

**Migration Without Borders: the Asia-Pacific in an Uncertain World**

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That the Asia Pacific region is so frequently spoken of as a single entity says more about its existence on the margins of Western thinking rather than the reality of its historical, political, social or even economic homogeneity. This chapter examines a region whose boundaries are constituted by East and Southeast Asia and island countries of the Pacific ranging from small states, such as Tuvalu and Nauru, to New Zealand and Australia. This geographical delineation of the Asia Pacific is not entirely arbitrary but reflects an emerging set of institutional structures. Recent economic and political developments and the increasing global economic importance of many countries in the region have coincided with the creation of overlapping regional networks such as the Association of Southeast Asian Nations (ASEAN), APEC (the Asia Pacific Economic Cooperation forum) and the Pacific Islands Forum. Unlike the European Union, these institutions lack the same national membership. Nevertheless they reflect a desire for greater economic and political cooperation in a region characterized by extensive social, cultural and historical diversity.

One of the major pragmatic arguments considered in this book for facilitating international mobility and the flow of migrants is economic advantage: for the individual migrant, local and international business, their homelands and their countries of residence. This is, however, only one of the many reasons motivating migration. Also economic advantage is itself problematic. What may constitute an economic advantage from the perspective of an individual can, from the national perspective, contribute to an undesirable loss or 'brain drain'. An examination of how the region has dealt with international migration from a historical perspective highlights the complex reality underlying international mobility and the contemporary debate. Diverse forms of international mobility are affected by the extent of openness or closure of international borders. This determines in turn, whether an individual is a legal or illegal entrant. Border control regimes apply to tourists, students, asylum seekers and refugees, temporary movement by skilled and unskilled workers as well as those settling permanently. Typically, within each country, there are different

entry conditions for different categories of migrant. These control regimes continue beyond the point of entry affecting the ability of individuals to change their entry status from one legal category to another. They also determine whether those who enter legally become illegal as in the case of individuals who overstay or take up work contrary to their entry conditions. Opportunities for integration into the new country are also affected by an individual's entry status. The formulation of the entry policies and controls reflect the interplay of diverse policy considerations. Their ramifications extend beyond economic outcomes to national identity, concerns for political and social cohesion, social development and human rights. An appreciation of the multidimensionality and diverse objectives associated with international mobility is critical to exploring the potential, and desirability, of more open borders.

The next section of the chapter will examine the historical origins of contemporary migration regimes in the region. However, these regimes are not static as will be evident from the subsequent examination of migration regimes in countries representing rather different responses to international mobility: small Pacific Island States, Singapore and Malaysia and Australia. The effects on these regimes of colonisation, independence, globalisation and, most recently, growing concerns about international terrorism and security fears will set the scene for considering the potential of more open borders developing in the Asia Pacific region.

### **The Evolution of Migration and Border Controls in the Asia Pacific**

The borders of Southeast and East Asian states in the nineteenth century were only the most recent in a series of ever-changing political boundaries affected by the waxing and waning of the power ambitious rulers and dynasties. The rapid expansion of trade, especially from the fifteenth century, also led to increased migration which complemented earlier migrations by Chinese and Indians into Southeast Asia. The arrival of Portuguese, Spanish, Dutch and British as well as Chinese, Indian and Japanese groups of traders led to the establishment of European controlled cities such as Manila, Batavia and Malacca with their substantial European and Asian populations. Given the predominance of males in this migration, there was also a growing mestizo population who became an important bridge for economic, cultural and ideological transfers between the foreign and local populations. The existence of

these foreign settlements reflected the openness of local rulers to outsiders who were seen as providing them with important economic benefits (Andaya 1999 p.17).

In contrast to the openness of the Southeast Asian states to migration, China and Japan were more equivocal about the advantages of migration and trade and, at various times limited, or even prohibited, their nationals from trading with Southeast Asia as well as with European states (Reid 1999 p.120). Borders were closed to foreigners except under strict controls such as the requirement that they live in specially designated areas of Chinese port cities. Furthermore, until the mid-nineteenth century, China also forbade its nationals from emigrating, classing those who did leave as rebels or traitors (Godley 1992). But, in spite of these limitations, trade with Southeast Asia, or the *Nanyang* (Southern Sea) as it was called by the Chinese, continued, as did the flow of migrants willing and able to avoid the Chinese state's sanctions on emigration. In contrast to Asia, the Pacific islands did not become involved in international trade or settlement until the nineteenth century. However, even these more self-sufficient populations were no strangers to migration as evident in the settlement of New Zealand by Polynesian seafarers.

