly after 2001 for the former, and after both 2000 and 2002 for the latter country. A "best guess" for 2004 is provided in parentheses from J. W. Huguet and S. Punpuing, *International Migration in Thailand*, Bangkok, IOM, 2005, p. 3.

<sup>c</sup> Estimate of foreign experts only, primarily professionals, the highly skilled and teachers but, for China in 2001, includes 190,000 from Hong Kong SAR, Macao SAR and Taiwan Province of China.

Source: Country papers presented at the Workshop on International Migration and Labour Market in Asia, Japan Institute for Labour Policy and Training and OECD, Tokyo, 17 February 2006 and the previous annual meetings in the series between 1998 and 2005. Modified from R. Skeldon, Recent trends in migration in East and Southeast Asia, *Asian and Pacific Migration Journal*, vol. 15(2), 2006: 279.

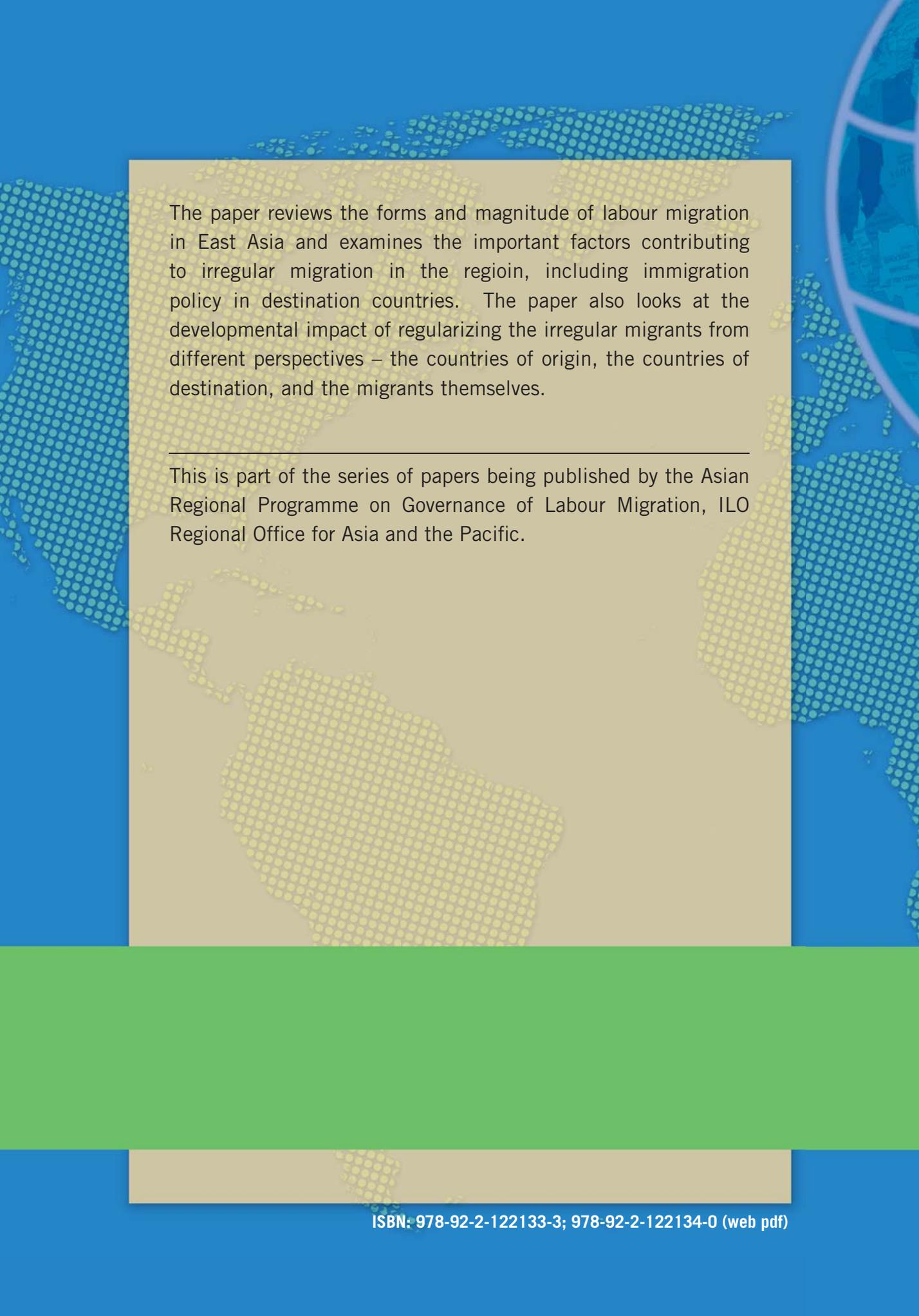
Table 2. East and Southeast Asian economies: basic demographic and development data

