Markets for Migration and Development (M4MD): Trade and Labour Mobility Linkages - Prospects for Development

Bern, 13-15 September 2011

Labour Migration in Asia and the Role of Bilateral Migration Agreements: Market Access Facilitation by Informal Means

Ву

Graziano Battistella

Scalabrini Migration Center

and

BinodKhadria

Jawaharlal Nehru University

Draft

Since the early 1970s, labor migration has become a fixed component of the economies and societies in Asia. The participation of developing economies in labor export is diversified both in terms of the number of people involved, the countries of destination and the types of occupations migrants engagein. At the same time, common elements are shared throughout. The same goes for the countries of destination, which have utilized migration at a different rate, some of them adopting a specific migration program, others utilizing proxy schemes to achieve the same results. But the structure of labor migration is very similar in the regions, with two fundamental pillars: labor contracts have temporary duration and there is no possibility for migrant workers to acquire the right of long term stay.

As labor migration has progressively expanded, involving more countries of origin and of destination, two preoccupations have emerged among countries of origin: how to compete with other countries in placing migrant workers in the regional labor market and how to ensure better conditions to migrant workers. Countries of destination also share two objectives: to ensure a supply of inexpensive work force and to limit irregular migration. In addition to the professional organization of the labor export industry and the setting up of a structure for the governance of migration, countries have pursued particularly in recent years bilateral agreements, mostly in the form of Memoranda of Understanding (MOUs). Such agreements aim atvarious objectives: increased deployment of workers, further protection for migrants, decrease of irregular migration. At the same time, they have revealed weaknesses in the capability to achieve definite results.

This paper will first illustrate some current characteristics of labor migration in Asia. It will then examine some bilateral agreements, representative of the variety of such agreements currently in existence, indicating their strengths and weaknesses. It will finally assess the impact of such agreements and advance some recommendations for an improvement of the governance of migration.

1. LABOR MIGRATION IN ASIA

Temporary labor migration from Asia interests the movement of approximately 4 million workers a year (table 1). The vast majority of such movement goes to the Gulf Countries (West Asia) and in a lesser proportion to East and Southeast Asia. In addition, irregular migration circulates particularly within Southeast and South Asia, and to a lesser extent to East and West Asia. South and Southeast Asia are the main regions of origin. East, Southeast and West Asia are the main destinations. Movements of resettlement to traditional countries of immigration (US, Canada, Australia and New Zealand) originate mainly from China, India and the Philippines. A closer examination of labor migration in Asia will provided through the following sections.

a. Background macro factors

-Demographic imbalance

Demographic imbalance is distributed throughout Asia, where next to the most populous countries on earth (China and India) are some of the least populous, like Mongolia, or where population density

varies from the highs of Macau (18,658 persons per square km), Hong Kong and Singapore, to the lows of the same Mongolia (1.7 persons per square km) or the countries of Central Asia. Demographic imbalance does not generate migration per se. However, it constitutes one of the important premises of it. More indicative, for prediction, is the working age population. In that respect, the scenario for the coming years is better illustrated by the proportion of persons below 15 years of age, which is much higher in most countries of origin of migration than in countries of destination (Fig.1). As this population will reach working age, it will be available for overseas work if not fully absorbed by the local economies.

Considering the fertility decline in the region, and the consequent increase of the proportion of population above 65 years of age, another scenario also has to be introduced: the need for migrant labor not just toward highly developed countries within and outside of the region, but also toward emerging economies, such as China. However, this scenario is for a more distant future than the previous one.

-Economic and employment differentials

Economically, Asia has witnessed robust growth in the first decade, only slowed down by the global financial and economic crisis. Growth is fueled, among others, by strong inflow of foreign direct investments, which in 2008 reached \$474 billion (Escap 2010). However, various countries of origin experienced a decrease of net FDI. For some of them, like the Philippines and Nepal, it counted for less than 1 percent of GDP in 2008, while it was very robust for Vietnam (8.9 percent). In absolute terms, FDI go in particular to the big economies of China and India.

In 2007, before the crisis began, all countries of origin had reported a growth rate of total output higher than 6 percent, except for Nepal (Table 2). Among the countries of destination only Japan was lagging behind, in addition to the oil export economy of Brunei. The impact of the crisis on the economic performance of the countries was felt in 2008, but most of all in 2009. All countries experienced a decline of output, but at a different level. Among the countries of origin, Pakistan and the Philippines were the most affected ones. For all, growth remained positive and India was the fast to rebound, as in 2009 it was able to post a higher increase than in 2008. China, which has currently become the second economy in the world in total output, although declining, was able to remain the highest performing country.

Economic performance indicates that the countries of origin, with smaller and less mature economies, are performing better than the countries of destination. But annual growth rate and total outputreveal a different picture when divided by the huge population in the area. Thus, GDP per capita indicates that most of the countries of origin remain low income countries (Table 3). GDP per capita is particularly low in Afghanistan, Bangladesh and Nepal. On the other hand, the GDP per capita of the countries of destination is among the highest in the world, and although wage differential does not constitute the only explanation for migration, it certainly is an influential factor.

Observations on economic growth and per capita growth strongly suggest that the countries of origin are in a very dynamic stage, which, if made sustainable, will make search for work abroad less pressing. If Olsen's (2002) observation that migration originates mostly from countries with a per capita income

ranging between USD1,500 to 8,000 holds true, it will still take some time to see a decrease in the number of countries of origin in Asia. At the same time it is not difficult to predict that the first to move out of the pack will be Thailand, which is already considered both as origin and destination of migration.

b. Labor flows

Circulation of labor within Asia has two main regions of origin and three major destinations.

- Origins: South and Southeast Asia

South Asia is a region historically oriented to labor export toward the Gulf countries. Initially, this movement originated particularly from India and Pakistan. Later, Bangladesh and Sri Lanka joined the flow and more recently also Nepal. In 2009, 97 percent of migrants from India (Kahdria 2009) and Pakistan (BOEOE 2010) were directed toward the Gulf countries, over 90 percent of those from Sri Lanka (Central Bank Sri Lanka2009), 73 percent of those from Bangladesh (BMET 2009) and 57 percent of those from Nepal (NIDS 2009).

In the case of India, this flow only covers workers who need the Exit Clearance Certificate (ECR), required of those who go to only 18 countries. Indians also migrate toward the OECD countries, particularly the USA (45 percent in 2007) and the other traditional countries of immigration. Canada, the UK and Australia have large Indian communities, where immigrants are occupied predominantly as professionals. Of the Indians going to the US in 2008, almost half were in management, professionals and related occupations.

The impressive growth of Pakistani migration in recent years is due to important absorptions in Saudi Arabia and the UAE. Those two countries account for 85 percent of the Pakistani labor outflow. Pakistan does not allow overseas work for women.