In the Asia Pacific as elsewhere, the nineteenth century was the highpoint of European colonization. Only China, Japan and Thailand retained their formal independence although, to varying degrees, under European influence and control. European colonization was marked by an economic shift from trade and subsistence agriculture, to plantation agriculture and mining. Shortages in the local labour market often reflected colonial administrative policies to retain the native population on their land. The absence of incentives for them to work in the mines and plantations, were overcome by importing labour from China, India and, in the French Pacific territories, Indo-China. The pattern of migration was, however, different in Australia and New Zealand which, apart from a brief period of convict settlement, attracted free settlers from Europe and, following the gold rushes in the latter part of the nineteenth century, Chinese.

A major role in all these migration in the nineteenth century was played by agents and recruiters who identified, financed and organised the contract labourers to work in Southeast Asia and the Pacific. In Australia and New Zealand colonial administrations, and then the post-independence national governments, played a

major role in encouraging and recruiting British migrants to settle these relatively distant parts of the world. State involvement in migration was not restricted to encouragement through measures including financial assistance for fares and the offering of land grants. It also included efforts to controlling the flow of those migrants, considered problematic for the existing social and political status quo. In the case of Australia and New Zealand, non-European, and particularly Chinese, migrants were seen as less desirable and constituting an economic threat to the European population. They were thus subject to economic restrictions and controls on entry and settlement which, in the case of Australia, resulted in the formalisation of the White Australia Policy following the gaining of independence in 1901.

Colonial administrations throughout the region placed similar economic controls on Asian migrants to protect the local indigenous populations and European economic interests. Following the overthrow of the Ching dynasty in China in which significant support came from overseas Chinese communities, colonial administrations in Southeast Asia became more actively involved in controlling Chinese immigration and Chinese institutions such as schools. These were viewed as centres for promoting a Chinese nationalism with potential to disrupt the colonial regimes. The British administration in Malaya was particularly active in this regard as, also, was Thailand following an army led coup in 1932 (Pan 1998). Political motives for controlling immigration were further strengthened by economic motives in the 1930s as the effects of the Great Depression were felt in the Australasian colonies and Southeast Asia. The numbers of immigrants admitted were reduced to avoid further straining economies experiencing high levels of unemployment.

The Second World War, and the Japanese invasion of much of Southeast Asia and the Pacific, was a watershed which provided a major impetus to the nascent national independence movements. By the 1970s, former Asia Pacific colonies had all achieved their independence. A major task facing them was nation building, including attaining economic development and the establishment of a national identity which took account of their ethnically diverse populations and, in particular, their often large, recent migrant, populations. Exacerbating the situation was that these migrant minorities often also exercised considerable economic power even if, in the newly independent nations, the political power went to the indigenous population. All

too frequent consequences were bloody riots and coups targeting the Chinese or Indian populations in countries as geographically dispersed as Fiji, Indonesia and Malaysia. One immediate reaction of the newly independent states was to limit international migration, especially of those minorities introduced by colonial administrations. Restrictions on international migration however became increasingly problematic as the newly independent nations realised that programs of indigenising or localising the labour force and economy did not always fit easily with their ambitions for economic development. Especially from the 1970s as globalisation increasingly affected domestic economies, states in the region began to reconsider how international migration might help them achieve their social and economic objectives.

