Migrant Trafficking and Regional Security

International migration and a thriving market in migrant trafficking pose threats to security in the Asia Pacific region.

BY ANDREAS SCHLOENHARDT

Fifteen years ago, when the world was still cemented into Western and Socialist blocs, international migration hardly occurred between the two blocs. Migration was a phenomenon that was largely marginalized as an issue of third-world countries. But times have changed, and the political map of the world is more diverse than before.

The opening of the former Socialist countries and rapid technological developments gave rise to the era of globalization that spins all countries, industrial and developing, into a global web. In the multicultural world of the 21st century, it has become more difficult, if not impossible, to closely monitor and control the movements of people. This is especially true in a region as politically and culturally diverse as the Asia Pacific region. As a result, international migration, migrant trafficking, and regional security are emerging as important new issues on the political agenda.

International Migration

The Asia Pacific region is home to more than one-third of the world population and is also a source, transit point, and destination for increasing numbers of migrants. Many nations in the region have been formed over the centuries by migratory movements. In addition, people from the region have migrated all around the world.[1]

International migration—be it legal or illegal, documented or irregular—is the ultimate result of multiple factors that alternatively or cumulatively cause people to leave their home countries for foreign shores. The factors that induce people to migrate are complex and may be perceived as pushing, thus encouraging emigration, or pulling, encouraging immigration, or they may exist in a complex network of social or economic ties.

Political instability and armed conflict, rapid population growth, environmental degradation, widening economic disparities between countries, and a worsening unemployment crisis in the Asia Pacific region have caused severe migration pressures that have led many people to leave their home countries and move abroad in order to find protection, employment, higher wages, or simply a better life. Voluntarily or involuntarily, people are migrating to other countries to secure their lives, their families and friends, or their property.

Almost invariably, migration in the region has occurred where political, demographic, socioeconomic, and environmental push and pull factors combine with growing migration systems, leading more people to migrate. With scarcity of economic resources and the continuing lack of human rights recognition in some parts of the region, migration pressures are growing; yet migratory movements are still small in numbers in comparison with the growing population in the Asia Pacific region. Not surprisingly, where people feel politically suppressed or where poverty and unemployment appear to be the rule rather than the exception, people often see the only way out in illegal migration and in the services that migrant traffickers offer.

Migrant Trafficking

The Asia Pacific region has been described as the busiest region in the world in terms of illegal migration and organized crime. Every form of criminal behavior associated with migrant trafficking—including document fraud, corruption, and bribery—has been documented here.

Restrictive immigration policies and sophisticated criminal organization create and sustain the demand for illegal migration. As a result, many destination countries have imposed even stricter restrictions on legal immigration and further criminalized irregular and clandestine immigration, exacerbating the problem of illegal migration.

Australia, Canada, and the United States, for example, have responded to increasing numbers of asylum seekers by placing legal and administrative restrictions on immigration and asylum systems.[2] The same policies, combined with the lack of opportunities for legal migration, have led even more people to seek illegal ways to migrate, which they find in migrant trafficking.

When legal avenues of migration to the countries of freedom and wealth are denied, people become more vulnerable to the promises of traffickers. In many cases, traffickers fuel the feeling of deprivation by luring potential migrants with false promises of freedom and employment opportunities abroad.

Over the last decade, migrant trafficking has become a major source of income for criminal organizations. Every year, thousands of migrants are trafficked throughout the Asia Pacific region and around the world by increasingly sophisticated criminal enterprises, which earn billions of dollars by exploiting those fleeing poverty and persecution.

Due to the clandestine nature of illegal migration, it is difficult to get a clear picture of the number of persons being trafficked. The illegal status of victims prevents them from reporting incidents to government authorities. In addition, law enforcement agencies only very recently began to pay close attention to the phenomenon of migrant trafficking, so reliable data are scarce. Careful estimates suggest that approximately 10 to 50 percent of illegal migration is organized by criminal groups.[3] Chinese boatpeople arriving in Australia illegally have told Australian officials that they paid between AU$3,900 (US$2,000) and AU$40,000 to board the boat that carried them to Australia.[4] Other Chinese nationals have been known to pay between AU$10,000 and AU$50,000 each for false documents and coaching on how to evade immigration controls on their way to Australia via Hong Kong.

Illegal Services

Trafficking organizations offer a wide variety of services.[5]

■ **Illegal exit, transit, or entry.** Criminal organizations find loopholes in legislation, coastal surveillance, and border controls. Or they simply cross borders at times when control points are under-staffed, and border guards don't have time to search the cargo bays of trucks, boats, and aircraft. Consequently, traffickers may sometimes use simple and direct routes and at other times complex and circuitous ones. For a trafficking organization to survive, it must constantly change its methods in response to changes in legislation and law enforcement.