Migrants from Bangladesh end up mostly in Malaysia and Singapore, aside from Gulf countries. Overall, more than 5 million workers have left Bangladesh since 1976.

Outflow of migrants from Sri Lanka has been rather stable, with a modest annual average growth of 4.2 percent. What has changed is the gender composition of the flow. If in 2001 women were 67 percent of all migrants while in 2009 they were 52 percent.

In the case of Nepal, between 1993 and 2008, 1.4 million Nepalese went to work abroad, 93 percent of them just to four countries (Malaysia, Qatar, Saudi Arabia and UAE). This labor flow does not consider migration to India, which constitutes a separate case. Because of a long standing treaty, movement between Nepal and India does not require a visa, and therefore data on this movement are not gathered and estimates of Nepalese in India vary considerably.

¹United Arab Emirates (UAE), The Kingdom of Saudi Arabia (KSA), Qatar, Oman, Kuwait, Bahrain, Malaysia, Libya, Jordan, Yemen, Sudan, Brunei, Afghanistan, Indonesia, Syria, Lebanon, Thailand and Iraq (emigration banned).

The other important region of origin is Southeast Asia, a region that comprises 11 countries. All of them, except for Timor Leste, are also part of the Association of Southeast Asian Nations (ASEAN). The main countries of origin are the Philippines, Indonesia, Thailand, Vietnam, Myanmar and Cambodia. These countries distinguish themselves for the destination of their workers. If the Philippines is a global player in the international labor market, with 1.2 million departures in 2010 (not counting seafarers), Indonesians involved in regular migration were approximately half of that number. Both countries list the Middle East as the main destination, but the proportion of the Filipinos heading toward the Middle East (67 percent) is higher than that of Indonesians, who are almost equally divided between the Middle East and East Asia. Thailand and Vietnam post much lower numbers of outflows (less than 80 thousands) for different reasons. Thailand is decreasing its recourse to overseas labor because of increasing alternatives at home, while Vietnams is a recent player in the region. Myanmar, Cambodia and Lao DPR are three countries with the labor outflow oriented overwhelmingly to Thailand and constitute in themselves a distinct migration subsystem

- Destinations: Gulf Countries, East Asia and Southeast Asia

The GCC Countries were responsible for initiating the contemporary labor migration in Asia in the early 1970s, at the time when labor migration to Western Europe was discontinued, following the crisis that emerged after the 1973 Yom Kippur war against Israel. After the initial phase in which migrant workers were utilized for infrastructure projects, the Gulf Countries continued to source foreign labor for a variety of other occupations, including nurses for hospitals and domestic workers, to the point that GCC countries are now heavily dependent on migrant labor (Table 4). Many attempts have been made to reduce the dependence on foreign labor, but with limited results,

East Asia includes three important countries of destination for migrants (Japan, South Korea and Taiwan) in addition to Hong Kong SAR. However, these countries have a very different policy approach to migration. Taiwan has adopted a formal policy of labor import in 1991, with heavy involvement of recruitment agencies as labor mediators. South Korea also has adopted a labor migration policy in 2003, but on the basis of government-to-government agreements. Hong Kong, in addition to the limited intake of workers from mainland China, has utilized foreign labor only for specific project, except for domestic workers, who are admitted on a regular basis. Japan has avoided importing migrant workers, but has utilized the labor of Nikkeijin (foreigners of Japanese descent, mostly from Brazil and Peru) as well as foreign workers admitted as trainees. Entertainers who used to work in large number in the night clubs were considered professionals. Recently, a limited number of professional nurses and caregivers have been admitted within economic partnership agreements, such as the one with Philippines. Taiwan, South Korea and Japan also have a growing number of foreigners admitted as spouses of nationals.

The stock of foreign population in Japan was 2.2 million in 2009. The largest group was from China 31 percent), followed by the Koreans (28 percent). Close to 270,000 are Nikkeijins from Brazkil and Peru, while Filipinos are 211,000, many as spouses of Japanese citizens. In Korea, foreigners are around one million. In 2009, 100,668 migrant workers were admitted under the EPS. These included 13,497 Vietnamese, 9,957 Thai, 9,282 Filipinos, 4,981 Indonesians, 4,281 Chinese, 4,244 Sri Lankans, 2,445

Nepalese, 1,628 Pakistanis and 1,361 Bangladeshis.² As of June 2011, migrant workers in Taiwan were 403,482, of whom 166,715 from Indonesia, 87,036 from Vietnam, 79, 034 from the Philippines and 70,69 from Thailand. In the 20 years of labor migration policy, numbers have shifted. In particular Thais and Filipinos have decreased, while Indonesians and Vietnamese have increased. The over 200,000 domestic workers in Hong Kong come primarily from the Philippines, and then from Indonesia.

In Southeast Asia, the countries of destination are Singapore, Malaysia and Thailand. Also in this case the three destinations have distinct migration policies. Singapore has managed labor migration with two leverages: on the one hand, the containment of foreign labor force by imposing a limitation on the hiring of foreign workers diversified according to the production sectors (dependency ceiling); on the other hand, a levy to employers hiring foreign workers, higher for low skilled migrants, for the purpose of discouraging low skilled migration, because it conflicts with the aim at becoming a post-industrial economy offering high tech products and services. This policy could not avoid a progressively increasing proportion of foreign workers in the labor force and a consequent adjustment of limitations in the various sectors. The result is that in 2009, 34.4 percent of the labor force in Singapore was made of nonresident population. Malaysia has utilized migrant labor in a pragmatic way, allowing it to increase in time of expansion and reducing it in time of economy contraction. In 2009, 1,918,146 regular migrants were present in Malaysia. The distribution of migrants in peninsular Malaysia (81 percent in 2006) and the provinces of Sabah (12 percent) and Sarawak (7 percent) has been progressively in favour of peninsular Malaysia. The large majority of migrants in Malaysia come from Indonesia (63 percent), followed by Nepal (11 percent), India (7 percent), Myanmar (6 percent) and Bangladesh (3 percent). Thailand became a country of destination in the 1990s, mostly from the neighbouring countries, particularly Burma. However, as most of the inflow happened in an irregular way, Thailand has utilized registrations as a procedure to bring irregular migration under control, but with little results. The 15th registration in 2009 issued 928,149 new work permits. Consequently, 1,314,382 workers were in a regular situation in 2009, of whom 1,078,767 from Burma, 110,854 from Lao DPR and 124,761 from Cambodia.

c. Remittances

Remittances are the most immediate result of labor migration. Countries of origin in Asia are among the highest destinations of remittance flows (India, China, the Philippine and Bangladesh are among the top ten destination countries for remittances). Since 2004, India has been the number one country in the world in total remittances (USD 55 billion in 2010), and China (USD 51 billion) and the Philippines (USD 21.3 billion) also figure among the top 5 countries.

The increase of remittances is due to several factors, among them a more organized network of official banks and money transfers, and better reporting on remittances from banking institutions.