### **Migration and Control in the Late Twentieth Century**

By the late twentieth century Asian Pacific states had developed three major forms of response to international migration which reflected different attitudes towards the extent to which international migration should be constrained by border controls. The first response is by states which are net senders of migrants. At one end of the spectrum in terms of their size and even political viability are the small Pacific Island states including Tuvalu and Nauru. Former colonies, their limited economic resources mean that they now rely extensively on emigrant remittances for their survival. An extensive reliance on migrant remittances also characterises the Philippines and Indonesia. These sending states have a particular interest in ensuring easy access for their citizens to other countries and protecting them from exploitation. As in the Philippines, these concerns often result in extensive government involvement in the emigration process ranging from negotiating entry and recruitment to supporting the emigrants overseas, facilitating their links with the homeland and welcoming them on their return (Go 2002). A second response is by states in the region such as Singapore, Malaysia and Korea which rely extensively on short-term migrant labour for their economic growth. Their control of labour migrants is intended to ensure that the states' citizens, rather than the migrants, should be the major beneficiaries of economic growth. In contrast to these countries' emphasis on short term labour migration, Australia and New Zealand, represent a third response by

states whose national origins are based on extensive immigration and an emphasis on the importance of long-term permanent settlement and integration

### **a) Migration and Pacific Island Nations**

For small Pacific Island nations the issue of migration without borders is of more than academic interest as it is integral to their viability as independent nations. With economies relying precariously on plantation agriculture, mining, logging, fisheries and tourism their economic vulnerability is widely known. Remittances from migrants gaining employment overseas have been critical to the survival of many of these nations, which have a particular interest in ensuring that their population can migrate and obtain work elsewhere. Niue, with a population of 1650, relies extensively on the remittances from the 90% of its population living overseas. While New Zealand has been especially welcoming and there are large populations in Australia, the latter has so far been unwilling to provide special entry provisions for Pacific Islanders. Although a recent Australian Senate Committee Report (Australia Senate Committee on Foreign Affairs Defense and Trade 2003) canvassed the possibility of providing special opportunities for temporary migration from the Pacific the Australian government has not yet responded. The growing urgency of the matter is indicated by the December 2004 request from Papua New Guinea, the largest and best resourced of the Pacific Island nations and a former Australian colony, which reiterated its 2003 request for the granting of seasonal migration opportunities, advocated in the Senate report, to be made available for its nationals to Australia (2004).

Compounding the precarious future of the island states are the effects of global warming on their environment. The devastation caused to Niue in January 2004 by a hurricane served only to heighten the problematic nature of its physical sustainability. Tuvalu, with a population of 10200 living on only 28 square kilometres, threatened for climatic reasons with becoming inhabitable, has gone so far as to request Australia to resettle its population in Australia, a request that has so far gone unheeded.

While emigration policies and opportunities are particularly important for Pacific Island states, they also have an interest in particular economically oriented

immigration flows. Tourism is the most obvious and the least problematic of such flows even if there are sometimes concerns about tourism's impact on an island's culture and way of life. More concerns have been generated by the practice of some nations of 'selling' passports and easy access to citizenship, as a means of financial survival. In some cases, those granted passports have set up businesses in their new homeland. However, there is a widespread international perception that the selling of passports is part of a larger web of dubious financial practices and fraud linked to off-shore banking and money laundering which have led the OECD to threaten sanctions against 35 tax havens, including a number in the Pacific, unless their banking practices are altered. Fuelling concerns about criminal links are instances where individuals with more dubious intentions have actually gained passports. In 2003, for example, six suspected terrorists were arrested in Asia carrying legally issued Nauruan passports (The Australian 2003). As this case highlights, free access to migration and the gaining of citizenship may be abused.

#### **b) Australia**

In contrast to the Pacific Island states whose national survival relies on having a substantial number of their citizens living outside the country, Australia is frequently cited as an immigrant country whose national development has been predicated on its openness to migrants for permanent settlement. Certainly, with nearly one quarter of its population born overseas and over 40 per cent either overseas born or having at least one parent who is an immigrant, Australia is far more a 'country of immigration' than the United States of America. As a nation built on extensive immigration, Australia superficially appears as a country where migration without borders has been effectively implemented. In reality this is to misunderstand the highly complex nature of Australia's migration regime and how it has been developed and operates. In particular, it ignores the strategies used to ensure that high levels of immigration and settlement have been achieved with what is, by international standards, a very low level of social conflict. Since the first British settlement, the colonial administrations and then the Australian state, have played a major role in promoting and controlling migration entry and settlement. In the first instance, active state intervention was a prerequisite for population growth in a country distant from Europe and populous Asian countries such as China and India.



This activist intervention ceased only in the late 1970s when the government ceased to provide fares to attract immigrants.

