

Dealing with Migrant Workers in the APEC Region—Experiences of Japan, Korea, and Hong Kong

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Executive Summary

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I. Introduction

In the era of globalization, the APEC region takes full advantages of liberalization to expedite trade and investment for the benefit of all APEC member economies. With the liberalization of trade and investment, international labor movement among APEC member economies is also on the rise, and will inevitably continue to in the foreseeable future due to international labor demand and supply schedules. However, as we see from the recent incidents of cultural and economical clashes with immigrant workers in France and Australia, there exists a substantial possibility of latent conflicts resulting from the recent mega-trend of international labor migration.

Even though, in economic perspective, high international labor mobility can boost the economic growth both of labor import and export countries, there should exist remedies to solve the problems of migrant workers' human rights violations with the purpose of culturally and economically meaningful integration of migrant workers into host countries. Meanwhile, from the perspective of migrant-worker-receiving countries, permanent settlements of migrant workers should be avoided. In the course of enforcing the law to prevent illegal permanent settlements of migrant workers, the human rights of

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migrant workers are prone to be violated and abused. Some of the European countries, which have long histories of immigrant workers and settlements, failed in preventing permanent settlements and afterwards also in incorporating these immigrant workers into their social and economic mainstreams, resulting in economically and culturally separated ghettos of immigrant workers. These separations, without meaningful integration, can lead to the potential danger of conflicts and clashes in the host countries' societies.

In this paper, the guest worker system, welfare services for migrant workers and prevention measures for illegal migrant workers in Japan, Korea and Hong Kong are examined and compared from the perspective of human rights protection. On the other hand, the possibility of permanent settlement of temporary migrant workers is also discussed to produce a discussion agenda in the APEC region for human rights protection, prevention of permanent settlements and social and economic integration of migrant workers.

II. Legal and Illegal Migration Trends in the East Asian Regions

International migration trends in the Asian region after WWII until the late 1980s were mainly limited to the labor inflow towards Hong Kong and Singapore, which had gone through labor shortages in their early industrialization periods. However, during the 1990s, the intra- region labor mobility in Asia increased significantly as Japan, Korea, Taiwan, Malaysia and Thailand joined the labor receiving country group. Thus, the East Asian region is spotlighted as the newest migration pole in comparison to Western Europe and North America (Athukorala, 2006).

As we can see from the Table 1, most of the Asian net labor importing countries have doubled and tripled the number of immigrant worker stock during the 1990s. Japan, despite the prolonged recession during the 'lost decade', 1990s, more than doubled the number of migrant worker stock. The Republic of Korea turned from a labor-exporting country to a labor-importing country since the late 1980s and reached levels higher than Taiwan, Hong Kong and Singapore in recent years. Even after the Asian currency crisis, the number of immigrant workers continued to rise in the East Asian region.

Taiwan, Singapore and Hong Kong also more than doubled or tripled the number of migrant workers during 1990s.

Unlike immigration-originated countries, such as the United States, Canada and Australia, Japan and Korea have special concerns regarding their homogenous ethnicity and culture and are politically and culturally very reluctant to allow a foreign population permanent residency. But, Japan, Korea and Taiwan all share the same problem of labor shortages, especially in the manufacturing sectors' 3D jobs and in low-skilled domestic-service sectors, such as housekeeping, babysitting and hospitality for the aged.

Thus, the migration trends in the East Asian region including Singapore and Hong Kong share common phenomena: 1) most of the migrant workers are low-skilled laborers, 2) most of the migrant workers are allowed to work only on the status of temporary work permits and 3) migrant workers have a tendency to increase more rapidly as the income-gap widens and the ageing problems in Japan, Korea and Taiwan accelerate.

Even though no systematic comparisons exist about the category of skill levels of immigrant workers, that migrant workers among the intra-region of East Asia are unskilled or semi-low skilled is well documented in the literature. Skilled and professional immigrant workers comprise only a small fraction of immigrant workers. Athukorala (2006) calculated the proportion of skilled migrant workers among total migrant worker stocks from the estimates of Manning (2002): Malaysia is 2%, Thailand 6%, Korea 9% and Hong Kong 6%. Stahl (1999) pointed out that, between 1992 and 1998, among the total number of Filipino emigrant workers, 685,670, only 2% could be categorized as professional or technical employments from the data of POEA (1999).

The increase of migrant workers in the East Asian region cannot be avoided and is generally expected to continue as the ageing of East Asian developed countries deepens. The United Nations Population Division (UNPD, 2002) reported the estimates of replacement migration for the prospects of the 2000-2050 period. Based on the 1998 revision of 2000-2005 world population prospects, the UNPD established five scenarios for replacement migration: 1) the medium variant of the 1998 revision, 2) the medium variant of the 1998 revision, amended by assuming zero migration after 1995, 3) the scenario of a constant population size that assumes the

Table 1. Immigrant Workers in East Asian Countries

	Source	Year	Stock ('000)	Illegal Migrants (percent)	Migrant labor dependency ratio (MLDR)
Japan	Mori (1997)	1986	119	53	2
	Stahl (1999)	1998	587		
	UNDP (2002)	1990	868		
	Iguchi (2002)	1990	260	39	4
		1993	611	48	9
		1996	631	54	9
		1998	668	55	10
2000	677	34	11		
International Migration Program, ILO	2003	706		13	
Korea	Park (2002)	1987	6	66	
		1990	7	87	
	UNDP (2002)	1990	900		
	Stahl (1999)	1998	159		
	Hahn and Choi (2004)	1993	66	81	3
		1996	210	61	9
		1998	184	57	8
2000		312	61	13	
2002	507	73	22		
Taiwan	Tsai (1991)	1990	125	100	14
	Tsay (2003)	1995	189		21
		1998	271		28
	Stahl (1999)	1998	283		
	Council of Labor Affairs	2000	324		33
		2002	303		30
2004		314		31	
Hong Kong	Athukorala and Manning (1999)	1981	140		81
		1993	320		95
		1996	245		85
	Stahl (1999)	1997	467		
	Manning (2002)	1998	251		73
		2000	255	6	72

Table 1. Continued

	Source	Year	Stock ('000)	Illegal Migrants (percent)	Migrant labor dependency ratio (MLDR)
Singapore	Athukorala and Manning (1999)	1970	14		2
		1980	125		9
		1990	369		13
		1996	370		21
	Stahl (1999)	1997	507		
	Manning (2002)	2000	530	1	26
Malaysia	Athukorala and Manning (1999)	1984	500		100
		1994	1,063		133
	Kanapathy (2004)	1996	1,471	40	113
		1998	1,127		164
		2000	800	35	105
		2003	1,780	23	220
Thailand	Athukorala and Manning (1999)	1988	165		6
		1990	170		5
	Stahl (1999)	1997	975		
	Chalamwong (2004)	1997	1,126	85	31
		1999	767	87	21
		2003	1,101	91	30

1) Stock ('000) includes illegal workers.

2) The percentage of illegal migrants is the percentage among total migrant stock.

3) Migrant labor dependency ratio means the number of immigrant workers per 1,000 in the labor force.

Sources: Revised from the Athukorala (2006) Table 1.

migration required to maintain the size of the total population at the highest level it would reach in the absence of migration after 1995, 4) the scenario of constant working-age populations and 5) the scenario of constant support ratio (which is the ratio of the working-age population to retired-age population).

As indicated by Table 2, if Korea and Japan decided to maintain their current populations and economic growth rate, sizable inflows of migrant workers are necessary. Under Scenario 3, the stock of immigrant workers and

their descendants would be 1.5 million in Korea and 17.1 million in Japan in the year 2050.