In addition to volume, the percentage of remittances over GDP is even more significant. Thus, large inflow of remittances to India and China amount to a very small proportion of GDP, while the incidence is higher in Pakistan (6 percent), Vietnam (7.0 percent), Sri Lanka (8.9 percent), the Philippines (11.7

² Ministry of Employment and Labour, 2010

percent), Bangladesh (11.8) and Nepal (23.9 percent) (World Bank, 2010). For some of these countries, remittances play such an important role that there are talks of dependency on remittances. On the other hands, remittances are a stable flow of foreign currency, much more resilient to crisis than foreign direct investments and trade.

d. Characteristics of labor migration in Asia

- Private mediation

Most labor migration flows take place thanks to an intricate web of recruitment agencies in countries of origin and placement agencies in countries of destination. Since facilitating international labor migration is a lucrative business, countless agencies have sprung in all countries. The fierce competition leads to alleviating costs for employer and transferring them to the migrants. This causes indebtedness among migrants, either in the form of loans taken before departure or in the form of salary deduction on the job site. In both cases, a situation of indentured is created, which deprives migrants of their possibility to refuse abusive working conditions. In the Middle East, private mediation takes the form of sponsorship, by which visas for workers to be admitted to Gulf countries are given to sponsors (private individuals or agencies), who maintain a controlling power over the migrant workers, who are not allowed to change employer or to leave the country without permission. While the UAE and Kuwait have undertaken a reform of the sponsorship system, Saudi Arabia has reaffirmed it. The only country that has distanced itself from private mediation is South Korea, which has returned to the government-to-government agreements for procuring foreign labor.

- Temporary low skill employment

The majority of occupations for migrant workers are of the semi-skilled or unskilled quality. Migrants from Pakistan and Bangladesh have about the same profile, where unskilled and semi-skilled workers constitute about 70 percent of the deployment. Among Sri Lankans going to the Middle East, 46 per cent were "housemaids" and 22 per cent unskilled workers. Migrants from Indonesia are employed mostly in domestic work, agriculture, construction, manufacturing and the service sector. Women are employed as domestic workers, nannies and caregivers. About 75 per cent of labour migrants from Nepal are unskilled and 25 per cent are semi-skilled. The Philippines does not report occupations using the skill typology. However, among the major occupational categories (production workers and service workers) the percentage of laborers and domestic workers is high.

Furthermore, migrant labor to Asian countries is allowed on a temporary basis only, without possibility for long term or permanent insertion in the country of destination. Typically, a migrant worker contract lasts two years and it can be renewed, but only after returning to the home country. Temporary contracts avoid the possibility of ethnic minorities being established in countries of destination and do not allow the sufficient time to earn social benefits. Long-term or permanent residence is allowed, but only for highly skilled or professionals. The difference is sometimes determined by the salary earned by the migrants, like in Singapore.

- Gender division of labor

Increasingly, the demand for migrant labor concerns occupations that are traditionally reserved to women, such as domestic work and caregiving to elderly people. The percentage of women among migrants is particularly high for migrants from Indonesia (83 per cent of all migrants in 2009), and it is above 50 percent for those from Sri Lanka and the Philippines. At the same time, migration from other nations is almost exclusive made up of male workers, such as those from Pakistan, Nepal and Bangladesh. Cultural reasons are behind such difference. In any event, the so called feminization of migration seems to be decreasing, as it has decline considerably from Sri Lanka, and will decline also from Indonesia and the Philippines, as Saudi Arabia is implementing a ban on the hiring of domestic workers from these two countries.

- Irregular migration

If a component of irregular migration is present in all migration flows, some destinations are more affected than others. Of the three main destinations, East Asia is the least affected. Irregular migration occurs mostly in the form of overstaying regular visas. However, Japan has reduced it at a level below 100,000; in Taiwan, the possibility to work for up to nine years has undermined one of the main reasons for overstaying; and in Korea, the ending of the trainee program has limited the recourse to irregular employment.

In the Middle East, irregular migration is mostly a function of the sponsorship system, as sponsors tend to admit more migrants than jobs available for them. Another source of irregular migration is the pilgrimage to Mecca, after which a portion of pilgrims decide to stay in search for employment.

Southeast Asia is the destination most affected by irregular migration, which occurs mostly in the form of entering porous borders without proper documentation. That is typically the case of migrants from Burma to Thailand and from Indonesia to Malaysia. But migrants also become irregular by not complying with administrative rules, such as the annual registration required in Thailand. Estimates on the number of irregular migrants in these two nations vary considerably, but perhaps they are more than one million in each nation.

- Low level of protection for migrants

Because of the characteristics of the temporary labor migration system in Asia, migrant workers experience a deficit of recognition and respect for their rights. The system is prone to abuse from the beginning to the end of the process. At the recruitment stage, migrants are overcharged by recruiting agencies, are deployed with contracts different from the ones that will be implemented, are promised occupations different from the ones they will be engaged in. At the job site, they are working long hours, housed in unsafe conditions, deprived of the proper rest. If they escape abusive conditions, they depend on the employer benevolence to obtain the necessary clearance to return to their country. These issue cannot be generalized as the level of protection varies according to countries and it increases with the increase of the skill level of occupation. Among the most victimized migrants are domestic workers. At the same time, the low level of protection is ingrained in the system, designed to maximize the benefits of the labor force and ignore the needs and aspirations of people.

2. The bilateral approach

To maximize the benefits of labor migration countries have adopted various approaches. The first and most relevant consists in the national migration policy, which usually covers four aspects: regulation, protection, welfare and reintegration. As national migration policy has jurisdictional limitations, countries seek to extend protection to their workers through multilateral and bilateral initiatives. In recent years, however, the multilateral approach has shown signs of fatigue. Countries are reluctant to enter multilateral negotiations and to become member of multilateral treaties. To pursue multilateral dialog without entering into binding agreements, regional initiatives have been established, usually termed as "processes", to indicate that the stress is on the dialog component rather than the binding aspect. At the same time, the bilateral approach has seen some resurgence, and an increasing number of bilateral agreements have been signed. Bilateralism in the governance of migration was widely pursued in the post-war migration to and within Europe. Various European countries had adopted ILO Convention 97 (1949) and use Recommendation 86, which contains a model bilateral labor agreement for countries to follow. Recently, bilateral agreements with Southern European countries have pursued the objective of ensuring the repatriation of irregular workers in exchange for a fixed number of yearly entry permits. In 2004, it was estimated that OECD countries were party to 176 bilateral agreements or other forms of labor recruitment (Garson 2004). This section will examine some agreements as exemplary of the various forms of arrangements that have been pursued in recent years. In fact, bilateral cooperation can take many forms: Bilateral labour agreements (BLAs); Memorandum of understanding (MOU); Agreements for cooperation and mutual assurance; Bilateral social security agreements; Anti- trafficking agreements; Agreements between labour-sending countries (ex. Philippines and Indonesia); Model employment contracts (Wickramasekara 2006).