The contemporary role of the Australian state in managing the flow of migrants now involves developing and implementing the migration program and the settlement programs to assist integration. A major, if often overlooked, pillar of Australian migration policy is that careful state management is necessary to achieve desirable outcomes for national economic and social development. Only through this, governments believe, will the wider population accept the legitimacy of extensive migration and provide a welcoming environment for the new arrivals. To achieve this outcome there has been a long history of seeking out the 'right type' of migrant while, at the same time, excluding those seen as undesirable and likely to compromise the legitimacy of the migration program. For nearly the first 200 years of settlement, the preferred migrants were those of British or European stock. That is, people like the first Anglo-Celtic settlers, or, when they became more difficult to attract following post-World War II reconstruction in Europe, people from elsewhere in Europe and the Mediterranean including ultimately Turkish and Lebanese settlers. From the middle of the nineteenth century when the discovery of gold attracted large numbers of fortune hunters, governments also became involved in restricting access to those seen as undesirable and potential competitors for Australian workers. Most notable were Chinese who were subjected to an increasing range of barriers to entry and settlement which culminated immediately after independence in 1901 with the formalisation of the White Australia Policy designed to control and minimize Asian immigration. From the middle of the 20<sup>th</sup> Century as Australia embarked on a program of post-war reconstruction and as the former colonies in Asia gained their independence this policy was being modified before being finally abandoned in the early 1970s.

Attracting permanent settlement has been a long term objective of Australian governments. But, with changes in Australia's economy linked to efforts to address the challenges of globalisation by developing knowledge-based and service sector industries to replace the increasingly uncompetitive manufacturing industries, the 'desirable' migrant has changed. Instead of seeking simply 'labour' or 'manpower', Australia has placed increasing emphasis on attracting highly skilled professional and technical workers. This preference is reflected in the increasing prominence of the skilled economic categories of immigrant entry which have expanded faster than

those for close family and relatives. Here, it should be noted, that the annual numbers of permanent settlers to be admitted to Australia is determined annually after consultation with interest groups including employers and representatives of ethnic communities. A longstanding practice has been to reduce the total number of immigrants in periods of economic recession. Within this total number, there remains the option of giving more or less places to those entering under the family reunion, the economic or the humanitarian and refugee program. While it is possible to question the effectiveness of such micro-management strategies, they nevertheless allow the government to argue that it is responsive to community views and national needs, thereby legitimizing the overall migration program.

This focus on ensuring the 'legitimacy' of the migration program is important to understanding what may otherwise seem as a major aberration in Australia's general openness to migration: the hard-line approach to asylum seekers which gained notoriety following the Tampa incident in August 2001 when the Australian government refused to allow a group of asylum seekers rescued by the Norwegian ship, the Tampa, to be landed in Australia. Instead, Australia arranged the so-called Pacific Solution in which it paid both Nauru and Papua New Guinea to accommodate them 'off-shore' pending the resolution of their status. In addition, it sought to avoid its international obligations of accepting asylum seekers by excising parts of its island territories from its so-called 'migration zone'. At the same time, Australia has pursued a policy of detaining asylum seekers pending the resolution of their status. Ministerial justifications for these and related actions clearly aimed at deterring asylum-seekers, widely reiterate the need to prevent such asylum seekers becoming 'queue jumpers' who push themselves in ahead of individuals admitted under the regular refugee and humanitarian program accommodating some 12,000 individuals annually.

Also consistent with this emphasis on controlling entry and thereby the program's legitimacy, is the long-standing requirement that all individuals entering Australia, even short-term holiday makers, should be issued with visas. While introduced on the basis of being non-discriminatory it also provides the government with substantial opportunities to monitor entry to the country. The one notable exception to this policy of requiring visas for all non-permanent residents of Australia is the case of

New Zealanders. This arrangement, which resembles that of the European Union, allows freedom of movement and the right to work. It reflects the close relationship between the two countries. In the 19<sup>th</sup> century New Zealand was involved in the discussions which led to the founding of Australia. Today, there is still provision in the Australian constitution for New Zealand to join the federation of Australian states. Until 2002 Australian and New Zealand nationals could access all welfare and social benefits when in the other country. The 2002 decision by the Australian government, with the reluctant agreement of New Zealand, to restrict access to Australian welfare and social benefit payments to only those New Zealanders who had formally applied to migrate to Australia was justified by the Australian government by reference to the increasing costs of the social benefits.

