International Labor Migration in South Asia: Current Situation and the Problems of Efficient National Regulation

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Abstract. The key specific features of South Asian economies include their highly dynamic nature, traditionally weak legal support, strong regulatory competences of the state at the same time, significant intraregional differentiation as well as cultural uniqueness of this macroregion. These features to a large extent predetermine the flow of labor migration in the region which is actively growing with every new year. Since Asia today is actively supplying labor resources to numerous other countries, regional specificity of labor migration in Asia, its key trends and the related governmental measures require additional and more detailed research.

1. Introduction

Migration policy in Asia was formed not in conditions of own population reducing (as, for example, in modern Europe), however, with a great local authorities’ interest to accelerate economic development also by attracting the highqualified workers from abroad.

In general, Asian countries have very liberal visa regimes for tourists, but they are “closed” for foreign labor migrants without certain high qualifications. The migration policy of Asian countries is more focused on highly qualified short-term migrants (rare Asian country issues a work visa for more than a year), as well as business immigrants (investors) who are not interested in further naturalization. There are no prospects of socialization and integration into the host community in the migration policy of Asian countries, and there is no social support for migrants and members of their families.

Business immigration in Asian countries is actively supported by the state in the form of tax preferences, simplified procedures for obtaining an investor visa, simplified formalities. Highly skilled labor immigration is supported, among other things, by official discrimination of the local population (higher salaries of foreign specialists are traditional in Asia, even in state-owned companies).

As already noted, unskilled immigration is highly undesirable in Asian countries due to the size of national labor market. A number of Asian countries (South Korea, Japan, Thailand, Malaysia, Singapore, Gulf monarchies) faced a sharp increase of unskilled labor immigration (from Cambodia, Myanmar, Indonesia, India, Bangladesh, Pakistan, Nepal).

In order to prevent possible social and economic problems of the unskilled labor migration development, these countries actively practice seasonal visas (for example, in agriculture, tourism, fishing, construction).
Finally, a specific feature of Asia’s national migration policy is well organized and often effective emigration policy when state to reduce unskilled or insufficiently skilled labor pressure on the domestic market. Thus, the soft policies of emigration of low-skilled residents are supported by the governments of Thailand, Indonesia, China, Vietnam, who signed agreements on attracting their citizens to seasonal or permanent work in the Persian Gulf, Australia or Europe.

As a special form of Asian migration regulation Middle East model can be considered. As everywhere in Asia it is short-term orientated, has not any national programs for the migrants socialization or social support.

But unlike other Asia, Middle East migration policy is more oriented to low-skilled labor immigrants who are able to compensate national labor shortages with their inexpensive labor and to satisfy the construction and trade ambitions of the Middle Eastern monarchies. The Middle East migration policy is discriminatory in its essence, based on the provision of maximum migration preferences to business and highly skilled migrants, but at the same time it significantly limits labor rights of low-skilled foreigners (for example, social protection, working conditions, family reunification, pension provision, and so on).

The purpose of the study is - based on the regional characteristics of the foreign labor migration regulation in Asia, as well as theoretical models of sustainable and unsustainable international labor migration development, to identify the main trends and problems of the foreign labor market development in South Asia, to set recommendations and tools for its modernization in the context of labor market globalization and regional economic dynamic.

The study solves the following objectives:

- theorizing the modern models of foreign labor migration development, taking into account the regional economic and social characteristics of South Asia;
- identifying trends in the foreign labor market development in South Asia related to popular schemes for foreigners’ employment, system of state migration control, protection of the foreign workers rights, and so on;
- highlighting the main problems of migration dynamics stabilizing in the region, developing a sustainable model of the labor market regionalization;
- formation the recommendations for the state migration administration system modernization in the regional context of migration flows’ possible increase.

2. Literature review and theoretical modelling

Contemporary system of the international labor migration within the borders of the so-called Global South as well as in the world overall is facing new threats and challenges these days. At the same time, today this system already has the capacity to be modernized and relatively easy adapted to the current requirements of the global labor migration process.

Modern researchers (Estruch-Puertas et al, 2009; Papademetriou et al, 2008; Kozlova et al., 2016), considering key factors and driving forces of international labor migration identified two opposite models (Figures 1 and 2), for simplification called model of stable and unstable labor migration.

Lack of efficient regulation over the migration processes is leading to a very specific attitude to foreign migrants - as to some sort of a specific commodity which can be rather easily imported, without any additional obligations or legal responsibility (Pitukhina et al., 2017). This attitude can be very quickly spread not only among business owners but also among official authorities. In this case, the whole system of migration policy turns into a primitive “calculator” which is only counting the number of migrants, while there is no place for protection of migrants’ labor rights and establishing proper relations with local population (Jacoby, 2013).