a. Agreements to facilitate foreign employment

-Mandatory MOU: the case of the Employment Permit System in Korea (ex. MOU between Korea and Indonesia)

In 2003 South Korea adopted the Employment Permit System (EPS), a policy to admit migrant workers and end years of disguised use of migrants admitted as trainees, who were often becoming irregular migrants. The system was designed to answer the scarcity of labor in small and medium industries engaged in construction, manufacturing and services, since those occupations are shunned by Korean workers. At the same time, to avoid indiscriminate recourse to migrant labor, the system envisions a ceiling for each industry. Workers are admitted from a limited number of countries. Admission should be done without using the intermediation of the recruiting agencies. Therefore, Korea has gone back to the government-to-government approach which was functioning in Europe until the early 1970s. However, instead of formal BLAs it is requiring a MOU to be signed by the Ministry of Labor with each country of origin. The counterpart in countries of origin is required to make a list of job seekers, with objective information on educational background, work experience, knowledge of the Korean language. Being in the list does not guarantee obtaining a job in Korea. One major hurdle is passing the Korean

Language Test (KLT) or Test of Proficiency in Korean (TOPIK). The number of migrant workers to be admitted and their occupation is decided every year by the Foreign Workforce Policy Committee (FWPC) chaired by the Minister of theOffice for Government Policy Coordination. Workers who are hired receive a five-year (initially it wasthree-year) contract with conditions established in the standard labor contract, which guarantees equality of treatment with Korean workers. Family reunification is not allowed and after termination of contract the worker is expected to return to his/her country.

Korea has already signed many MOUs with countries of origin: Bangladesh (2007), China (2007), Indonesia (2006), Nepal (2007), Pakistan (2008), Philippines (2004), Thailand (2009), Sri Lanka (204), Vietnam (2004). Agreements should be renewed every two years. They all follow a similar structure.

The MOU with Indonesia can be considered as an example. It determines the purpose, which is to increase efficiency and transparency in the flow of Indonesian migrants to Korea. After the definition of terms, it indicates the Director General of Placement and Development of Indonesian Overseas Workers (PDIOW) as the sending agency in Indonesia responsible for recruiting, selecting and sending the workers. The placement fee to be charged to the workers has to be agreed upon by the two party and made public. The language test will be administered by the Korean Ministry of Labor.

PDIOW is to prepare a roster of workers to be potentially hired, providing all the necessary information for each worker. The roster is valid for one year and be updated every four months. The workers are selected by hiring companies in Korea and the labor contract is sent to Indonesia to be signed. A preliminary education is to be given to every worker by a public agency in Indonesia determined by the Department of Manpower and Transmigration. Within three months selected workers are to apply for a visa to enter Korea.

Upon entry, migrant will be given health examination and training. If a worker must return to Indonesia before termination of contract due to his/her fault, he/she is to pay the costs including airfare. If the worker cannot afford to pay for the airfare, the government of Indonesia will assist. The contract is valid for three years (in this 2006 agreement) and the worker is protected by the labor laws of Korea. The parties will cooperate for the repatriation of migrants who are staying illegally in Korea. If the percentage of Indonesian migrants staying illegally in Korea will exceed a certain percentage (not determined in the MOU) the number of visas for Indonesia workers will be reduced. To discourage irregularities, Korea will re-hire first the migrants who have left Korea voluntarily at the end of the labor contract.

The MOU, which substitutes the one signed in 2004, has validity of two years and is accompanied by an Annex which goes into more details on the hiring procedures.

The type of MOUs signed by countries of origin with the Korean government can be considered very effective in mediating the flow of workers as well as the protection they will receive, because it is a mandatory procedure. In terms of efficiency, it can be said that all migrant workers hired in the EPS have been handled through MOUs. One of the benefits of this system is to decrease migration costs. It was estimated that the cost for Cambodian migrants to go to Korea before EPS was USD3000, with EPS it was USD892 (Chan 2009: 51). However, several aspects deserve additional research to determine the actual

effectiveness of MOU: the first one is the transparency of procedures in the selection process carried out by PDIOW; the second is the effectiveness of training before departure; the third is a real assessment of working conditions in Korea; a fourth aspect concerns the actual return of workers after the expiration of contract.

-Agreement to facilitate placement of migrant workers in the Middle East(ex. Agreement between Indonesia and Qatar)

As indicated in the first part of this paper, the Gulf Countries are the main destination of migrant workers from Asia, in particular from South and Southeast Asia. This migration flows is handled through the intermediation of recruiting agencies in the country of origin and sponsors in the country of destination. Many studies have pointed to the problematic conditions for migrants working in the Middle East, mainly, but not exclusively, because of the sponsorship system (US Department of State 2010). Regional dialogs on how to improve the governance of migration have just started (see the Abu Dhabi dialog which has taken place in 2011). Consequently, the bilateral approach was pursued by several countries. Qatar, together with the UAE, is perhaps the country with more agreements than others, having signed instruments with, among others, Bangladesh, Indonesia, Nepal, Pakistan, the Philippines, Sri Lanka, and Vietnam.

Taking the agreement with Indonesia as an example, it is relevant to point first of all to the very flexible use of terminology. The title only speaks of "agreement" without qualifying further its legal nature. It sets the procedure by which applications by employers in Qatar to hire Indonesian workers shall be presented by the Ministry of Labour and Social Affairs in Qatar to the Ministry of Manpower and Transmigration in Indonesia. However, employers, through agents, can then follow up for the completion of procedures. Applications shall state the qualifications required, the duration of the contract, the conditions of employment, wages and facilities of transport and accommodation. The government of Qatar can proceed to repatriation of workers at the end of contract or even before the end of contract if need for employment is no longer there, or for reasons of public interest, while safeguarding the rights acquired by the workers.

Travel expenses are to be borne by the employer unless the worker resigns before termination of contract or is dismissed because of his fault. Conditions of employment and accommodation are established by the contract, which has to be written in both languages (however only the Arabic version is accepted by the State of Qatar) and has to conform to a model contract attached to the agreement.

A joint committee established by the agreement, which is valid for three years, will supervise its implementation and interpretation.

It should be observed that the number of Indonesian workers to Qatar was very minimal until 2006, when it reached 7,982 and increased to around 10,000 in the following years. The Agreement can be considered a way of normalizing a migration flow that was on the rise. While appearing effective in stabilizing high level of deployment of workers, it is not clear that the agreement has tackled the problematic aspects in the migration flow to Qatar. In fact, the sponsorship system remains operative,

working hours are long (48 hours a week), wage is calculated in two tiers (basic salary and production salary).