Table 2. Projections of Migrant Workers in Republic of Korea and Japan

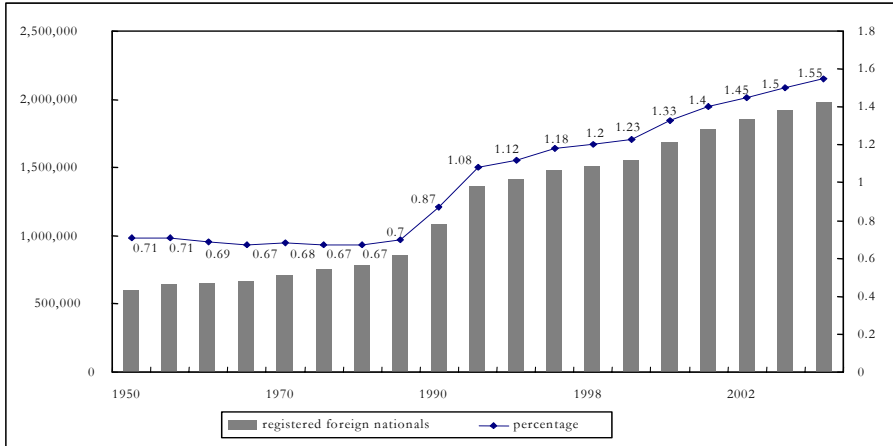
Country	Variable (2000-2050)	Scenario 1 Medium variant	Scenario 2 Medium variant with zero migration	Scenario 3 Constant total population	Scenario 4 Constant age group 15-64	Scenario 5 Constant dependency ratio
Republic of Korea	Average annual # of migrants (‘000)	-7	0	30	129	102,563
	Total # of migrant workers (‘000)	-350	0	1,509	6,426	5,128,147
Japan	Average annual # of migrants (‘000)	0	0	343	647	10,471
	Total # of migrant workers (‘000)	0	0	17,141	32,332	523,543

Sources: revised from UNPD (2002)

The Trends of Migrant Worker (Legal and Illegal) Inflows in Japan

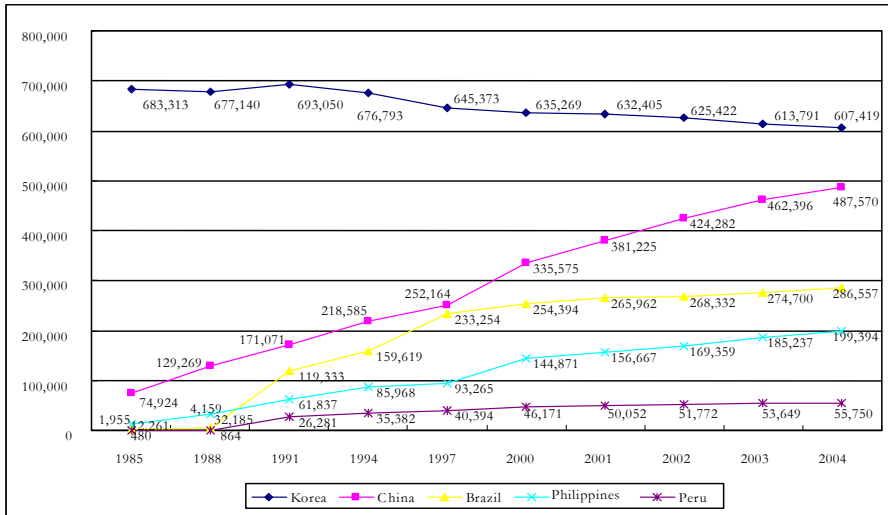
The number of registered foreign nationals has been steadily increasing after the early 1990s. As we can see from Figure 1, the increase of foreign nationals showed a structural break in the early 1990s, and the number and percentage of foreign nationals in Japan almost doubled since the early 1990s. As of 2004, the number of foreign nationals in Japan reached almost 2 million and its percentage of total population, 1.55%. These sudden increases in foreign nationals during the 1990s are composed of Chinese, Filipino and Latin American migrant workers. Figure 2 shows that Chinese foreign nationals almost tripled in number during the 1990s, reaching second following

Figure 1. Changes in the Numbers of Registered Foreign Nationals and Its Percentage of the Total Population in Japan



Sources: Japan Immigration Bureau, Ministry of Justice, "Immigration Control 2005"

Figure 2. Changes in the Number of Registered Foreign Nationals by Major Nationality



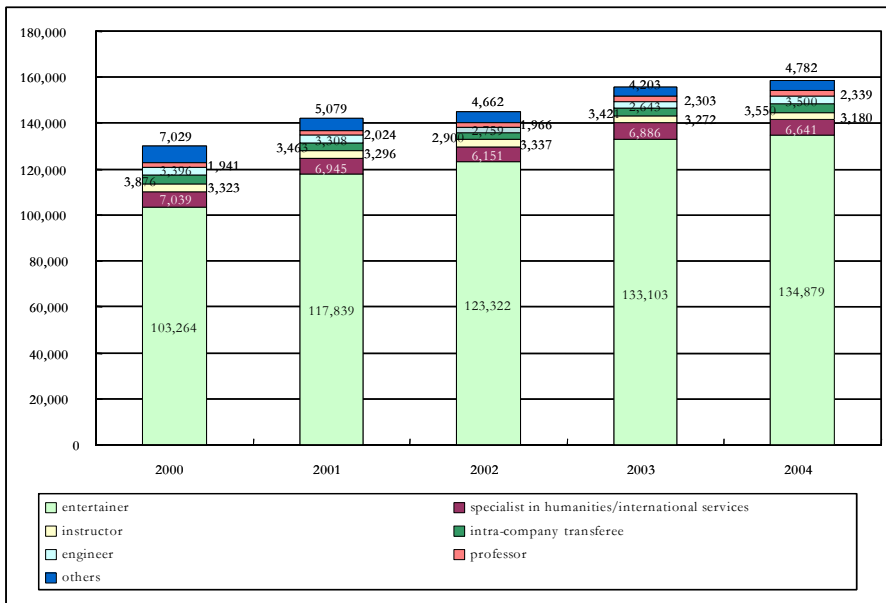
Sources: Japan Immigration Bureau, Ministry of Justice, "Immigration Control 2005"

Koreans, while Filipino, Brazilian and Peruvian migrant workers doubled. The increase of Latin American migration should be attributed to the “Nikkeijin (ethnic Japanese) policy” where the Japanese government pursued immigration from second and third generation Japanese immigrants in Latin American countries, giving permanent resident rights in Japan.

Among these increased number of foreign nationals, most of them are low-skilled migrant workers. Figure 3 shows the recent trend of new arrivals in Japan. Overwhelmingly, entertainers, who are mostly singers and dancers in bars and restaurants, dominated the new arrivals. Skilled labor, such as specialists, engineers and professors, are only a small fraction of total new foreign national arrivals.

Regarding illegal migrant workers, the Japanese government estimates the number of overstayers to be more than 200,000 in 2005 (see Table 3). Despite

Figure 3. Changes in the Number of New Arrivals by the Status of Residence for Employment



Sources: Japan Immigration Bureau, Ministry of Justice, “Immigration Control 2005”

the efforts of Japanese law enforcement, the number of illegal migrant workers is still substantial compared to Hong Kong and Singapore. And most of these illegal migrant workers were in the low-skilled and low-paid underclass, such as factory worker, hostess, entertainer, construction worker or waitress (see Table 4).

Table 3. Changes in the Estimated Number of Overstayers by Major Status of Residence in Japan

	January 2000	January 2001	January 2002	January 2003	January 2004	January 2005
Total	251,697	232,121	224,067	220,552	219,418	207,299
Temporary visitor	189,847	173,051	163,271	155,498	150,326	139,417
Entertainer	12,552	11,029	11,154	11,770	11,974	11,319
Pre-college Student	11,359	10,025	9,953	9,779	9,511	8,506
College student	5,100	4,401	4,442	5,450	6,672	8,173
Trainee	3,055	3,004	3,264	3,409	3,959	3,648
Other	29,784	30,611	31,983	34,646	36,976	36,236

Sources: Japan Immigration Bureau, Ministry of Justice, "Immigration Control 2005"

Table 4. Changes in the Number of Cases of Illegal Work by Type in Japan

	2000	2001	2002	2003	2004
Total	44,190	33,508	32,364	34,325	43,059
Factory Worker	9,466	8,413	7,084	7,156	10,440
Hostess or other entertainers of customers	9,415	6,009	5,081	5,057	6,597
Construction Worker	7,354	5,330	4,790	5,468	6,228
Cook	2,546	1,939	2,052	2,534	3,592
Waitress or Bartender	4,056	2,595	2,653	2,919	3,471
Other Service Jobs	2,327	1,869	2,007	2,406	2,702
Other	9,026	7,353	8,697	8,785	10,029

Sources: Japan Immigration Bureau, Ministry of Justice, "Immigration Control 2005"