While the special historical relationship between Australia and New Zealand is the key to understanding the open access to Australia for New Zealanders, such an explanation does not apply to more recent moves by the Australian government to provide easier access to Australia for international students and, also, highly skilled professionals and business people. Instead, economic interest underlies these developments. In the 1980s, as part of its larger project of economic restructuring, the Australian government ceased to view the education of international students as a form of aid to seeing it instead in terms of trade as a new industry to be developed. The success of this strategy in financial terms is evident in the way that Australia now has one of the highest levels of international students in its universities (OECD 2001 p.99) and the associated economic returns constitute a major source of foreign exchange. The 'selling' of Australian education was not, however, without problems since it became seen as a backdoor way of gaining entrance to Australia. To counter these problems which involved students and educational agents and businesses, the government introduced more controls and requirements for students from certain countries which had high records of overstaying.

Both in the case of general tourism and international students, the Australian policies have attracted the interest of industry lobby groups intent on seeing the visa requirements either removed or made less demanding. However, their efforts have met with only limited success since the government reiterates the necessity of

controlling entry in the national interest, an argument which, since the events of 9/11, has been interpreted in involving not only economic but, also, security interests.

One of the most significant changes in Australian migration policies during the 1990s was the abandonment of the long-standing opposition to temporary labour migration. This opposition, was forged in the 19<sup>th</sup> century with the growth of the trade union movement and its involvement in the campaigns to prevent Asian migration it saw as a potential threat to the hard one gains of the Australian working class. As a result, migration to Australia has always been viewed as involving permanent settlement and there were only extremely limited opportunities for entry by those who did not qualify for permanent residence. The impact of globalisation on international labour markets and businesses, together with the Australian desire to become a major economic force in the Asia Pacific region, meant that, by the 1990s, lobbying by employers to overcome shortages in the Australian professional and technical labour market by the entry of foreign workers on temporary contracts was successful. Arguments favouring this change included the need to fill temporary gaps in the labour market rapidly and without the delays inherent in assessment for permanent residence and, also, the preference of multinational companies to bring in their own high level executives and managers rather than recruit them locally. It was also noted that many of the highly skilled workers were not interested in settlement but preferred to move internationally in the emerging globalised skilled labour markets. The extent of Australian willingness to embrace highly skilled temporary labour was evident by the end of the 1990s when, for the first time, more long-term temporary migrants eligible to live in Australia for periods longer than 12 months, arrived than did permanent settlers (OECD 2003 p.130). Although a significant change in the openness of Australia's migration regime, it is noteworthy that there has been very little opposition to it by the general public or, indeed, the trade unions. Whether this tolerance would continue if the program was extended to unskilled labour as is common in many Asian countries is, however, questionable. Certainly, to the extent that the Asian region is the most obvious source of such unskilled labour, their arrival could be viewed negatively by the anti-Asian immigration groups which re-emerged in Australia during the 1990s. Their appearance coincided with the growth in Asian permanent settlers as highly educated Asians became an important component in the economic migration program.

### **c) Migration in Singapore and Malaysia**

In contrast to Pacific Island states for whom open access for their emigrants is an important policy objective, Singapore and Malaysia have adopted less open formal migration policies. This approach is most evident in Singapore whose small scale is a particular advantage in ensuring highly effective policing and control of immigrants. In contrast to many Pacific Island states, Singapore's small land area has been developed so that it has established itself as an economically viable entity. One of the original Asian tiger economies alongside Hong Kong, Taiwan and Korea, its economic growth, predicated initially on low cost manufacturing and its role as an entrepot, has led it to become a major importer of labour. Migrant labour now constitutes 29 per cent of its labour force (OECD 2003 p.368). This reliance on short term, temporary, migrant labour exists alongside extensive controls over the recruitment and residence of foreign workers who fill many of the unskilled jobs avoided by Singaporeans. The presence of domestic workers also creates opportunities for Singaporean women to leave the home and join the labour market. While a substantial proportion of Singapore's foreign workers commute daily from Malaysia, the remainder have short term labour contracts and live in Singapore. Three-quarters of the contract labour work in unskilled jobs with controls on their residence ensuring that, unlike guest workers in Europe, they do not have opportunities of bringing family to join them or of gaining permanent residence status. Female domestic workers are subjected to pregnancy tests every six months and, if pregnant, are removed from Singapore to prevent them establishing a claim to permanent residence based on having a Singaporean born child. The efficiency of the Singaporean bureaucracy and low levels of corruption ensure the effective implementation of these policies.