A quick comparison of this Agreement with the one entered with the Philippines in 1997 reveals that the language is practically the same. In addition, however, the Philippines has signed with Qatar an additional Protocol in 2008, specifying procedures concerning the joint committee and indicating that recruitment of workers will be conducted by duly licensed recruiting agencies in the Philippines. Deployment from the Philippines to Qatar has quadrupled between 2004 (21,360) and 2010 (87,813), and Qatar is the fourth country of destination in terms of annual deployment of Filipino workers.

-MOU with provincial governments (ex. Memorandum of Understanding between the Philippines and Provinces in Canada (2008)

Typically, international relations are handled between States. However, it such relations can also be established with regional or provincial governments when they possess such authority because of the autonomous status they enjoy or the administrative setup of a federal state. This is the case of the Provinces of Canada, with which the Philippines has entered MOUs (Alberta, British Colombia, Manitoba, and Saskatchewan). MOUs cover the possibility for Filipinos to be hired under Canada's Temporary Foreign Worker Program or to immigrate under the Alberta Immigrant Nominee Program. The MOU aims at a periodical determination of priorities concerning training and initiatives to meet employment standards. Human resource development plays an important part in this MOU. The flow of information concerning the type of jobs available will be from Employment and Immigration (E&I) in Alberta to the Department of Labor and Employment (DOLE) in the Philippines to the recruiting agencies. Likewise, the Philippines will maintain E&I updated on the list of licensed agencies. Also E&I will provide information on the qualified employers in Alberta who can hire Filipino workers under the Nominee Program and agencies will provide the names of potential migrants with all the required information.

Sending agencies are required to provide the workers a written copy of the contract and free information on its provisions, while E&I with provide DOLE with information on the conditions of work in Alberta. Costs for hiring Filipino workers are to be borne by the employers. Specific projects will be undertaken for the human resource development in the Philippines. The MOU has validity of two years. A committee is set up for annual review of the implementation of the MOU.

The effectiveness of the agreement in terms of migration flow is indisputable. After signing the first MOU with Saskatchewan in 2006, and the ones with the other provinces in 2008, deployment of OFWs to Canada increased considerably (from 3,629 in 2006 to 13,885 in 2010). It is more difficult to assess the impact on human resource development in the Philippines.

b. MOU to reduce irregular migration (ex. MOU between Thailand and Cambodia)

As previously indicated, Thailand experienced a sudden transition to being a country of destination for migrant workers in the 1990s. As much of the immigration inflow was irregular, Thailand undertook repeated registrations to bring the issue under control, but with limited results. Therefore, in 2003 it

signed MOUs on cooperation in the employment of workers with Myanmar, Cambodia and Laos, the three countries of origin of labor migration.

The agreement finds inspiration in the Bangkok Declaration on Irregular Migration of 1999 and indicates its objective in four points: Proper procedures for employment of migrants, effective repatriation of migrants who have completed their term or are deported, protection of workers's rights and prevention against irregular migration. Regular consultations are to be held on the implementation of the MOU and migrants irregular present before the MOU are to be integrated.

For the proper employment of migrants, procedures established by agencies must be followed. It is envisioned that information is exchanged on the one hand on job opportunities and on the other hand on lists of selected applicants with all the relevant information. Agencies are responsible to ensure that requirements are met. Duration of contracts should not exceed two years, renewable for additional two years. Reapplication for employment can be done after an interval of three years. Workers should contribute 15 percent of their monthly salary toward a saving fund, to be returned to the workers upon completion of contract. The contribution to the saving fund will be forfeited for workers who do not return to their country after completion of contract. Costs incurred for repatriation of migrants can be drawn from the saving fund. Protection and compensation are to be ensured on the basis of equality of treatment with local workers. Countries will contribute in combating irregular migration and trafficking and exchange information on the matter.

To implement the MOU the government of Cambodia established an inter-ministerial committee to identify the Cambodians present in Thailand. Workers were then provided an identity card by the committee for the cost of 1500 baht, and a work permit by Thai authorities for the cost of 4000 baht with two-year duration. The fee was quite high, considering average monthly savings were estimated at 1500 bath (Chan 2009: 48). Research assessed that only 30 percent of migrants availed of this opportunity. Overall, the efficacy of the MOU has been very limited, considering the cost for workers to go through the proper procedures with agencies is much higher than the cost of entering Thailand in an irregular way and being registered later. Estimates indicate that the cost of migration to Thailand is USD700 (only USD100 through irregular channels) (Chan 2009: 51).

c. MOU between countries of origin (ex. Memorandum of Understanding between the Philippines and Indonesia)

Traditionally, countries of origin have acted and have been perceived in competition for the expansion of the respective foreign labor market. In recent years, however, dialogs on issues of common interest have increased. Currently, the most active of such dialogs is probably the Colombo process. The idea of common understanding if not yet common action is gaining ground. Significant in this regard is the MOU between the Philippines and Indonesia, two countries of origin, designed as a framework agreement for "detailed proposals for cooperation in the promotion and protection of the welfare and rights of migrant workers". Training, certification and provision of legal aids are also considered fields of cooperation. A steering committee is envisioned for the implementation of the agreement as well as joint working groups in countries of destination. The MOU has validity for five years.

d. Agreements for welfare and protection

- Bilateral Social Security Agreement (ex. Agreement between India and Germany on Social Insurance)

Social security benefits vary considerably from country to country and the possibility for migrants to accumulate such benefits also is subject to great variation according to the laws of the country where the migrant works, the type of occupation, and the time of employment spent in a country. To ensure that workers do not lose their benefits for the time in which they are employed abroad countries stipulate bilateral social security agreements. In general, such agreements are either territorial-based (benefits are granted on the basis of the laws of the country of residence), time-proportionate based (benefits are computed on the basis of the time spent in each country), or agreement based, where the system is established by the specific directives agreed upon in the agreement (www.migravalue.net). In general the temporary labor migration system functioning in Asia is designed not to allow migrant workers the possibility to accumulate social benefits. For this reason, the majority of BSSAs are with countries of permanent or long-term destination.

- Bilateral Trade Union Agreements (ed. BTA between Trade Unions of Sri Lanka, Bahrain, Kuwait and Jordan)

The rights of workers are best protected by the workers themselves. National workers can count on trade unions for collective bargaining and for action, including strikes, to uphold their rights. Migrant workers can join trade unions or form their own unions, but these rights are not always granted and are less available in the temporary labor migration system. For this reason, cooperation among trade unions in countries of origin and destination has become an innovative good practice, in the absence of possibility for migrants to protect their own rights. The first trade union agreement of this kind with countries of the Middle East was signed in 2009 by the four national trade unions of Sri Lanka with their counterpart in Bahrain, Kuwait and Jordan. The three BTAs were modeled after a text agreed upon at a workshop at Amman. Unions commit to cooperate to ensure that national contracts include protection also of migrant workers, to work toward a unified employment contract for migrant workers, based on international labor standards, to monitor implementation through labor inspections and to cooperate on instruments for mechanisms concerning solution of labor disputes.