The Trends of Migrant Worker (Legal and Illegal) Inflows in Korea

The total number of foreign nationals who reside in Korea regardless of residence status has risen sharply since the late 1990s. In just 6 years from 1999 to 2005, the number of foreign nationals almost doubled from 380,000

Table 5. Changes in the Number of Foreign Nationals by Major Nationality in Korea

	1999	2000	2001	2002	2003	2004	2005
Total	380,101	210,249	501,958	609,797	656,380	728,339	722,102
Asia	296,345	171,923	397,096	474,766	516,286	589,430	587,543
Taiwan	69,716	23,026	17,119	24,850	25,710	25,395	25,099
Korean-Chinese	67,036	32,443	101,068	118,300	132,305	161,327	167,589
China	49,963	26,541	85,480	105,110	105,192	120,607	114,441
Indonesia	18,073	16,700	20,447	26,874	31,448	29,319	25,577
Japan	28,031	14,013	25,802	36,500	42,306	42,717	39,134
Philippines	21,317	15,961	28,399	29,691	32,444	34,822	38,051
Vietnam	13,650	15,624	19,656	20,799	24,908	28,655	38,902
Hong Kong	4,595	111	2,394	5,102	4,288	4,382	3,355
Bangladesh	16,057	7,882	18,934	18,989	18,126	20,605	15,116
Uzbekistan	6,262	3,717	10,142	10,902	14,712	15,651	13,834
Singapore	1,160	142	600	1,653	1,235	1,066	1,490
North America	59,294	26,074	75,464	94,749	98,051	97,713	94,378
South America	2,699	752	1,862	2,896	2,750	3,453	3,408
Europe	7,320	8,737	18,447	26,441	28,363	26,226	25,263
Oceania	3,017	1,570	4,654	6,041	5,765	5,567	6,026
Africa	2,699	791	4,005	4,350	4,613	5,383	4,929
Rest of the world	672	402	430	554	552	567	555

Sources: Korean Immigration Bureau, Ministry of Justice, Annual Statistics for Immigration Control, 1999-2006

to 722,000 (see Table 5). Among these increases of foreign nationals, Asian intra-regional mobility was foremost, composing 81.4% of total foreign nationals in Korea as of 2004. Asian foreign nationals are mostly Korean-Chinese and Chinese, but there are also substantial numbers of foreign nationals from Japan, the Philippines, Vietnam, Indonesia and Taiwan.

Among those residing in Korea for employment, professionals are considerably few: professors, researchers, professionals and technicians are less than 5,000. Most foreign migrant workers have the working status of industrial trainee and trainee employment each at more than 60,000 as of 2005 (see Table 6). These industrial trainees and trainee employments were introduced to solve the problems of Small and Medium Enterprises' (SMEs) labor shortages and thus were mostly confined to low-skilled employment, such as manufacturing manual jobs, often 3D jobs.

Illegal migrant workers are also substantial. The number of illegal migrant workers has risen to almost 300,000 in 2002, which is comparable to the total number of legal foreign residents. With the introduction of a temporary amnesty program in 2003 that issued five-year legal working status to illegal migrant workers, the number of illegal migrant workers fell to 130,000. However, the number of illegal migrant workers is on the rise as the five-year temporary amnesty approaches an end. Among these illegal migrant workers, Asian nationalities account for 94.3% of total illegal migrant workers. And Korean Chinese, Chinese, Filipino and Bangladesh peoples comprise most foreign migrant workers (see Table 7).

The most significant problem with illegal migrant workers is that long-term illegal migrant workers are on the rise and make up a significant portion of illegal migrant workers. This will inevitably result in the permanent residency of illegal migrant workers and the formation of foreign national ghetto. As of 2005, illegal migrant workers aged 16-60 who resided for more than five years in Korea reached 22.6% of total illegal migrant workers. This number will increase if the legal foreign migrant workers, who received legal status through the temporary amnesty program, do not depart but stay illegally after the five-year extension period.

Table 6. Changes in the Number of Foreign Nationals by the Status of Residency for Employment in Korea

	1999	2000	2001	2002	2003	2004	2005
Industrial Trainee (D-3)	98,410		110,223	109,620	103,056	75,449	63,340
General Trainee (D-4)	1,885	1,866	2,735	4,020	4,223	2,623	2,170
Professors (E-1)	926	687	641	826	952	955	1,094
Language Instructors (E-2)	5,610	6,414	8,749	11,524	11,344	11,296	12,439
Researchers (E-3)	659	763	918	1,221	1,411	1,601	1,765
Technicians (E-4)	408	338	194	212	219	191	199
Professionals (E-5)	435	373	417	422	363	298	303
Entertainment (E-6)	3,263	3,916	6,938	6,627	4,671	1,745	1,430
Specific Activities (E-7)	3,893	3,143	2,753	3,323	3,471	3,575	4,392
Trainee Employment (E-8)	0	2,068	9,684	18,609	28,761	54,440	60,337

Sources: Korean Immigration Bureau, Ministry of Justice, Annual Statistics for Immigration Control, 1999-2006

Table 7. Total Illegal Overstayers by Major Nationality in Korea

	1999	2000	2001	2002	2003	2004	2005
Total	135,338	39,803	255,206	289,239	138,056	187,946	180,792
Asia	128,604	38,313	245,487	276,694	127,886	176,830	170,538
Korean-Chinese	42,169	11,887	72,332	79,737	33,546	48,141	36,699
Bangladesh	10,884	4,963	15,538	16,170	9,603	13,451	13,605
Vietnam	4,127	5,312	12,611	14,445	10,175	10,004	10,838
China	26,629	6,313	57,959	69,609	28,512	42,208	42,678
Philippines	9,213	3,685	16,843	18,128	9,015	11,844	13,249
Indonesia	1,865	1,730	9,870	15,368	8,465	6,807	5,521
Sri Lanka	1,272	1,246	2,218	2,560	1,740	2,283	2,624
Pakistan	4,286	743	6,651	6,369	2,384	4,276	4,991
Nepal	667	406	1,256	1,551	1,078	1,352	2,231
Myanmar	1,186	372	1,752	1,534	1,164	1,701	1,761
North America	2,374	720	1,578	2,196	2,331	2,157	2,363
South America	778	60	792	946	529	1,013	1,109
Europe	1,589	268	4,291	6,420	5,563	5,315	3,861
Oceania	95	22	117	160	177	126	151
Africa	1,457	50	2,549	2,434	1,182	2,125	2,405
Rest of the world	441	370	392	389	388	380	365

Sources: Korean Immigration Bureau, Ministry of Justice, Annual Statistics for Immigration Control, 1999-2006

**Table 8. Illegal Overstayers by the Major Status of Residency in Korea
(Age group: 16-60)⁶**

2005	Total	less than 1 year	1-2 years	2-3 years	3-5 years	5-10 years	More than 10 years
Peoples	180,235	65,325	40,009	16,454	17,782	33,172	7,493
Percentage (%)	100.0	36.2	22.2	9.1	9.9	18.4	4.2

Sources: Korean Immigration Bureau, Ministry of Justice, Annual Statistics for Immigration Control, 1999-2006

III. Comparisons of East Asian Countries' Policies for Migrant Workers: Hong Kong, Japan and the Republic of Korea

1. General Types of Migrant Worker Policy

Castles and Miller (2003) developed theoretical models to distinguish immigration policies among labor-receiving countries with two dimensions: 1) integration methods of foreigners and 2) the standard for naturalization (which is related to the methodology of acquisition of citizenship in the country's nationality or citizenship law).

In the dimension of 1) integration methods of foreigners, the foreign-workers-receiving countries can be divided into three groups: namely, the 1) exclusionary model, 2) assimilationist model and 3) multicultural model.

The countries with the exclusionary model set the rules and regulations so as not to permanently integrate migrant workers into their societies and cultures and confine migrant workers to specific time periods or to specific industries without granting citizenship and voting rights however long migrant

6) The number of illegal overstayers in Table 7 indicates the total number of illegal overstayers while the number of illegal overstayers in Table 8 indicates the number of illegal overstayers in the age group of 16-60.

workers stayed in the countries. The countries with the assimilationist model purposely endeavored to incorporate migrant workers into their countries' mainstream cultures and societies but promote migrant workers to desert their origin countries' cultures and social aspects. The countries with the multicultural model acknowledge and support the migrant workers' different cultures and pursue the goals of harmonious coexistence with migrant workers' minority cultural customs.