Not all Singapore migration policies are as restrictive as those for the unskilled workers, however. This is evident in the migration policies for skilled professional and technical workers who by the beginning of the 21<sup>st</sup> century constituted one-quarter of Singapore's foreign labour force. The numbers of these workers is increasing as Singapore continues with restructuring its economy. The aim of this restructuring is to replace reliance on uncompetitive labour intensive manufacturing by a shift towards high-level financial services and a knowledge based economy which includes promoting itself as a centre for educational and health services. While

Europeans, North Americans and Australasians have long had an established place in this sector, Singapore has begun to actively promote itself as a destination for highly skilled Chinese and Indian workers. Prior to the return of Hong Kong to China in 1997, Singapore established a scheme to attract skilled Hong Kong people to migrate to Singapore including the offer of permanent residency and citizenship after a two year period of residence. While such generosity does not apply to more recent highly skilled temporary workers their opportunities to enter and work in Singapore are more favourable than those offered to unskilled workers. As a related part of its strategy to develop its position as the region's major centre for knowledge based industry, with a consequent need to develop its skilled labour force, Singapore is also actively recruiting talented students to study in its schools and universities. China is a major target for this activity with attractive scholarships offered to secondary students to study in Singapore's elite educational institutions which have expanded their boarding school facilities and programs to cater for these foreign students. Alongside its move to become a major centre for international students, Singapore is also seeking to develop itself as a destination for medical tourism by promoting the excellence of its medical system and the development of tourist 'packages' including travel, accommodation and medical treatment.

The presence of undocumented or illegal workers is often seen as reflecting the absence of alternatively opportunities for legal entry to countries where there are shortages in the local labour market. While Singapore's extensive reliance on foreign labour suggests that there may be little excess demand in the labour market, and there was, indeed, a slight decline in the detection of undocumented and illegal immigrants between 1998 and 2000 (Yap 2003 p.368). Detection rates can reflect both a greater government emphasis on pursuing illegal migrants and, also, an increasing number of arrivals. Both elements apply in the case of Singapore, especially in the aftermath of the Asian economic crisis of the late 1990s which led to a major downturn in the Singaporean economy as, also, did the impact of the 2003 SARS epidemic which affected tourism throughout the region. The government response was to swiftly repatriate excess migrant labour and, also, to clamp down on illegals. Giving impetus to government measures to seek out illegals were the security concerns raised in the aftermath of 9/11 in the United States, and much closer to Singapore, the Bali bombings in October 2002, which were part of a larger series of incidents in the

region involving terrorist activities (sentence structure). In the case of Singapore these included the discovery of plots to target US military personnel and, also, the Australian High Commission. An additional impetus for Singapore's vigilance to counter Islamic-based terrorism is its perception that it is a predominantly Chinese country in the middle of a Malay-Muslim region. This engenders particular sensitivity to the potential for danger to come from Muslim groups seeking to destabilise the 14 per cent of the country's population who are Malay, Muslim.