3. EVALUATION

Bilateral agreements concerning migration are not easy to evaluate. The variety of objectives, modalities and binding force puts them at a different level, requiring different considerations for the evaluation. In general, most of them contain the basic elements that bilateral agreements should have, according to ILO (Geronimi 2004). However, each agreement places particular emphasis on one aspect or the other.

³ They were: the General Federation of Jordanian Trade Unions (GFJTU), the General Federation of Bahrain Trade Unions (GFBTU), the Kuwait Trade Union Federation (KTUF), and for Sri Lanka the Ceylon Workers' Congress (CWC), the National Trade Union Federation (NTUF), the National Workers' Congress NWC) and the Sri LnakaNIdahasSewakaSangamaya.

Formal evaluation should consider the following elements (Cachón 2004): efficacy (comparing expectations with results); conformity (were results obtained in conformity with established procedures; pertinence (did the agreement respond to the needs); efficiency (a cost-benefit analysis); impact (on the system and the stakeholders of both countries of origin and destination). A specific research is to be designed and implemented to accomplish that kind of evaluation, identifying the proper indicator for each variable. Not having the results of such research available, the following considerations will focus on three criteria: the impact of the agreements on the migration flows; the relevance of the agreements for migrant protection; the relevance of the agreement for the control of irregular migration.

a. The impact of agreements on migration flows

Although agreements can have different main objectives, as illustrated above, many of them are oriented to facilitate migration flows from countries of origin to countries of destination. For this reason, they take a less rigid form than formal bilateral labor agreements, where reciprocity ensures the same treatment in both countries, and are configures as MOUs. But what is the real impact of such agreements in the actual flow of labor? We have tested this research question by gathering available data from some origin countries in reference to agreements stipulated with countries of destination, indicating the percentage increase of migrant labor for the previous, the same and the following year in which the agreement was signed. Results are illustrated in Table 6.

In general, it can be said that agreements coincided with an increase of migration flow, either in the same year or in the following year. However, some additional observations are necessary. In some cases, like agreements with Korea and Taiwan, the agreement originated the flow itself. In other cases, agreements were signed to increase protection to migrants in a flow which was already robust. Agreements signed in 2009 showed a decline in migration flows, but migration declined almost everywhere in that year due to the global crisis. Also, increase measured in percent does not reveal the actual strength of the flow. Overall, agreements can be considered effective in expanding the labor market of countries of origin and providing labor force to countries of destination.

b. The impact of agreements on the protection of migrants

This is a more difficult aspect to be evaluated without specific research. However, It can be said in general that the bilateral approach offers more coverage to migrant workers that the multilateral one. This can be hinted by examining a country with extensive participation in both bilateral and multilateral treaty, like the Philippines. It is possible to consider roughly, as precise data are not available, the number of Filipino migrants who live and work in countries with which the Philippines has a bilateral treaty and those that are part of multilateral treaties on the protection of migrants signed by the Philippines. Taken in a strict sense, we only include here ILO Conventions 97 and 143 and the International Migrant Workers Convention. Based on Philippine data of approximately 8.2 million landbased migrants abroad, including those in an irregular situation, the ones who live and work in countries that have ratified ILO C. 97 are seven percent of the total, the ones who are in the countries that have ratified C. 143 are 2 percent, and the ones covered by the UN Convention are 0.9 percent. If all instruments of international protection are lumped together, the portion of Filipino migrants who can

claim some protection are less than nine percent. From this rough calculation two considerations can immediately be made: if the proportion of Filipinos reached by international protection is so small, is it worthwhile to pursue multilateral cooperation? And the second question would be: is it good policy for the Philippines to send more than 90 percent of its overseas labor force to countries that have not ratified international conventions for the protection of migrants?

If the impact of the bilateral approach is tested, the situation appears more positive. A list provided by the Philippine government indicates that the Philippines has entered into some form of agreement with 21 countries. Filipino migrants living and working in those countries are 30 percent of the overseas Filipino population stock. The bilateral approach appears, therefore, much more effective in extending protection. Unfortunately, as indicated before, the nature of bilateral arrangements is rather weak when it comes to ensuring protection. At the same time, it also appears that countries of destination are more willing to entertain MOUs, where conditions can be negotiated according to circumstances, rather than committing to overall international treaties.

c. The impact of agreements in controlling irregular migration

The control of irregular migration is an important objective for countries of destination. In bilateral agreements, this is often expressed in terms of reward for countries whose migrants return home after the completion of contract. The reward can consist in granting priority to migrants from compliant countries (ex. South Korea) or assigning a quota to the same countries in the annual intake of migrants (ex. Italy with Albania or Morocco). This carrot and stick approach seems working well in Europe, it is too early to assess its validity in the case of Korea.

Bilateral agreements between Thailand and the neighboring countries aim specifically at controlling irregular migration. The measure utilized to ensure the return of migrants at the end of contract consists in withholding a portion of the salary (15%) to be released to the migrant upon leaving the country. Judging for the persistent number of irregular migrants in Thailand, it is questionable whether that procedure was effective. Most of all, it is questionable whether the procedures is respectful of the rights of workers. Perhaps the effectiveness of bilateral agreements between Thailand and neighboring countries requires a better administrative infrastructure concerning the migration policies in the same countries.

Overall, the assessment of bilateral agreements, which are commonly MOUs, is more positive in relation to labor market development than in increasing the protection of migrants or the control of irregular migration.

CONCLUSIONS AND RECOMMENDATIONS

Studies on bilateral agreements converge on highlighting the weaknesses in this approach: monitoring and enforcement mechanisms are not sufficiently solid; too little attention is given to protection compared to regulation and market; gender sensitivity is overlooked; minimum standards of employment are not guaranteed; malpractices of migration intermediaries are ignored; civil society is forgotten (Wickramasekara 2006, Go 2007). In addition, it should be observed that the recent spate of

bilateral agreements has not involved all countries of destination in a similar way. Conspicuous is the absence of Saudi Arabia, the major country of employment of migrants in Asia.

Recommendations tend to patch those weaknesses (CMA 2010).

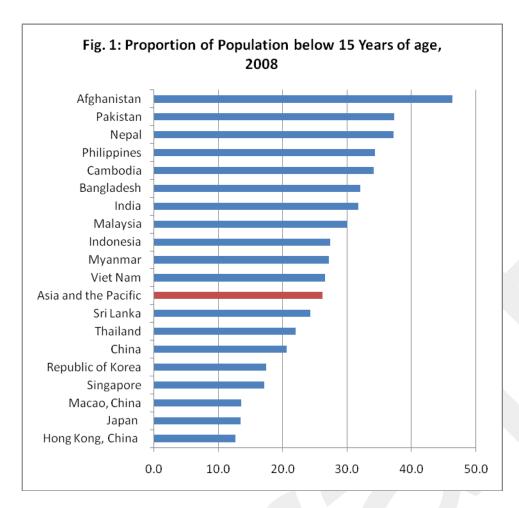
- In terms of content: include protection measures, particularly for women; include reintegration mechanisms;
- in terms of process: increase staff capacity for treaty negotiation and review process; include all stakeholders in the preparation, implementation and monitoring of agreements;
- in terms of implementation: provide the appropriate guidelines; inform migrants and the public about the agreements.