Examples of the exclusionary model are said to be Germany, Belgium, Austria, Switzerland and most East Asian countries, such as Hong Kong, Singapore, Japan, Korea, Taiwan, Malaysia and Thailand. Examples of the assimilationist model is said to be the UK, Ireland, France and Italy, which are mostly European countries. Examples of the multicultural model are mostly confined to Anglo-Saxon immigration countries, such as the U.S., Canada, Australia, New Zealand and Nordic country Sweden.

Regarding the standards for naturalization, migrant-worker-receiving countries can be divided into three categories: 1) *jus sanguinis*, in which citizenship can be acquired by blood, 2) *jus domicile*, in which citizenship can be acquired by residence in the territory, and 3) *jus soli*, in which citizenship can be acquired by birth in the territory. The integration method and standards for naturalization are closely related to each other: the exclusionary model to *jus sanguinis*, the assimilationist model to *jus domicil* and the multicultural model to *jus soli*.

Although each country has variations in their policy stances towards foreign migrant workers, most immigration-origin countries are generally open to diverse cultural differences in their societies and more generous to minority cultures. On the other extreme, with a short history of migrant workers and immigration, most East Asian countries are cautious about and reluctant to receive other ethnic groups and to accept other cultural groups in their societies (Seol, 2004). Since many of the European countries have a longer history of migrant workers and a large proportion of foreign nationals in their populations due to their early economic development and labor shortages, European countries are diverse in their policy stances towards foreign migrant workers and other ethnic groups. Some countries still have exclusionary models and others have turned to the assimilationist model and even to the

multicultural model as is the case with Nordic countries.

2. Problems of East Asian Countries' Migrant Worker Policies

The East Asian countries' policies toward migrant workers can be characterized as the "guest worker" or "temporary migrant worker" programs that were formerly the European countries' policy stance in the early stages of receiving migrant workers. These countries generally do not accept foreign migrant workers as permanent residents in their society with the exception of high-tech and professional workers. Be it due to political sensitivity in a mono-cultural society, the economic reasons of a fear of natives losing jobs or the fear of social clashes with alien cultures, these countries are reluctant to allow foreign nationals to stay permanently and to form their own culture group in their countries. Despite these possible fears, because of the growing need for low-skilled service and 3D manufacturing workers, these countries employ temporary worker or guest worker programs. East Asian countries assume that, through guest worker programs, their economies can maintain their economic growth while minimizing the social clashes and political problems that might occur from the growth of diverse ethnic groups' forming their own cultural ghettos.

However, these policy stances impose two inevitable social and economic problems upon East Asian countries: 1) the exploitation and infringement of migrant workers' human rights and 2) social conflicts with the economic and social underclass of migrant workers accompanied by the formation of a ghetto.

Since migrant workers are treated as guest and temporary workers however long their employment and residency in a country, their human rights are unavoidably encroached upon. Mostly the temporary guest worker system restricts some of the basic rights of the temporary guest workers, such as the freedom to choose an occupation or place of employment and puts limitations on the labor rights of unionization and collective bargaining. Moreover, since the freedom to choose an occupation, a place of employment and working periods are restricted by law enforcement, illegal stays, illegal employment or even illegal border crossing are more likely to occur, resulting in the increase

of illegal migrant workers. Thus, as the number of illegal migrant workers rises, the possibility of migrant workers' human rights being violated also rises in the process of job-seeking, wage-negotiation and government immigration control enforcement.

Besides these human rights violations, the fears of foreign workers' permanent residency and ghettoization can be self-fulfilling. As we can see from the vivid example of Germany, which has a long history of exclusionary immigration policy with a temporary guest worker system but a failed reshuffling policy for temporary migrant workers. The result has been a high proportion of foreign migrant workers and the formation of ethnic migrant regional ghettos. The constellation of migrant' workers ethnic groups and regional ghetto can not be escapable. Since the strict regulation of temporary migrant workers usually incurs and even raises the high cost of obtaining temporary working visas, the temporary migrant worker system is more likely to promote extended illegal stays due to the need to compensate for the high costs with a longer working period. And, the longer the period of residency is, the easier the migrant workers establish permanent residency. Thus, without strong law enforcement deporting illegal migrant workers, a regional ghetto and the formation of a social and economic underclass are unavoidable in the near future.

These are more applicable to Japan and Korea, which have huge populations compared to Hong Kong, Singapore and Taiwan where control of immigrant workers can be easily established within small populations.

3. Comparison of Three East Asian Countries' Migrant Worker Policies: Hong Kong, Japan and the Republic of Korea

In this section, three East Asian countries' migrant worker policies are compared with respect to 1) temporary migrant worker systems, 2) welfare programs for migrant workers and 3) policies and measures for illegal migrant workers. The focus of comparison for each country's policy and practical enforcement will be generally on the protection of migrant workers' human rights.

More specifically, the temporary migrant worker system will be subdivided

into (1) the selection mechanism for foreign migrant workers and (2) the working conditions or contract conditions for migrant workers in labor-receiving countries.

KLI (2003) divided labor migrant systems into supply-driven systems and demand-driven systems. The supply-driven labor migration system, which is dominant in immigration countries mostly with permanent residency, such as Canada, Australia and New Zealand, operates on the admission process being initiated by the migrant worker with governments screening to select the best applicants. On the other hand, the demand-driven labor migration system, which is dominant in the temporary migrant worker system in East Asian countries, operates on employers initiating and requesting migrant workers and government granting working visas for specific periods of time. Mostly, the demand-driven labor migration system adopts the supplementary principal where employers are required to employ native workers first and hire foreign migrant workers only on a supplementary basis without displacing native workers' employment or negatively affecting native workers' wages or working conditions.

A. Hong Kong⁷⁾

History

Hong Kong has a long history of immigration. While, until the early 1970s, it allowed the immigration of low-skilled workers without restrictions, the so-called "Reach Base" policy for illegal immigrants from China was established in 1974. The Reach Base policy allowed illegal immigrants who could avoid law enforcement and reach resident registration centers to have resident permits. In 1974, the Foreign Domestic Helpers (FDHs) program was introduced with two-year employment contracts. While, in 1980, the Reach Base policy was ended, the immigration policy toward foreign temporary migrant workers experienced ebbs and tides in accordance with domestic economic conditions (Athukorala, 2006).

7) Hong Kong Immigration Department (HKID) homepage, HKID (2006a, 2006b, 2006c) and Hong Kong Labour Department (2006) are used for the analysis of temporary migrant worker system.

In 1989, General Labour Schemes (GLS) was introduced to import low-skilled technician-level migrant workers and imposed a maximum number of total migrant workers with a maximum two-years employment. Allocation of migrant workers quotas is determined based on the vacancy rate and the unemployment of each industry. However, confronting recessions in the mid 1990s, the Supplementary Labour Scheme (SLS) was introduced with the supplementation principle giving hiring priority to local national workers (Chiu, 2004).

Hong Kong operates three programs for low-skilled temporary foreign migrant workers: 1) Supplementary Labour Schemes (SLS), 2) Supplementary Labour Schemes (Flexibility Measures for the Textiles and Clothing Industry) and 3) Foreign Domestic Helpers (FDHs). The SLS provides the channels through which Hong Kong employers facing genuine difficulties in finding employees import foreign temporary migrant workers without restrictions on industry quotas. The SLS for the Textiles and Clothing Industry grants more flexible measures where the employers in the industries can employ foreign migrant workers with more ease, giving special consideration of the textile and clothing industry's urgent need for workers. The FDHs program, which has a three-decade history, was established to meet the local needs for domestic housekeeping.

1) Temporary Migrant Worker Systems

Basic Principles

The Hong Kong government basically, with the exception of highly-skilled professionals and Foreign Domestic Helpers (FDHs), adheres to the supplementary principle, where 1) local workers must be given priority in filling job vacancies available in the job market and 2) employers who are genuinely unable to recruit local workers to fill their job vacancies can be allowed to bring in imported workers.