The experience of many destination countries has shown that the means and methods of transportation depend on the people who are trafficked and the objectives of their journeys. Especially the final part of the illegal voyage is largely determined by the question whether the persons trafficked seek to immigrate undetected and then "disappear" in the community, or whether they seek to reach the territory of the destination country and then claim asylum. In the former case, sophisticated means of trafficking such as high-quality forged papers or hidden compartments in boats, trains, and trucks are necessary to circumvent border controls and arrive undetected. In the latter case migrants can simply be dropped off at the coast of the destination country, or they are told to lodge their claims upon arrival at the destination airport.

■ **Fraudulent documentation.** Producing false documents necessary for entering the receiving country is a growing and lucrative criminal activity. Fraudulent and stolen travel documentation such as passports and visas is widely used in the Asia Pacific region, particularly with trafficking people on commercial airlines. For example, investigations have found that falsified passports in Bangkok are available for approximately US$3,000, and stolen blank Malaysian passports have been found for the price of US$8,000.[6] This phenomenon depends to a great extent on the corruption of local government, law enforcement, border control, and customs officials.[7]

■ **Preparation of migrants.** In many cases, traffickers give migrants names and phone numbers of people at transit points and in destination countries. Furthermore, traffickers may coach the migrants prior to departure in how to avoid border controls, how to answer immigration officers or law enforcement agencies if they get questioned

or detained, and how to claim asylum in the receiving countries.[8]

■ **Situation after arrival.** For those seeking to gain refugee status, contact with the traffickers ceases once the migrants reach their destination. Since the main objective of this group of migrants is to go through official channels of immigration, traffickers can't control them once they have gained entry into the country of destination. These customers usually pay their debts in full to the traffickers prior to arrival.

But for others, contact with the trafficking organization does not necessarily end after they enter the destination country. Most migrants who remain in the country clandestinely still owe large amounts of money to the traffickers for their illegal services. Not only have these migrants accumulated large debts, they have also been rendered powerless because of their illegal status, and they find themselves in a so-called debt-bondage situation. Many migrants remain in the hands of the traffickers, who charge exorbitant interest rates or subject migrants to forced labor, threats, violence, and in some cases rape.[9]

Financial Aspects

As with any commercial venture, the major objective of organized crime is maximum economic gain, and like all commercial enterprises, organized crime responds to a particular demand.[10] Criminal organizations adapt to the changing demands of potential customers and exploit the loopholes and legislative discrepancies present in some areas of the world. Organized crime moves into sectors where the risk of being detected and arrested is relatively low, and the high potential economic return makes the risk acceptable.

Indeed, migrant trafficking in the Asia Pacific region is highly profitable and surprisingly low-risk. The significant inequality of economic wealth and the differences in legislation and political systems in this part of the world provide criminal organizations with a lucrative source of income.

As mentioned before, migrant traffickers charge the migrants, their families at home, or relatives in the destination country large sums of money. The global profit of trafficking organizations is estimated to be between US$3.5 billion and US $10 billion per year, making it one of the fastest-growing and most profitable illegal businesses in the Asia Pacific region and around the world.[11] In Thailand, for instance, it has been estimated that migrant trafficking generates approximately US$3.2 billion annually.[12] A 1994 study estimates that Chinese trafficking organizations' profits are US$2.4 to $3.5 billion, making migrant trafficking a major activity for many Chinese criminal organizations.[13]

The Role of Migrants

Criminal organizations engage in migrant trafficking in response to growing migration pressures and an increasing demand for migration. The migrant trafficker exists because legal ways of cross-border migration are denied to people willing or forced to move to another country.[14] For that reason, some maintain that such trafficking is a victimless crime.

But this attitude skirts the issue of the victimization of migrants and the issue of human rights. During the journey, the migrants are completely at the mercy of traffickers and often subject to deprivations and indignities. The transportation of illegal migrants often takes place under inhumane conditions and re-sults in a great number of accidents and casualties during dangerous passages.

The common methods of seaborne trafficking in particular pose serious dangers for migrants. In some cases, migrants have been found crammed into vessels that were not seaworthy or locked in freight containers without enough air, water, or food. In other cases, traffickers have simply abandoned the migrants en route and put them at risk because they feared being caught by the authorities.[15]

Finally, since migrants pose a major danger for detection, these criminal organizations use threats and intimidation to control the migrants and prevent them from exposing the organization's activities. Violence is used to control and maintain order among the migrants as well as employees. Violence is also used to silence potential witnesses to crimes or as a punishment and warning to others.