On our part, we would like to emphasize three points.

- 1) Multilateralism and bilateralism should not be antithetical or substitutive. Asia has not shown much affection for the multilateral approach when it comes to the governance of migration. Of the specific international treaties dedicated to migrants, only seven countries have ratified the Migrant Workers Convention (Azerbaijan, Bangladesh, Kyrgyzstan, Philippines, Sri Lanka, Tajikistan, Timor-Leste), only five ILO Convention 97 (Armenia, Kyrgyzstan, Malaysia Sabah, Philippines, Tajikistan), and only three ILO Convention 143 (Armenia, Philippines, Tajikistan). The recent recourse to bilateral negotiations indicates the awareness that the governance of migration requires cooperation, but engaging in a less rigid and less binding form of treaties. The governance of migration would gain if bilateral agreements were founded on a multilateral framework, even regional or sub-regional if not global. Currently, Asia lacks such framework. The only exception is the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. Initiatives to give course of action to the principles expressed in the declaration still have to find solid support.
- 2) Countries of origin should pursue partial objectives in common. Together with bilateralism, the region has witnessed also increasing participation in processes and dialogs. Competition among countries of origin is decreasing in favor of pursuing results which are beneficial to all. It would be worthwhile to establish some objectives which all countries include in bilateral negotiations and in regional dialogs. For instance, obtaining the cooperation of countries of destination for the validation of labor contracts would decrease the pernicious recourse to reprocessing or contract substitution.
- 3) Bilateral negotiations could benefit from technical assistance from international organizations. It has been noted that bilateral agreements are particularly weak in the lack of reference to international labor standards. Normally, protection is provided only according to national laws, which are often inadequate to ensure such protection. Technical assistance could lead to the inclusion of provisions that are beneficial to migrants without changing the laws of the countries.

Table 1: Migration flows from selected countries in Asia							
	2005	2006	2007	2008	2009		
Philippines	733,970	788,070	811,070	974,399	1,092,162		
Indonesia	474,310	680,000	696,746	748,825	635,172		
India	548,853	676,912	809,453	848,601	610,272		
Bangladesh	252,702	381,516	832,609	875,055	475,000		
Pakistan	142,135	183,191	287,033	430,314	403,528		
Nepal	165,252	204,533	249,051	219,965	298,094		
Sri Lanka	231,290	201,948	218,459	250,499	247,119		
Thailand	139,667	160,846	161,917	161,852	79,792		
Vietnam	70,594	78,855	85,020	86,990	73,028		
Total	2,758,773	3,355,871	4,151,358	4,596,500	3,914,167		

Sources: Philippines: Philippine Overseas Employment Administration (POEA), 2010; Indonesia: BNP2TKI 1994-2009 Statistics on the Placement of Indonesian Labour Migrants; India: Annual Report (2009-10) Government of India, Ministry of Overseas Indian Affairs; Bangladesh: Bureau of Manpower, Employment and Training (BMET), Statistical Reports, http://www.bmet.org.bd/BMET/statisticalDataAction; Pakistan: Bureau Of Emigration and Overseas Employment (BOEOE), 2010; Nepal: Department of Foreign Employment, 2010; Sri Lanka: Central Bank Sri Lanka, Economic and Social Statistics of Sri Lanka, 2009; Thailand: Thailand Overseas Employment Administration, Ministry of Labor, 2009; Vietnam: Ministry of Labour, Invalids and Social Affairs (MoLISA), Department of Labour, 2010.



Source: ESCAP Statistical Yearbook for Asia and the Pacific 2009; http://www.unescap.org/stat/data/syb2009/

Table 2: Growth Rate of Real GDP, 2005-2009						
	2005	2006	2007	2008	2009	
Bangladesh	6.0	6.6	6.4	6.2	5.7	
Cambodia	13.3	10.8	10.2	6.7	-2.0	
China	11.3	12.7	14.2	9.6	9.1	
India	9.5	9.7	9.2	6.7	7.4	
Indonesia	5.7	5.5	6.3	6.0	4.5	
Mongolia	7.3	8.6	10.2	8.9	-1.6	
Myanmar	13.6	13.1	12.0	10.2	10.4	
Nepal	3.5	3.4	3.4	6.1	4.9	
Pakistan	9.0	5.8	6.8	3.7	1.2	
Philippines	5.0	5.3	7.1	3.7	1.1	
Sri Lanka	6.2	7.7	6.8	6.0	3.5	
Thailand	6.2	7.7	6.8	6.0	3.5	
Viet Nam	8.4	8.2	8.5	6.3	5.3	
Brunei Darussalam	0.4	4.4	0.2	-1.9	-0.5	
Hong Kong, China	7.1	7.0	6.4	2.2	-2.8	
Japan	1.9	2.0	2.4	-1.2	-5.2	
Korea, Rep. of	4.0	5.2	5.1	2.3	0.2	
Malaysia	5.3	5.8	6.5	4.7	-1.7	
Singapore	7.4	8.6	8.5	1.8	-1.3	
Taipei,China	4.7	5.4	6.0	0.7	-1.9	

Source: Asian Development Bank, Key Indicators for Asia and the Pacific 2010

Table 3: GDP per Capita at PPP (Current International Dollars)							
	2005	2006	2007	2008	2009		
Nepal	1,044.743	1,093.869	1,134.735	1,190.857	1,235.704		
Bangladesh	1,195.073	1,298.27	1,400.674	1,500.183	1,585.074		
Cambodia	1,496.836	1,688.999	1,886.368	2,152.497	•••		
Lao PDR	1,723.011	1,901.564	2,011.273	2,121.032	2,263.824		
Viet Nam	2,161.272	2,387.724	2,630.590	2,836.888	2,991.645		
India	2,295.021	2,568.580	2,863.442	3,059.445	3,287.171		
Mongolia	2,602.389	2,882.189	3,200.45	3,442.609	3,364.531		
Philippines	2,935.138	3,128.471	3,372.752	3,508.311	3,513.789		
Indonesia	3,206.750	3,447.339	3,715.469	3,970.998	4,149.082		
Sri Lanka	3,550.213	3,897.418	4,247.731	4,550.317	4,713.100		
China, People's Rep. of	4,102.490	4,753.573	5,553.82	6,220.619	6,913.829		
Thailand	6,838.759	7,368.207	7,883.211	8,196.432	8,056.216		
Malaysia	11,531.130	12,363.560	13,225.950	13,851.360	13,493.270		
Korea, Rep. of	22,783.230	24,660.990	26,573.980	27,725.780	28,036.420		
Taipei,China	26,706.210	29,035.400	31,432.120	32,077.380	31,726.830		
Japan	30,310.330	31,938.710	33,615.720	33,963.300	32,619.730		
Hong Kong, China	35,677.920	39,158.510	42,352.610	43,914.980	43,045.960		
Brunei Darussalam a	47,465.140	49,424.050	50,005.060	48,850.710	48,193.830		
Singapore	45,374.240	49,435.710	53,303.180	52,409.380	50,795.030		