Thus, employers applying to SLS are required to undergo the process of newspaper advertising, a mandatory local recruitment period at the Labour Department, and the arrangement of tailor-made retraining courses by the Employees Retraining Board if appropriate. The SLS flexibility measures for

the Textiles and Clothing Industry also require employers to go through a local recruitment procedure to fill vacancies, and employers have to recruit trade-tested local workers referred by the Textiles and Clothing Industry (Recruitment-cum- Training Centre). Moreover, to hire foreign migrant workers, employers are required to pay an Employees Retraining Levy in accordance with the number of imported workers and their employment durations. This is intended to prevent local employers from exploiting cheap migrant workers and to protect local workers' wage compensation compatibility.

Selection Process of Temporary Migrant Workers

The Hong Kong government is not involved in the selection of foreign temporary migrant workers. Employers are responsible for locating and hiring foreign migrant workers. Mostly private employment agencies are involved in the selection and introduction of foreign migrant workers in the case of FDHs.

Employers under the two SLS schemes submit applications for foreign temporary migrant workers, and the Hong Kong government considers the applications case by case. There do not exist industry- specific quotas or overall quotas concerning the number of temporary migrant workers. However, in the case of SLS flexibility, the importation of foreign labor is restricted to four selected occupations, which are general sewing machine operator, special sewing machine operator, knitting machine operator and linking machine operator, with fixed recruitment ratios of local workers to imported workers in the garment sector, from 1:1 to 1:4 and in the knitwear industry, 1:4.

Working Conditions and Restrictions

All the temporary migrant workers in Hong Kong enjoy equal labor rights with native national workers. The standard labor laws and regulations, which are Employment Ordinance, Factories and Industrial Undertakings Ordinance, Employees' Compensation Ordinance, and Occupational Safety and Health Ordinance, are fully applied to foreign migrant workers. In the case of FDHs, the basic rights of FDHs are protected by a standard employment contract

provided by the Hong Kong government and Employment Ordinance.

However, several restrictions concerning workplaces and working periods are imposed on temporary migrant workers. There are no industrial quotas for the two SLS programs and no quantitative quotas for FDHs. First, the periods of residency in Hong Kong are confined by the employment duration as stipulated under the employment contracts, and after expiration of the contracts, the migrant workers have to return to their native countries. The renewal of a temporary worker's contract cannot be automatically approved. The employers are required to submit a new application for the approval of hiring foreign migrant workers. There are no term limits of employment or limits on the number of renewals under the two SLS programs. However, in the case of FDHs, the standard employment contract is set for a two-year period. Secondly, temporary migrant workers cannot change their workplace or employers other than those stipulated in the original employment contract. They are only allowed to work for the employers and in the occupations that were stated in the employment contract. To protect employers, FDHs and migrant workers are not allowed to engage in part-time or unauthorized work. But in the case of unlawful dismissal of FDHs, the Immigration Department has the discretion to allow reinstatement of employment or a change of workplace in Hong Kong.

2) Welfare Programs and Service

All migrant workers under the two SLS programs and FDHs are eligible for free medical care whether the sickness is attributable to the employment or not, sickness allowances under the Employment Ordinance, severance payment, long service payment and the Mandatory Provident Fund (national pension plan). Additionally, migrant workers under the two SLSs are eligible for work injury compensation for injuries incurred during the course of employment under the Employees' Compensation Ordinance.

The Hong Kong government has a long established history of dispute settlement channels between temporary migrant workers and employers through the Labour Relations Division in the Labour Department, the Labour Tribunal and the Minor Employment Claims Adjudication Board. For

assistance and advice regarding employment contracts under the Employment Ordinance, there exist hot-line telephone enquiry services and the Labour Relations Division of the Labour Department. If an employer cannot pay the due wages upon bankruptcy, the migrant workers can be referred to the Legal Aid Department and Wage Security Division to apply for payments from the Protection of Wages on Insolvency Fund.

3) Measures for Illegal Migrant Workers

The Immigration Department of the Hong Kong government continues to prevent illegal immigration and to curb unlawful migrant workers' employment activities. And although Hong Kong is not directly involved in human trafficking, as a major transportation hub in the Asia region, Hong Kong is exposed to international human trafficking. Thus the Security Bureau provides special enforcement efforts on halting human trafficking activities. Concerning illegal employment of migrant workers, an Anti- Illegal Workers Combat Squad has been established to detect illegal employment activities.

B. Japan⁸⁾

History

The Japanese government has been traditionally reluctant to import low-skilled foreign migrant workers. Japanese leaders are said to reject the importation policy of foreign migrant workers because the permanent settlements of low-skilled migrant workers could disturb and cause disputes with the ethnically homogeneous Japanese people (Castles, 1998).

However, encountering the growing needs for a workforce since the late 1980s, the Japanese government introduced other routes to import foreign migrant workers that are often referred to as "front door", "side door" and "back door." The "front door" means the Ethnic Repatriates policy under which ethnic Japanese abroad (Nikkeijin, descendants of Japanese emigrants)

8) Japanese Immigration Bureau, Ministry of Justice (2005, 2006), Japan International Training Cooperation Organization (JITCO) homepage, JITCO (2006a, 2006b) are used for the analysis of the Japanese temporary migrant worker system.

especially from Latin America are freely admitted with quasi-permanent residence status without restrictions on employment. The “side door” means the trainee and internship programs that provide trainees and intern status to migrant workers for a maximum three-year duration for the official purpose of transferring technology to developing countries. However, it has been highly criticized for being used as a channel for importing cheap and low-skilled migrant workers. The “back door” implies the illegal migrant workers who have substantially increased since the early 1990s (Kondo, 2002).

The Immigration Control Act requires the Ministry of Justice to establish a Basic Plan for Immigration Control every five years that will guide all immigration control policies. The 1st Basic Plan was formulated in 1992, the 2nd Basic Plan in 2000, the 3rd Basic Plan in 2005. Even though several regulation changes have been adopted through the Basic Plans, the structure of the temporary low-skilled migrant worker system has not substantially changed. The temporary migrant worker system basically consists of training and internship programs.

1) Temporary Migrant Worker Systems

Basic Principles

The Japanese government, in principle, does not bestow formal worker status to foreign migrant trainees and interns even though in reality the trainees in the Industrial Training program (ITP) and the Technical Internship Program (TIP) work as temporary employees. However, the interns in TIP are issued visas for “Designated Activities” and are granted basic labor rights and public insurances. In the Basic Plan for Immigration Control (3rd Edition) in 2005, the Japanese government openly acknowledged that foreign-national workers were needed in an ageing Japanese society and decided to promote the acceptance of foreign workers in professional or high-skilled technical fields. But still the caution in importing low-skilled and semi-skilled migrant workers exists even though the Basic Plan states that “accepting foreign workers in fields that are not valued as professional or technical at present will also be given consideration in light of the decrease in the productive population.” Thus, the Basic Plan concluded that “as for nursing-care workers

who will be in growing demand due to the ageing of the population, consideration will be given to whether and how to accept foreign workers in the field while paying careful attention•••.”

Even though the Japanese government acknowledged the necessity of migrant workers in Japanese society, the government is still reluctant to offer public authorization and legal worker status to low-skilled migrant workers, fearing a social backlash and disputes against increasing low- skilled migrant workers. But, considering the realities of the growing number of illegal migrant workers and the misuse of trainee programs as cheap labor, the Japanese government should admit the need for introducing a “Guest Worker System” in the near future.

Selection Process of ITP and TIP

The selection process of ITP and TIP is coordinated by Japan International Training Cooperation Organization (JITCO), a private entity established in 1991 under the joint jurisdiction of five Japanese government agencies. Half of the budget of JITCO is provided by governmental subsidies, and the other half is financed by member companies’ fees (KLI 2003).

Even though JITCO is a private entity, the recruitment and selection process of ITP and TIP excludes the participation of private employment companies in sending countries to prevent transgressions associated with sending trainees (KLI 2003). The recruitment of potential trainees is governed either by government or public/private organizations established by governments in sending countries. The selection process of potential trainees involves the sending countries’ governments, sending organizations, sending companies and accepting companies.

Working Conditions and Restrictions

The trainees under ITP do not have the legal status of worker and in principle are not allowed to work. Human rights protection is provided under the immigration control laws and regulations rather than labor standard laws. The interns under TIP are treated as workers, and thus protected by all the Japanese labor laws and regulations. Even though the employment conditions are equal to those of Japanese workers, interns are under the legal residence

status of “Designated Activities” where the interns are prohibited from doing any other side or part-time jobs.