|                                | Total pop<br>mid-2005<br>(000s) | Annual<br>growth<br>rate (%) | PPP \$<br>2004 | Annual<br>growth of<br>GDP per<br>capita<br>1975-<br>2004 | E <sub>0</sub> | IMR | TFR | Urban<br>(%) | Urban<br>Growth<br>rate<br>(%) |
|--------------------------------|---------------------------------|------------------------------|----------------|---|----------------|-----|-----|--------------|--------------------------------|
| Japan                          | 127,798                         | 0.1                          | 29,400         | 2.3   | 81.9           | 3   | 1.3 | 79           | 0.3                            |
| Hong Kong<br>SAR               | 6,889                           | 0.8                          | 34,200         | 4.1   | 81.5           | 4   | 0.9 | 100          | 0.8                            |
| Singapore                      | 4,295                           | 1.3                          | 27,800         | 4.7   | 78.6           | 3   | 1.3 | 100          | 1.3                            |
| Republic of<br>Korea           | 48,461                          | 0.5                          | 19,200         | 6.0   | 76.8           | 4   | 1.2 | 81           | 0.8                            |
| Taiwan<br>Province of<br>China | 22,600                          | 0.4                          | 25,300         |   | 76             | 5   | 1.3 | 57.5         | 1.2                            |
|                                |                                 |                              |                |   |                |     |     |              |                                |
| Malaysia                       | 26,045                          | 1.8                          | 9,700          | 4.1   | 73.0           | 10  | 2.8 | 65           | 2.8                            |
| Thailand                       | 64,261                          | 0.6                          | 8,100          | 5.0   | 69.7           | 17  | 1.7 | 31           | 0.8                            |
|                                |                                 |                              |                |   |                |     |     |              |                                |
| China                          | 1,315,844                       | 0.6                          | 5,600          | 8.4   | 71.5           | 33  | 1.7 | 41           | 3.0                            |
| Philippines                    | 85,237                          | 2.0                          | 5,000          | 0   | 70.2           | 26  | 3.3 | 63           | 2.9                            |
| Indonesia                      | 222,781                         | 1.2                          | 3,500          | 4.1   | 66.5           | 38  | 2.3 | 48           | 3.6                            |
|                                |                                 |                              |                |   |                |     |     |              |                                |
| Viet Nam                       | 84,238                          | 1.3                          | 2,700          | 5.6   | 70.4           | 18  | 1.9 | 27           | 3.2                            |

Sources: 2005 ESCAP Population Data Sheet, Bangkok, Economic and Social Commission for Asia and the Pacific, 2005 supplemented by data in *World Population Prospects: The 2004 Revision*, New York Population Division, Department of Economic and Social Affairs, 2005 and *Key Indicators 2004*, Asian Development Bank, Manila, 2004. The PPP estimates are from the CIA, *The World Fact Book*, [www.cia.gov/cia/publications/factbook/rankorder/2004rank.html](http://www.cia.gov/cia/publications/factbook/rankorder/2004rank.html)







The paper reviews the forms and magnitude of labour migration in East Asia and examines the important factors contributing to irregular migration in the region, including immigration policy in destination countries. The paper also looks at the developmental impact of regularizing the irregular migrants from different perspectives – the countries of origin, the countries of destination, and the migrants themselves.

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