Security Issues

For some people, the link between international migration, trafficking in migrants, and regional security may not be obvious, especially not in the traditional narrow military understanding of security. But security is not just a question of external threats to national sovereignty; security also means an effectively functioning society. Hence, there can be no doubt that international migration and migrant trafficking are indeed issues of regional security. The scale of illegal migration and organized crime in the Asia Pacific region has a strong impact on the functioning of government authorities, bilateral relations, and the societies of the region.[16] Uncontrolled movements of people have serious consequences for sending, transit, and destination

countries, as well as for the region as a whole.

A global market and the increasing permeability of international borders have fostered regional trade and have facilitated the movement of goods and people. But national authorities did not keep pace with these developments. While migration has increasingly become international, law enforcement authorities continue to operate within the limitations of national boundaries and still have little power over different jurisdictions.

In addition, governments have intentionally induced people to emigrate. Some governments actively force large numbers of people to emigrate. Others simply avoid or postpone enacting policies that address the root causes of large-scale emigration. For the sending country, benefits may accrue from lower unemployment rates and a decrease in the number of underemployed people. Furthermore, some countries see the exodus of people as a potential source of income if overseas communities send money and other remittances back to their home countries.[17]

Moreover, the closed-borders policy of destination countries has redirected some migration flows to countries with more-liberal immigration policies. On the other hand, restrictive policies may simply shift potential migrants into illegal or otherwise clandestine channels. These policies, and the entry of organized crime into the field of illegal migration, have in many cases put the safety of migrants at risk and placed their lives in jeopardy.

At the individual level, security also involves the protection of human rights and the prevention of violence, intimidation, and other forms of harassment and assault. In addition, migrants who are detected upon arrival may be subject to mandatory detention or denied access to legal counsel or human rights organizations. Already traumatized by persecution, war, and the perils of illegal travel, migrants who are lucky enough to arrive in the destination country are ineligible for social welfare, health insurance, and education benefits in the host country.

Globalization has opened the doors for criminal organizations to create transnational trafficking networks. Booming economies in East and Southeast Asia and the rapid internationalization of financial markets have allowed organized crime groups to engage in criminal activities at the international level, creating a severe threat to national and regional security.[18]

Furthermore, money derived from migrant trafficking is often laundered through countries with less stringent banking regulations or places that lack monitoring and control mechanisms for banking. Many countries of the Asia Pacific region have little or no legislation to punish money laundering and related offenses. These countries are particularly attractive for the investment of illegally earned money.

Studies conducted in the United States often focus on illegal Chinese immigrants and cite examples of how trafficking organizations detain their customers upon arrival, keep them in so-called safe houses, and control and threaten them for years after the trip is made.[19] It is uncertain whether the same practices also occur in other destination countries. There is only little evidence that the practices found in the United States also apply to illegal immigrants in Australia and that migrants who have fallen behind with their payments have been kidnaped for extortion and murders.[20]

Immigration and Crime

The question arises to what extent illegal immigrants are responsible for crimes committed in the host country. The illegal status of the migrants prevents them from entering the legal labor market. Instead, they have no choice but to work illegally to survive. Many of the migrants find themselves in the black labor market, and, in more extreme cases, they engage, or are forced to engage, in criminal activities such as prostitution and pimping, minor property offenses, or drug-related crime, often organized by the same criminal group that brought them into the country.[21]

However, there is no evidence to support the hypothesis that illegal immigration has a direct impact on the level of crime in the receiving country. Although illegal immigrants are by definition violators of migration laws, they are neither criminal by nature nor do they stimulate further criminal activities in transit and receiving countries. Illegal migrants are no more criminal than other parts of the population. If they happen to be involved in illegal activities in the host country, this has in most cases been a direct result of their illegal status.

Xenophobia

Another security issue that has arisen in many destination countries is that of racism, xenophobia, and other forms of hostility and violence towards immigrants. When a declining economy and rising unemployment coincide with higher numbers of unauthorized arrivals, and when illegal migration becomes closely linked with organized crime, the local population perceives illegal immigration as a threat to internal stability and national security.

Illegal immigration and the xenophobia that often arises in its

wake further marginalize an already vulnerable group of migrants. If this marginalization combines with anti-immigrant sentiments and violence, it raises serious concerns about the safety of migrants and about national and regional security as a whole.