Since ITP and TIP both are basically training programs, there are restrictions concerning workplace changes and working periods. First, under TIP, foreign workers are restricted to work only in 62 types of occupations and 113 selective works: 1) agriculture, 2) fishery, 3) construction, 4) food manufacturing, 5) textiles, 6) machinery and metal and 7) others (such as furniture making and plastic molding, etc.). Secondly, the working period is set at a maximum three years. The ITP program is supposed to be less than one year where, if training includes off-the-job training (OJT), the principal periods for OJT should be half of the OJT period. The TIP program is supposed to be less than two years. Combining ITP and TIP, the total maximum period of stay is three years where the technical internship period should be less than 1.5 times the length of the training period. Thirdly, interns completing ITP are restricted to work only at the same workplace of the training program. However, upon the bankruptcy of the accepting company, the accepting organization that introduced the trainees to the accepting company is required to recommend other companies for the remaining period of the intern program.

2) Welfare Programs and Service

The JITCO and accepting companies manage Comprehensive Insurance for Foreign Trainees under the ITP in order to provide private insurance to trainees under the immigration control law. The national social and worker insurance programs are obligatory under TIP. The interns under TIP are eligible for five major social insurances as are native Japanese workers: 1) Health Insurance, 2) Welfare Pension Insurance, 3) Nursing Insurance and Labor Insurance, 4) Worker’s Accident Compensation Insurance and 5) Employment Insurance. Moreover, the interns under ITP should be provided a medical examination at the time of hiring and once every year.

The national organizations in sending countries are required to provide preliminary training to selected trainees of more than 160 hours of Japanese language, basic information and skills.

When problems arise during the training and internship periods, trainees and interns can have consultations with public/private organizations. JITCO provides intensive consultation, such as hotlines in native languages, health and medical consultation, mental health consultation and information provisions in native languages. There are several Japanese national and local government administrations, such as regional immigration bureaus, labor standard inspection offices and social insurance offices, etc. that can provide consultation concerning labor rights and social insurances. However, there does not exist special divisions for trainees and interns under ITP and TIP.

3) Measures for Illegal Migrant Workers

With rising concerns for crimes committed by foreign nationals, especially illegal foreign nationals, the Basic Plans manifest the strong will to reduce the number of illegal foreign residents. The “Action Plan for the Realization of a Society Resistant to Crime” pledges to reduce the number of illegal foreign residents by half by 2008.

The Japanese government enforces the measures for to substantially reduce in illegal foreign residents by promoting tougher border inspections, strict residence examination, reinforcing detection activities and developing detention facilities.

However, from a humanitarian perspective, when necessary, the Basic Plan will pay due attention to the specific circumstances of illegal migrant workers and thus properly grant special permission to stay case by case. The Ministry of Justice has wide discretion concerning the special permission for illegal migrant workers. Special concerns and amnesty can be applicable to 1) illegal foreign residents who have close links with Japanese society, such as close relationships with Japanese nationals or permanent residents, and 2) the victims of trafficking in persons who have suffered from severe abuses of human rights. The Japanese government strongly objects to trafficking in persons and toughened measures to prevent human trafficking, such as denying the landing of persons involved in human trafficking in foreign lands, while protecting the human rights of the victims.

C. Republic of Korea⁹⁾

History

The Korean migrant worker system is now two-fold: 1) Industrial Trainee Programs and 2) the Guest Worker System (Employment Permit Program).

As the labor shortage problems emerged in the late 1980s, the Korean government introduced the Industrial Skill Trainee Program (ISTP) in 1991 and Industrial Trainee Program (ITP) in 1993 under the pretext of allowing training opportunities to under-developed countries' workers. While the beneficiaries of ISTP were mostly the Korean overseas-invested firms, the beneficiaries of ITP were mostly small and medium-sized enterprises (SMEs). However, as in the case of Japanese training programs for foreign migrant workers, ISTP and ITP were criticized for human rights and labor rights abuses while, in reality, the trainees participated in real production rather than training. Responding to this criticism, the Korean government introduced the Post-Training Employment Program, in which the legal status of employee is granted to a migrant worker for one year upon the completion of a two-year ITP training program (KLI 2003).

The Korean government introduced two other programs endowing the legal status of employee to temporary migrant workers: 1) the Employment Management System in 2001, which provides employment visas to ethnic Koreans, allowing them to work in service industries, such as restaurants, housekeeping, cleaning and nursing for up to 3 years, and 2) the Employment Permit System (EPS, guest worker system) in 2003 under which migrant workers are allowed to be employed with legal worker status instead of a trainee status for up to 3 years.

The Korean government is endeavoring to merge ITP with the Guest Worker Program in January 2007, but for the time being, with the SMEs economic situation, the ITP and Guest Worker Program coexist for temporary migrant workers.

9) Korean Immigration Office (2006) and Korean Labor Department homepage are used for the analysis of Korean temporary migrant worker system.

1) Temporary Migrant Worker Systems

Basic Principles

The Korean government established the basic principles of EPS, which are the 1) supplementary principle (only employers who have failed to hire native workers can employ an adequate number of foreign workers), 2) equal treatment principle (foreign workers should be guaranteed identical labor conditions and human rights as for native workers) and 3) government intervention principle (in order to prevent irregularities, the government selects and invites foreign workers).

Selection Process of EPS

The Foreign Migrant Workforce Policy Committee (FWPC), a governmental organization, determines the allowed industries, the size of migrant worker inflow and the sending countries. The selection of sending countries is based on the rate of illegal workers from that country, preferences of employers with the required infrastructure to manage migrant workers, fair selection and post-management capability.

Instead of a private entity selecting sending countries and migrant workers, the Korean government is responsible for all the procedures of importing migrant workers and makes bilateral agreements with the governments of migrant-worker sending countries, like the German system, preventing irregularity being involved in migrant worker selection, sending and receiving.

The Korean government requires sending countries' governments to pursue measures of preventing runaways and of managing emigrant workers with aggressive efforts and training in a Memorandum of Understanding (MOU). And every two years, quotas are adjusted and MOUs renewed based on the rate of illegally staying foreigners, falsified information about migrant workers, and sending and receiving irregularities.

Working Conditions and Restrictions

The migrant workers under EPS are granted legal status of worker endowed with basic labor rights identical to those of native workers as under

the Labor Standard Act, Minimum Wages Act and Industrial Safety Health Act. And employers and migrant workers have to sign standard working contracts provided by the government. The standard contract form is provided to avoid employers' abuse of working conditions.

However, there are several restrictions concerning the freedom to choose employers and working periods. First, under EPS, foreign workers are restricted to work only in five business industries: the 1) manufacturing industry, 2) construction industry, 3) agriculture and stockbreeding (farm product cultivation, stockbreeding), 4) fishing industry and 5) service industry (refrigerated warehouses, restaurants, business support services, social welfare, sewage disposal, general repair services of motor vehicles, nursing and household services). Secondly, the employment period is set at a maximum three years, and every year employers and migrant workers need to renew their work contracts. Migrant workers must stay out of Korea at least one year after the three-year EPS period in order to reenter Korea to work under EPS. In this way, theoretically, migrant workers can continue their work in Korea unlimitedly. Thirdly, when entering into work under EPS, family accompaniment or family reunions are prohibited. Fourthly, migrant workers are restricted to work at the same workplace with which they signed the working contract with several obvious exceptions, such as the closedown or suspension of business. In these cases, migrant workers can be transferred to other workplaces through the submission of application documents to Employment Stability Centers. These workplace transfers, however, are restricted to three times during the three-year working period.

These restrictions upon migrant workers have the purpose of preventing the permanent settlement of migrant workers, illegal overstays and interference with native workers' employment.

2) Welfare Programs and Service

Foreign migrant workers under EPS are eligible for four major social insurances as is the case for native Korean workers: 1) Accident Compensation Insurance, 2) National Health Insurance, 3) Employment Insurance and 4) National Pension. But National Pension plans are only

applicable to the migrant workers whose countries have reciprocal national pension plans for foreign migrant workers.

Moreover, employers who hire foreign migrant workers should subscribe to two basic insurance plans. In order to guarantee severance payment after at least one year of employment under the Labor Standard Act, departure guarantee insurance is imposed upon employers. Additionally, in order to solve the chronic problem of delayed wage payments for migrant workers, payment delay insurance is also imposed upon employers. In case of payment delays, migrant workers may appeal to the labor inspection office of the Ministry of Labor and claim delayed payment insurance.