Like Singapore, recent Malaysian economic development has relied extensively on the use of foreign labour, especially in the agricultural, construction and service sector. Estimates are that some 20 per cent of the work force consists of foreign, migrant labour (Kanapathy 2001 p.430). In contrast to Singapore, much of this labour has involved illegal and undocumented workers, predominantly from Indonesia but, also, in East Malaysia from Filipino Muslims (Kassim 2003). In both regions, there is a long history of movement to Malaysia from adjacent and culturally similar areas such as Sumatra. Indeed, the Philippines still maintains a historical claim to Sabah in East Malaysia. The influx of illegal, undocumented foreign workers reflects both the supply of surplus labour in the regions of origin and the availability of job opportunities in Malaysia. Adding to the willingness of Malaysian employers to hire these workers are their cultural similarities and links to Malaysia. The employment of illegal labour highlights the disjuncture between government policy on border controls and the interests of substantial groups of employers. Malaysia first developed policies providing for the legal recruitment of foreign workers in the 1970s. But these have only ever covered a proportion of the foreign migrant labour estimated to be working in the country. The problems associated with a situation where the government policy on foreign labour is widely ignored is evident in the reaction to its periodic efforts to implement this policy and remove illegal workers. The most recent example of this occurred in 2002 when the Malaysian Prime Minister, Dr Mahatir, announced that the illegal workers represented a major threat to national security and introduced new laws providing for the caning and deportation of undocumented workers. This led not only major disruption in certain areas of the Malaysian economy as well as major diplomatic confrontations with the homelands of the workers, especially Indonesia and the Philippines. Prior to the implementation of the new laws in August 2002 as many as 300,000 workers left Malaysia with a further

100,000 departing subsequently. The majority returned to Indonesia. In Malaysia, employer groups protested about the negative impact of this sudden and unanticipated action. Over subsequent months the government moved to address some of these concerns, for example, in the construction industry, by reinstating legal work permits. As in Singapore, the major targets of this campaign against foreign workers targeted the less skilled rather than the highly skilled workers who, as in Singapore, are admitted under less restrictive conditions.

Highlighting the complexity for governments of developing and implementing domestic migration regimes, the deportation of the foreign workers also led to major international objections and complaints from their home governments. These included complaints about the summary nature of the removals and the problems this caused in the port areas where they were disembarked and which had to suddenly cope with supplying food, shelter and transport for tens of thousands of individuals. The deportation conditions also led to major expressions of concern by human rights groups. The Philippines government was especially concerned by the deaths in Malaysian deportation camps of several of its citizens. However, while the Philippines as a major exporter of labour has signed the UN convention on the Rights of all Migrant Workers and Members of their Families, Malaysia is not a signatory to this treaty, thereby highlighting the limitations inherent in international agreements designed to protect migrants (Piper 2004).

### **The Role of International Agreements and Regional Associations in Asia Pacific Migration**

As the objections of Malaysia's neighbours to its abrupt deportation of many of their citizens highlighted, the ramifications of immigration policy and control extend beyond a country's borders. Regional associations thus have a potentially significant role in determining migration regimes. ASEAN (the Association of Southeast Asian states) is the major political grouping in the Southeast Asian region with links to East Asian and Pacific countries through the ASEAN Regional Forum (ARF). Through its associated ASEAN Free Trade Agreement (AFTA) it is working towards the establishment of an economic grouping on the model of the European Union, but progress has been slow. APEC (the Asian Pacific Economic Cooperation



Forum) was established in 1989 to enhance economic growth and prosperity in the region with an agenda to promote free trade. While free trade in goods and services has potentially significant links to migration, it is noteworthy, that those aspects of migration which have attracted most attention in these groupings relate to easing business travel and countering terrorism in the case of APEC. In the case of ASEAN, one of its economic cooperation objectives concerns tourism. In 2002, ASEAN also adopted a Plan of Action for Cooperation on Immigration Matters. Areas of cooperation identified in this plan include: accelerating the freer flow of skilled labour and professionals in the region; the establishment of mechanisms and infrastructure to facilitate travel within the region; strengthening collaboration to combat trafficking and crimes of violence against women and children and, also strengthening regional capacity to address transnational crime ([www.aseansec.org/16572.htm](http://www.aseansec.org/16572.htm) . Accessed 22/12/04). Reflecting the somewhat different socio-economic circumstances of the Pacific Island states, the Pacific Islands Forum objectives refer more broadly to social objectives than do those of ASEAN. Nevertheless, at the Special Leaders Retreat held in April 2004, the key goals of the Forum were identified as ‘economic growth, sustainable development, good governance and security.’ While migration was not specifically mentioned, among other recommendations was the encouragement of national human rights machinery ( [www.forumorg.sec.fj](http://www.forumorg.sec.fj) accessed 22/12/04).