The Way ahead

The problem of illegal migration and organized crime is complex and defies simplistic solutions. A criminal approach is just one of many possible ways to deal with migrant trafficking, and suggestions that destination countries should send all migrants home or accept them all are equally inappropriate. The emergence of new forms of transnational organized crime calls for effective responses that simultaneously address the criminal justice and humanitarian aspect of migrant trafficking.

From a legal standpoint, migrant trafficking is part of a large and increasingly international trade. Existing national immigration laws and penal codes do not address the international aspect of trafficking. In addition, it is still the trafficked migrants, not the traffickers, who bear the burden of law enforcement.

From a humanitarian viewpoint, governments must not lose sight of the fact that all migrants are human beings whose rights and dignity must be respected. Moreover, many migrants are genuine refugees fleeing persecution, and their claims must be carefully assessed.

Regional initiatives such as that of the Association of South East Asian Nations (ASEAN)[22] or the 1999 Bangkok Declaration on Irregular Migration, initiated by the Government of Thailand and the International Organization for Migration, are steps in the right direction and deserve strong support.

The work of regional and international organizations, including nongovernmental ones, also needs to be strengthened and encouraged. Special consideration has to be given to the newly implemented United Nations Convention against Transnational Organised Crime including the Protocol against the Smuggling of Migrants by Land, Air and Sea.

Legalization of illegal goods and services is one way to undercut organized crime. Insofar as possible, the legalization of the migration process is also the most effective way of dealing with migrant trafficking. This would eliminate the criminal element in the migration industry and reduce the exploitation of migrants.

Furthermore, it is necessary to prevent illegal migration at the early stages of the clandestine journeys. Hence, criminalizing the recruiting of migrant trafficking should be the primary target of law enforcement and control policies.

Finally, development aid to source and transit countries can reduce migration pressures and reduce the attractiveness of participation in trafficking operations.

The consequences and causes of unregulated population flows are not confined to one country and can only be resolved multilaterally. Combating organized crime and illegal migration cannot be the burden of any single nation; it must be the shared responsibility of all countries involved. The countries of Asia Pacific have no choice but to work together to meet the challenges of illegal migration and organized crime to improve regional security in the 21st century.■

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NOTES

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2. For the case of Australia see, for example, Migration Legislation Amendment (No 1) Act 1999; Border Protection Legislation Amendment Act 1999.

3. Secretariat of the Budapest Group, *The Relationship between Organized Crime and Trafficking in Aliens* (Vienna, AUS: International Center for Migration Policy Development, 1999), p. 14. See also Andreas Schloenhardt, "Australia and the Boat-People: 25 Years of Unauthorized Arrivals," *University of New South Wales Law Journal* 23(3) (2001), pp. 33-55.

4. P. Green, "Boat People Stung for $26,000 each," the *Australian* (May 5, 1999), p. 3; L. Kennedy and M. Metherell, "Call to Stop the People Smugglers," *Sydney Morning Herald* (April 12, 1999), p. 4.

5. Based on Ernesto Savona, Andera di Nicola, and Giovanni da Col, "Dynamics of Migration and Crime in Europe: New Patterns of an Old Nexus," in Alex Schmid, ed., *Migration and Crime* (Milan, ITA: International Scientific and Professional Advisory Council, 1998), p. 71.

6. Australian Federal Police (AFP), *Organised Crime Aspects of People Smuggling into Australia* (Canberra, AUL: AFP, unclassified version, 1998), p. 7.

7. See Andreas Schloenhardt, "The Business of Migration: Organized Crime and Illegal Migration in Australia and the Asia Pacific Region," *Adelaide Law Review* 21(1) (1999), pp. 96-97. For case examples from the Asia Pacific region, see Sabrina Adamoli et al., *Organized Crime around the World* (Helsinki, FIN: European Institute for Crime Prevention and Control, 1998), p. 86; Margaret Beare, "Illegal Migration: Personal Tragedies, Social Problems, or National Securities Threats?" *Transnational Organized Crime* 3 (1997), p. 35; Ko-lin Chin,

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8. John Salt and Jeremy Stein, "Migration as a Business: The Case of Trafficking," *International Migration* 35(4) (1997), p. 483; Smith, "Chinese Migrant Trafficking," p. 16; Sheldon Zhang and Mark Gaylord, "Bound for the Golden Mountain: The Social Organization of Chinese Alien Smuggling," *Crime, Law and Social Change* 25(1) (1996), p. 9.