On the side of migrant workers, to cover the possible high cost of injuries or accidents, migrant workers are required to subscribe to accident insurance. Accident insurance insures foreign workers against injuries, disease or accidents beyond work-related activities.

The Korean government provides pre-employment training to newly-arrived migrant workers for 3-4 days which consists of training and education about labor laws to assist foreigners to adjust to Korea. Employers pay the training costs.

To improve the conditions of the human rights of migrant workers, the Korean government established the Council for Protection of Human Rights & Interests of Foreign Nationals in January 2006. The council focuses on human rights violation cases, such as wage payment delay, industrial accidents and workplace abuse, regardless of whether the migrant workers are legal or not.

3) Measures for Illegal Migrant Workers

With the introduction of EPS, the Korean government has set the top priority of 2006 on decreasing the number of illegal foreign migrant workers in Korea. As of December 2005, the number of illegal foreign nationals in Korea was estimated to be around 180,000, approximately 24% of total foreign nationals. The Korean government's target is to reduce illegal migrant workers to 50,000 by 2010. The strict enforcement and penalties against illegal migrant workers and employers have been arranged.

Migrant workers are required to subscribe to Return Guarantee Insurance with a lump-sum payment to cover return costs of migrant workers. Foreign migrant workers are paid this sum when they depart from Korea.

If illegal migrant workers voluntarily depart, entry exclusion clauses are relaxed and fines are exempted to encourage illegal foreign migrant workers to leave voluntarily.

From the humanitarian perspective, the provision of education and health service to children born to illegal migrant workers in Korea are under consideration in 2006. The number of migrant workers' children in school was estimated to be 1,500 as of April 2005.

4. Permanent Settlement and Foreign Migrant Workers Ghettos

All three countries in the case studies imposed a strict rotation policy for the purpose of preventing the permanent settlement of migrant workers. These countries restrict the years of work permitted, changes of workplace or employers and do not allow the accompaniment of family.

However, when considering the precedents of European countries, which have a longer history of migrant immigrant workers and permanent residency problems, the goal of preventing permanent residency of foreign migrant workers seems hard to achieve in the long run.

Most European countries, in the early period of importing temporary migrant workers, imposed strict rotation and deporting policies on the temporary migrant workers. In the 1960s, when temporary migrant workers started to be needed in European society, the European governments operated strict "guest worker" systems with migrant workers' strict rotations and the restriction on the period of employment. But the early policy of strict rotation failed in preventing permanent settlement of migrant workers in the European countries (Broady, 2002).

OECD's (2001) research showed that the immigration policies of developed countries, especially concerning temporary migrant workers, had significant impact on the size and characteristics of migrant workers' annual inflows but could not influence the regular rotation of migrant workers by any means. This implies that the inflow of migrant workers into a country can be

relatively easily controlled but outflow of migrant workers who have already entered a country are hardly controllable based on the experiences of European countries.

On the other hand, Middle East countries and Singapore are evaluated as countries that achieved relative success in the prevention of migrant workers' permanent settlements in their countries. The reasons behind this relative success on imposing the rotation of migrant workers are the governmental system and a small population. The Middle East countries and Singapore have in common a highly centralized and controlled governmental system approaching autocracy and a small population, thus making it easy to impose strong law enforcement and control deportation of illegal migrant workers. However, it is argued that this kind of strict deportation and rotation enforcement cannot be achieved in countries such as Japan that have a large population and an ever increasing need for foreign migrant workers due to rapid ageing but is without strong centralized control of public opinion as is the case with Middle East countries and Singapore (Papademetriou and Hamilton, 2001).

Moreover, these countries have received international criticism for their human rights violations and unlawful treatment of foreign migrant workers that inevitably increases with the large proportion of strong law enforcement and restrictions.

Thus, even though most East Asian countries operate work permit systems imposing strict rotations on foreign temporary migrant workers, the permanent settlement of these migrant workers in the long run can be forecasted with confidence to be reality in East Asian regions.

Japan and Korea are, in fact, already experiencing illegal settlements and ghettoization in recent years. Castles (2000) argued that there are many signs of the beginning of long-term residency and community formation by foreign migrant workers: "1) nearly 50% of illegal workers stayed over three years (legal migrants usually stay much longer), 2) increasing numbers of international marriages, 3) residential concentrations (e.g., Muslims in Isezaki City, various Asian groups in Shinjuku, Chinese in Ikebukoro, Latin Americans in the Tokai area near Nagoya) associated with the emergence of ethnic business, ethnic media."

Korea has also experienced the same phenomenon in recent years. Illegal long-term overstays are increasing despite recent strong law enforcement efforts, and international marriages, even cases with illegal migrant workers, are on the rise. Residential concentration and ghetto problems are also emerging in the manufacturing areas of Bucheon and Ansan and also in some districts of Seoul, such as Guro-gu¹⁰). In the Garibong-dong, Guro-gu district, Chinese style characters in advertisements may be found due to the concentration of Chinese ethnic groups and Korean Chinese. This area is called as “Yenben¹¹) -dong, Guro-gu”. In Maseo-dong in Namyang-ju city, Muslims from Bangladesh are concentrated, even establishing a Mosque and inviting an Imam¹²) from Bangladesh. Besides these ethnic or cultural concentrations, there are several assembly places where foreign nationalities gather to enjoy their original cultures, such as Changshin-dong (Vietnamese), Hehwa-dong (Filipinos) and Itaewon (African groups) in Seoul and in the Bucheon Seoung Temple areas (Buddhists from Myanmar and Nepal).

IV. Conclusions: Suggestions on an APEC Agenda for Migrant Worker Policies

The diversity of policy measures and the wide gaps in human/labor rights protections concerning temporary migrant workers, especially low- skilled ones, can be easily observed from the three country’s case studies, which are rather homogenous in the sense that these countries are among the exclusionary model. The growing need for migrant workers at all skill levels are expected to mount with the ageing of societies in such developed countries as Japan, Australia and the U.S., and in newly industrialized countries, such as Korea and Taiwan. However, while the mobility of migrant workers both temporary and permanent is expected to increase, international talks and agreements are still characterized by disputes and social controversies.

10) Hangyora Daily Newspaper 2003. 5. 15

11) Yenben is the area in China where most of Korean Chinese live with relatively substantial autonomous authority.

12) Imam is a highly-respected Muslim teacher.

Agenda for Human Rights Protection and Permanent Settlement Prevention

GATS (General Agreement on Trade in Services) Mode 4, which applies to the movement of natural persons who are service providers, does not specify the duration of stay while excluding permanent employment, and the characteristics of services (Nielson, 2002). According to Stahl (1999), a service provider can be described as someone “1) having been sent by his/her employer to a foreign country in order to undertake a specific assignment of duty for a restricted and definite period of time, or 2) engaged in work that requires professional, commercial, technical or other highly specialized skills for a restricted and definite period of time, or 3) upon the request of his/her employer in the country of employment, engages in work that is transitory or brief for a restricted and definite period of time.” Stahl (1999) noted that low-skilled migrant workers have been excluded from GATS negotiations.

The GATS negotiations in the Doha Round showed clear distinctions between developed countries and developing countries regarding the negotiations of Mode 4. While the developed countries restricted the negotiations of Mode 4 as only being related to Mode 3 in a trade context, the developing countries insisted on interpreting Mode 4 from the perspective of international labor migration that includes temporary guest migrant workers. The developing countries even moved to establish international standards for guest worker programs. While developed countries need to accelerate the high mobility of high-skilled professionals, the developing countries wish to promote the high movement of low- and medium-skilled migrant workers to developed countries (Yoo, 2004).

While there still exists controversies over low- and medium-skilled migrant workers' mobility, academic circles and international society are needed to establish international standards to protect migrant workers' human and labor rights and, at the same time, international standards to prevent permanent settlements or illegal employment of migrant workers. Since the labor-sending countries have concerns for the human rights of migrant workers while the labor-receiving developed countries have fears for the permanent settlement of migrant workers and the consequent formation of an

economic underclass causing social clashes like those in Europe, there can be mutual benefits to negotiating an international standard and codes of conduct for migrant worker systems. Developing countries and liberal scholars have only insisted on the human rights protection of migrant workers, but the worries of developed countries on the permanent settlement of migrant workers should also be integrated within the codes of conduct for international migrant worker systems.