Supplementing initiatives by these general regional groupings there are other regional initiatives focussing on migration. One is the Manila Process which was initiated in 1996 to discuss and exchange views on irregular migration and trafficking in the region. Another is the Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC) which describes itself as having a broader agenda than the Manila Process. A range of issues are also covered by the Pacific Immigration Directors’ Conference (PIDC). Following on two conferences held in Bali in 2002 and 2003 after the events of 9/11 and the Bali bombings which killed nearly 200 people, the majority of them Australian tourists, the Bali Process has been established to advance practical cooperation to combat people smuggling and trafficking in the region. One of the features of these initiatives specifically targeting migration issues is that all of them are based on voluntary cooperation with dialogue seen as a preliminary basis for more specific outcomes. It remains to be seen whether any of them will move towards achieving more specific outcomes such as occurred in the

1980s when the Comprehensive Plan of Action (CPA) was adopted by a group of countries in the region to finalise the resettlement of Indo-Chinese refugees.

## **Conclusion**

Given the diversity characterizing Asia Pacific nations it is not surprising to also find diversity in their migration regimes and policy objectives. To the extent that there is evidence of convergence towards allowing freer movement across borders it is somewhat contradictory. On the one hand, easier access for tourists, highly skilled workers and business people is evident in a number of regional and domestic initiatives. Except for the case of traditional countries of immigration such as Australia, or countries heavily reliant on emigrant remittances, opportunities for permanent settlement are largely ignored within a framework where the ability to control entry in what are defined as 'national interests' dominates government thinking. Significantly, there is little evidence that permanent immigration and settlement is widely viewed as contributing to the national interest. Even in countries such as Australia with a tradition of accepting refugees and settlers on humanitarian grounds, calls for more open access for asylum seekers on the basis of human rights considerations remain the prerogative of opposition lobby groups. The same also applied in countries with unskilled temporary worker programs where it is usually left to their home country to call for their better treatment. While it is sometimes suggested that the concept of human rights is essentially a Western, individualistic concept which has little resonance in Asia with its more communal tradition, this certainly is not applicable to Australia. What is, instead, evident is a pervasive ideology of 'management' which characterizes much regional governmental thinking on migration issues. Underlying this focus is a concern for 'legitimacy' to ensure that migration decisions are acceptable to the general population. While commendable in itself, since otherwise migrants can all too easily become the targets for discrimination and hostility, this focus on managing the domestic effects of migration can also be used to justify restrictions on the free movement of people and their integration.

Providing impetus to this trend prioritising ‘management’ has been the declaration of the War on Terrorism. Concerns for ‘security’ have a special resonance in the region where the linkage of terrorism with fundamentalist Islam in public discourse and the region’s substantial Islamic populations co-exist with evidence of terrorist activities. It would be naïve to deny that terrorists are often involved and financed by a range of criminal activities which include trafficking, smuggling and money laundering. Not only concerns for the human rights of the individuals trafficked but prudence justify the significant attention which is being paid to these issues in international forums. However, care needs to be taken to ensure that legislation and administrative measures which give greater powers to intercept and detain terrorist suspects are not used inappropriately against other types of migrants. Indeed, there is an unfortunate tendency for politicians to justify exclusionary actions on the basis of potential threats to national security. An obvious example was the Australian government’s handling of the Tampa incident and other cases involving refugees in the lead-up to the 2001 Australian elections. In fact, the Tampa incident occurred in August prior to the attack on the World Trade Centre in New York. Security concerns were also used by the Malaysian government in its mass deportation exercise in 2002 even though commentators noted that this coincided with a down turn in the Malaysian economy suggesting that economic objectives were more critical than political and security concerns. While ‘security’ threats may be useful as a basis for legitimizing otherwise difficult initiatives, they also can create a climate of personal fear and insecurity which interferes with efforts to make migration flows more open. From a governmental perspective, for example, how does one resolve the desirability of making entry easy for tourism and international students who are important potential sources of revenue, without sacrificing the ability to ‘protect’ the domestic population? As always in policy making there is a need to balance decisions. However, the point of the present argument is that in the Asia Pacific, despite some evidence of easier access for certain migrant groups with desirable economic attributes, there is currently little evidence that opportunities for permanent migration are improving. And, indeed, that there is evidence of a shift towards limiting freer access and international mobility.

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