9. Salt and Stein, "Migration as a Business," p. 483; Schloenhardt, "The Business of Migration," pp. 108-109. For the situation in Japan, see Peck, "Removing the Venom from the Snakehead," p. 1048. For the situation of illegal Chinese in the United States, see Chin, *Smuggled Chinese*, pp. 5-6, 111-131. For the situation of Filipinos, see United Nations International Crime and Justice Research Institute, Australian Institute of Criminology, *Rapid Assessment: Human Smuggling and Trafficking from the Philippines* (Vienna, AUS: UN Office for Drug Control and Crime Prevention, November 1999), pp. 12-13.

10. See Andreas Schloenhardt, "Organized Crime and the Business of Migrant Trafficking: An Economic Analysis," *Crime, Law, and Social Change* 32(3) (2000) pp. 203-233.

11. For worldwide profit estimations, see, for example, Bimal Ghosh, *Huddled Masses and Uncertain Shores: Insights into Irregular Migration* (The Hague, NET: Kluwer Law International, 1998), p. 32; Peck, "Removing the Venom from the Snakehead," p. 1044; Savona, Nicola, and da Col, "Dynamics of Migration and Crime in Europe," p. 75; Smith, "Chinese Migrant Trafficking," p. 9; Phil Williams and Ernesto Savona, *The United Nations and Transnational Organized Crime* (Portland, OR: Frank Cass, 1996), p. 22.

12. From a 1995-96 study by the University of Bangkok and the International Organization for Migration, "Trends: Thailand-Japan," *Trafficking in Migrants* 10 (March 1996), p. 3.

13. Adamoli et al., *Organized Crime around the World*, p. 78; Jennifer Bolz, "Chinese Organized Crime and Illegal Alien Trafficking," *Asian Affairs* 22(3) (1995), p. 148; Alan Dupont, "Unregulated Population Flows in East Asia," *Pacifica Review* 9(1) (May/June 1997), p. 13.

14. See Schloenhardt, "Organized Crime and the Business of Migrant Trafficking," p. 212.

15. See generally IOM, "Trafficking in Migrants: Characteristics and Trends in Different Regions of the World," discussion paper for the 11th IOM Seminar on Migration, "International Response to Trafficking in Migrants and the Safeguarding of Migrants' Rights," Geneva, SWI, October 26-28, 1994, p. 4. For case studies, see Chin, *Smuggled Chinese*, p. 72-77; Peck, "Removing the Venom from the Snakehead," p. 1047; Smith, "Chinese Migrant Trafficking," p. 11; UNICRI, AIC, *Rapid Assessment: Human Smuggling and Trafficking from the Philippines*, pp. 12-13; Williams and Savona, *The United Nations and Transnational Organized Crime*, p. 22.

16. On the issue of illegal migration, organized crime, and international security, see, generally, Beare, "Illegal Migration"; Dupont, "Unregulated Population Flows in East Asia"; Phil Williams, "Transnational Criminal Organizations and International Security," *Survival* 36(1) (1994), p. 96.

17. For the example of China, the Philippines, and Vietnam, see Stella Go, "Emigration Pressures and the Export of Labor from the Phillippines," in *Migration and the Labor Market in Asia* (Paris, FRA: Organization for Economic Cooperation and Development, 1996), pp. 160-163; Jack Goldstone, "A Tsunami at the Horizon? The Potential for International Migration from the People's Republic of China," in Smith, ed., *Human Smuggling*, p. 50.

18. See William Myers, "The Emerging Threat of Transnational Organized Crime from the East," *Crime, Law, and Social Change* 24 (1996), pp. 182-183; Zhang and Gaylord, "Bound for the Golden Mountain," p. 2.

19. For U.S. studies, see, for example, Ko-lin Chin, "Safe House or Hell House? Experiences of Newly Arrived Undocumented Chinese," in Smith, ed., *Human Smuggling*, pp. 169-189; and Chin, *Smuggled Chinese*, pp. 97-131.

20. See John McFarlane, *Transnational Crime and Illegal Immigration in the Asia Pacific Region* (Canberra, AUL: Strategic & Defense Studies Center, Australian National University, 1999), p. 14.

21. Adamoli et al., *Organized Crime around the World*, p. 79; Adam Graycar, Bree Cook, and Diana Nelson, "Trafficking in Human Beings," paper presented at the *3rd National Outlook Symposium on Crime in Australia* (Canberra, AUL, March 22-23, 1999), p. 5; E. Savona et al., *Globalization of Crime: The Organizational Variable* (Trent, ITA: TRANSCRIME, 1997), p. 9.

22. *Joint Press Statement, Third Meeting of the ASEAN Directors-General of Immigration Departments and Heads of Consular Divisions of ASEAN Ministries of Foreign Affairs* (Yangon, MYA, December 13-14, 1999).