International talks and agendas concerning migrant workers should be arranged in the sense that, as seen from the social conflicts with migrant workers in Europe, if we do not face the reality of ever increasing populations of foreign migrant workers, East Asian countries, especially Japan and Korea with large populations, cannot avoid illegal and permanent settlements of migrant workers with the consequent human rights violations in their societies.

During the course of international talks and agendas, the roles of NGOs cannot be over-emphasized in protecting the human and labor rights of migrant workers. Since law enforcement and public welfare services of a government are limited in resources and scope, the role of protecting the social weak should be coordinated with private NGOs. Moreover, if permanent settlements are inevitable, policies toward successful integration of migrant workers and their families into mainstream society should be pursued in the long run.

Agenda for Integration of Foreign Migrant Workers into Immigrant Society

For the time being, the proportion of East Asian regions' foreign migrant workers to total population is relatively small and has a short history compared to Europe and North America. Thus the problems of permanent settlement of foreign migrant workers did not surface, as was the case in the violent protests of migrant workers in Europe. However, as indicated in chapter 3, the possibility of foreign migrant workers' permanent settlements and ghettoization are highly likely, requiring preparations for these potent social conflict problems in the long-term.

European countries and other advanced countries have implemented

social and economic integration policies to minimize social conflicts, human rights violations and to better integrate and harmonize these foreign migrant workers into the mainstream of immigrant societies. These policy measures aim to facilitate the accommodation of foreign migrant workers to the cultures and languages of immigrant countries and consequently to minimize social conflicts with native nationals. They also aim to eradicate human rights violations, social prejudices and discrimination against foreign migrant workers. These policy measures include 1) education, training and mentor programs for migrant workers and their children, especially for women migrant workers and their children in their school years and 2) restrictions against social and economic discrimination concerning ethnicity and cultures (Lee, 2004).

Moreover, in European countries and OECD' reports, the roles and importance of civil society and NGOs are emphasized in the integration process of foreign migrant workers into immigrant society because how civil society and the public consider and treat foreign migrant workers are critical to the success of foreign migrant workers' social integration.

In Asian countries, these social integration policy measures should have more weight in the future because of the migrant workers' labor structure. Generally, social integration is more demanding when migrant workers are concentrated in underclass jobs. In this situation, migrant workers are more prone to form a social and economic underclass in immigrant society with a greater possibility for social conflicts.

Suggestions for Further Studies

The migrant worker policies of Japan, Korea and Hong Kong in the East Asian region have been compared to produce implications for international talks on temporary and low-skilled migrant workers. However this cases study has a number of limitations on producing specific policy agendas that can be implemented in the near future. First of all, the monotonic cultures of East Asian countries should be differentiated from other immigrant countries, such as the U.S., Australia and even continental Europe, which experienced a long history of multi-ethnic cultures. Because of the cultural differences and ethnic loyalties among East Asian countries, the permanent residency of foreign

nationals could be more unacceptable compared to multi-cultural societies. Thus these cultural characteristics of East Asian countries should be considered in migrant policy formulations and international talks. It also should be remembered that a mono-ethnic culture could be trapped into ethnic prejudice towards other ethnic groups and cultures, which is not acceptable in an era of globalization.

Secondly, further research on the policy measures that effectively circumvent the permanent residency of temporary low-skilled migrant workers is required. Even though the possibilities and problems of permanent residency are elaborated in this research, specific policy measures that can be implemented with more concrete methods have not been discussed enough. This calls for further research on migrant policy measures for preventing permanent residency of foreign migrant workers. Law enforcement's efforts to prevent illegal migrant workers are often a matter of practices and police cultures rather than regulations and laws. Thus interviews and surveys on the real picture of policy measures for preventing illegal migrant workers is needed for future research. This policy research should also include studies about the prevention policy measures of labor-sending countries, which can effectively control and monitor their citizens' international movements and financial transactions more than labor-receiving countries.

Thirdly, the case studies should expand to other major APEC countries including labor-emigrant countries. Since traditional immigrant countries, such as the U.S., Australia and Canada, which possess completely different migrant worker policy characteristics, are not included in this study, this comparison study of migrant worker policies in the East Asian region is not comprehensive. In addition, as Mainland China is becoming the largest emigrant country in this region, a more in-depth study about the economic/social situations and policy contexts of emigrant countries should be included in the comparison study. Future comparison studies should also include comparisons with European migrant worker policies, which have a long history of trying to prevent permanent residency of low-skilled migrant workers while improving the protection for migrant workers' human rights.

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Executive Summary

The inflows of temporary migrant workers in the East Asian region have shown sharp increasing trends since the early 1990s despite the prolonged Japanese recession and the Asian financial crisis. During the 1990s, the intra-region labor mobility in Asia increased significantly as Japan, the Republic of Korea, Taiwan, Malaysia and Thailand joined the labor receiving country group. The East Asian region is spotlighted as the newest migration pole, being compared to Western Europe and North America. The migration trends in the East Asian region share the common phenomena that 1) most of the migrant workers are low-skilled laborers, 2) most of the migrant workers are allowed to work only within the status of temporary work permits and 3) migrant workers have tendency to increase more rapidly as the income-gap widens and as the ageing problems in Japan, Korea and Taiwan accelerate.

The types of migrant worker policies can be divided into the 1) exclusionary model, 2) assimilationist model and 3) multicultural model. While Anglo-Saxon countries belong to the multicultural model and some European countries, such as France and Italy, belong to the assimilationist model, all East Asian labor-receiving countries belong to the exclusionary model. The East Asian countries' policies toward migrant workers can be characterized as "guest worker" or "temporary migrant worker" programs in essence, which were formerly the European countries' policy stance in the early stage of receiving migrant workers. These countries generally do not accept foreign migrant workers as permanent residents in their society with special exceptions to high-tech and professional workers. East Asian countries assume that, through guest worker programs, their economies can maintain their economic growth while minimizing the social clashes and political problems that might arise from diverse ethnic group growth and cultural ghettoization. However, these policy stances can impose two inevitable social and economic problems on East Asian countries: 1) exploitation and infringement of migrant workers' human rights and 2) social conflicts with the economic and social underclass of migrant workers, being accompanied by the formation of regional ghettos.

In this paper, the guest worker system, welfare service and prevention measures of illegal migrant workers in Japan, Korea and Hong Kong are examined and compared from the perspective of human rights protection. While Hong Kong has an advanced system with labor standard, welfare services and human rights

protection, Hong Kong law enforcement is highly strict in preventing illegal migrant workers. Korea, which implemented reform measures to improve human rights protection and labor standards for migrant workers, still lacks in welfare services and has the potential problems of prolonged overstayers staying past the expiry of temporary amnesty. Japan, despite acknowledging their labor shortage problems in low-skilled jobs, is still reluctant to reform its industrial trainee system without official work permits.

All three countries in the case studies imposed highly strict rotation policies for the purpose of preventing permanent settlement of migrant workers. However, when considering the precedents of European countries, which have already the experiences of migrant workers and their permanent residency problems, the purpose of preventing permanent residency of foreign migrant workers seems hard to achieve in the long run. Japan and Korea are, in fact, already experiencing illegal settlements and ghettoization in recent years.

The growing needs of migrant workers at all levels of skills are expected to mount continuously with the ageing of society in developed countries, such as Japan, Australia, the U.S., and newly industrialized countries, such as Korea and Taiwan. However, while the high mobility of migrant workers both temporary and permanent is expected to grow, international talks and agreements are still hindered by dispute and social controversies.

In this paper, two agendas for international talks were proposed: 1) Agenda for Human Rights Protection and Permanent Settlement Prevention, and 2) Agenda for Integration of Foreign Migrant Workers into Immigrant Society. Firstly, since labor-sending countries have concerns for the human rights of migrant workers and labor-receiving developed countries have fears for the permanent settlement of migrant workers and the consequent formation of an economic underclass causing social clashes as in Europe, there can be mutual benefits to negotiate international standards and codes of conduct for migrant worker systems concerning human rights protection and prevention of permanent residency. Secondly, as is the case for European countries' social integration programs for migrant workers, Asian labor-receiving countries need to implement social and economic integration policies to minimize social conflicts, human rights violations and to better integrate these foreign migrant workers into mainstream immigrant society.