Source: Asian Development Bank, Key Indicators for Asia and the Pacific 2010

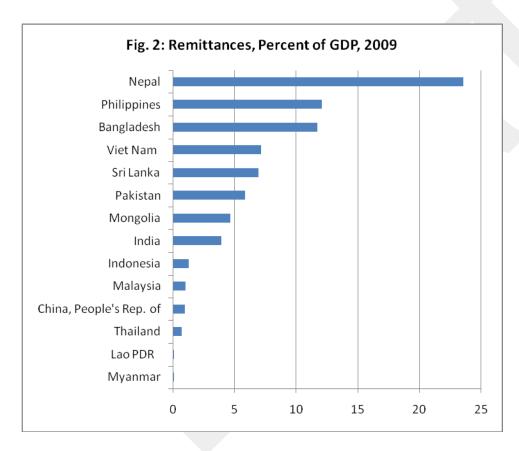
Table 4: Migrant Stock, Percent of Population and Percent of Female Migrants in the Gulf Countries, 2009

Middle East	Migrant Stock (000)	% of population	% female migrants
Bahrain	315	39.1	32.9
Kuwait	2,098	68.8	30
Oman	826	28.4	20.8
Qatar	1,305	86.5	25.8
Saudi Arabia	7,289	27.8	30.1
UAE	3,293	70.0	27.4

Source: UNDESA, International Migration 2009

Table 5: Remittances to selected Asian Countries (USD million)								
	2003	2004	2005	2006	2007	2008	2009	2010
Bangladesh	3,192	3,584	4,315	5,428	6,562	8,995	10,523	11,050
China	15,059	20,186	24,102	27,954	38,791	48,524	48,729	51,000
India*	20,999	18,750	22,125	28,334	37,217	49,941	49,256	55,000
Indonesia	1,489	1,866	5,420	5,722	6,174	6,794	6,793	7,139
Nepal	771	823	1,212	1,453	1,734	2,727	2,986	3,513
Pakistan	3,964	3,945	4,280	5,121	5,998	7,039	8,720	9,407
Philippines	10,243	11,471	13,566	15,251	16,302	18,642	19,766	21,311
Sri Lanka	1,438	1,590	1,991	2,185	2,527	2,947	3,363	3,612
Thailand	1,607	1,622	1,187	1,333	1,635	1,898	1,637	1,788
Vietnam*	2,700	3,200	4,000	4,800	5,500	7,200	6,626	7,215

Source: World Bank, Migration and Remittances Factbook 2011



Source: Asian Development Bank, Key Indicators for Asia and the Pacific 2010

Table 6: Percentage increase of migrant workers according to time of agreement						
	Agreement with	Previous year	Same year	Following year		
Bangladesh	Qatar 2008	96.7	68.9	-54.3		
	UAE 2007	110.1	73.9	85.2		
	Oman 2008	116.3	202.6	-21.2		
India	Qatar 2007	52.0	15.9	-6.3		
	UAE 2006	10.9	31.0	22.7		
	Kuwait 2007	21.3	2.1	-26.6		
	Oman 2008	40.4	-6.1	-16.4		
Indonesia	UAE 2007	303.5	24.2	35.5		
	Malaysia 2006	58.7	8.8	1.2		
	Qatar 2008	30.9	-16.6	14.8		
	Taiwan 2004		4913.0	-1.2		
Nepal	Qatar 2005		31.8	6.8		
	UAE 2007	64.3	80.1	-30.1		
Pakistan	Qatar 2008	122.8	103.2	-60.1		
	UAE 2006	11.9	36.1	39.1		
	Korea 2008	-59.9	253.5	-35.8		
Philippines	Libya 2006	-7.0	-3.1	15.0		
	Korea 2004		18.9	40.2		
	Spain 2006	-37.5	89.6	52.3		
	Canada (2006, 2008)	-18.5	78.2	91.4		
	Bahrain 2007	17.7	-15.7	32.1		
	New Zealand 2008	149.5	88.5	-23.3		
Sri Lanka	Qatar 2008	23.8	1.4	10.8		
	Jordan 2006	-7.1	-1.7	3.7		
	Bahrain 2008	13.1	-6.5	27.5		
	Korea 2004		271.9	-24.7		
Vietnam	Qatar 2008	45.5	-65.4	-92.5		
	Korea 2004		153.2	-12.6		
	UAE 2009		33.6	66.4		

Source: see Table 1.

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AUTHORS

Graziano Battistella is the director of the Scalabrini Migration Center, where he has returned after seven years as president of the Scalabrini International Migration Institute in Rome. He founded the *Asian and Pacific Migration Journal*, of which he is co-editor. His research interests are in the area of migration policies, the human rights of migrants, and ethical issues related to migration. He edited recently in Italian a dictionary on migration, with the title: *Migrazioni: Dizionario Socio-Pastorale*.

Binod Khadria is professor of economics and education, and Chairperson of the Zakir Husain Centre for Educational Studies, School of Social Sciences, Jawaharlal Nehru University (JNU), New Delhi, and Director of the International Migration and Diaspora Studies (IMDS) Project, cosponsored by Government of India. His publications include The Migration of Knowledge Workers: Second-generation Effects of India's Brain Drain (Sage, 1999) and several research papers published by ILO, OECD, GCIM, IRD (France), IDE-JETRO (Japan), Harvard International Review, 2010 World Social Science Report, etc. He is Deputy Chair (South Asia) and Regional Coordinator (India) at Asia Pacific Migration Research Network (APMRN), and sits on the Boards of International Network on Migration and Development (INMD), Zacatecas (Mexico); International Geographical Union (IGU); the Metropolis Project (Canada); IOM Migration Research and Training Centre (MRTC) in South Korea; IOM's World Migration Report 2010; Encyclopedia of Global Human Migration (forthcoming, Wiley-Blackwell); Asian and Pacific Migration Journal (Philippines); Journal of South Asian Diaspora (India); Journal of International Migration and Integration (Canada); Oxford Review of Migration (UK) and International Journal of Organizational Studies (Slovenia). He launched the annual India Migration Report in 2009 on the sub-theme Past, Present and the Future Outlook (now in second reprint), and the forthcoming subsequent India Migration Report 2010-2011: The Americas is with the Cambridge University Press.