Authorities in donor countries are traditionally interested in the development of labor migration since this process can smooth social tensions inside the country, it also hinders the growth of unemployment and leads to inflows of additional money into the national economy (through migrants’ remittances).
Obviously, under such strong pressure of the short-term priorities governments of the donor countries cannot really afford to think about the quality of employment opportunities to all these migrants and/or about how really local and foreign recruiting agencies (and other intermediaries) are working in this field.

| Core idea: Limited engagement, inadequate regulation of the migration processes |
|--------------------------------------------------|
| Migration policy stems from national security reasoning and the interests of national businesses |
| **Government** | **Employers** | **Recruiting agencies** | **Trade unions and civil society** |
| There is no legal basis for the protection of foreign laborers’ rights (or it exists only on paper, not actually working in real life) | Relations with employees can be rather harsh; wages are delayed; contract conditions can be easily violated | In constant search for new foreign labor resources | The society is rather marginalized and cannot be called civil |
| There are no bilateral agreements concerning migration with other countries | Human resource management overall is rather chaotic and uncontrollable | Are fully managing the processes of contracts’ negotiation and further salary payment | Trade unions do nothing to protect the rights of either foreign, or local workers |
| State regulation is weak, while corruption level is rather high | Treatment of foreign workers is often getting violent since there is no external control | International organizations and/or consular services have no opportunity to influence the migration situation |

| Encouraging international labor migration |
|--------------------------------------------------|
| **The state** | **Recruiters** | **Trade unions and civil society** |
| There is no legal basis for maintaining social fairness | Local recruiters often do not have direct contacts with foreign employers | Society is rather marginalized, there is no place for the development of civil society |
| There are no bilateral agreements with other countries regarding migration | Recruiters are concentrating their work on the number of migrants sent to other countries; quality of recruiting is disregarded, thus, it is very low | Local trade unions have no contacts with their colleagues in other countries |
| The state is unable to control the migration processes and/or protect the interests of own citizens who are working abroad |

**Figure 1.** Unstable model of the international labor migration.  
(Source: made by co-authors)
For example, in Vietnam the national regulation system over citizens’ employment abroad was launched only after 2006. Prior to that, Vietnamese authorities had been actively supporting the outflow of local labor force to other countries of Asia and not only Asia (Economist Intelligence Unit, 2009).

On the other side, in the receiving countries migration policies are focused mostly on limitations and strict control over labor migration as this would be in the best interests of the local community (Luchko et al, 2017). Governments of these countries are usually interested in seasonal migration only as the latter guarantees that labor migrants will return to their home countries once the season is over and their labor contracts are over as well. At the same time, these governments are actively fighting illegal migration and shadow employment.

At the same time, we need to note that in most cases governments in the recipient countries do not really have monitoring mechanisms to control the conditions in which foreign migrants will be working. Neither is there sufficient control and protection for migrants’ labor and human rights. For example, in the United Arab Emirates, communication with local authorities of any level would require the knowledge of either Arabic, or at least English. However, many non-qualified migrants coming from Nepal, Sri Lanka or South Eastern Asia do not know either of them (Ushakov, 2015; 2016). This language barrier leaves them fully unprotected - economically, socially and legally.

| Core idea: Full engagement and strict regulation over foreign migrants’ recruiting and further employment | Migration policy guarantees legal protection and fair treatment for labor migrants |
|---|---|---|
| **Recipient country** | **Government** | **Employers** | **Trade unions and civil society** |
| Local laws are protecting not only local workers but also foreign ones | All employers have certain responsibilities that are mentioned in the related laws | Civil society is ready to protect rights and interests of foreign workers coming to the country |
| The country has bilateral agreements on labor migration signed with other countries | | Trade unions are equally protecting the rights of both local and foreign workers |
| State supervision over labor migration is efficient enough | | International organizations and consular offices have the right and all opportunities to participate in regulation of migration |
| **Donor country** | **The state** | **Recruiters** | **Trade unions and civil society** |
| There are laws regulating how people can be hired and stay employed abroad | Overall high quality of work | Civil society is fully functional. Relations between the private sector and the state are stable enough. |
| The country has bilateral agreements signed with other countries concerning international labor migration | Local recruiters have direct contacts with their foreign employers interested in workers | Trade unions are engaged in international activities concerning the protection of labor migrants’ rights |
| The state is able to control how its citizens are employed abroad | |

*Figure 2. Stable model of the international labor migration.  
(Source: Arkhipov et al., 2018)*
Analysis of changes in legislation as well as statistical data on the processes of international migration in South Asia allows us to outline a range of most important trends which are predetermining international migration overall and its legal and social consequences for both state authorities and businesses of the whole macroregion (International Labor Organization. European Migration Network, 2013).

3. Trends of international migrants employment (South Asian issues)

The key trend in the development of today’s system of intraregional labor migration in South Asia is growing popularity of secondary employment: when businesses from recipient countries are involving independent brokers and recruiting agencies throughout the whole region, and this often causes high risks of various wrongdoings in the course of employment and also much higher costs for the employing businesses (Patlasov, 2016).

In today’s practice of labor migration we can differentiate between secondary recruiting (when the intermediary company is recruiting using its own name but in the interests of other employer) and secondary hiring (when the intermediary company is not only recruiting employees and evaluating their knowledge and skills but is also signing labor contracts with them, providing also visa support, helping with other formalities like insurance, medical checkups etc.).

In donor countries violations of legalisation in cases of secondary employment and recruiting usually starts at the stage of candidates’ search already. For example, in Sri Lanka most employment agents, especially those working in rural areas, do not have licenses for such work at all, thus, they do not report on their activities, and this is a direct violation of law in this country (International Migration Outlook, SOPEMI, 2006).

| Table 1. Potential violations in secondary employment of labor migrants. |
|---|---|---|
| At the stage of recruiting | At the stage of preparation for migration | After arrival to a destination country |
| - overpricing of services | - violations of the accompanying procedures | - actual conditions being worse than those mentioned in a contract |
| - candidates’ selection process is not transparent | - providing fake documents | - unacceptable conditions of life and work |
| - wrong content of labor contracts offered for signing | | - delays with paying wages; not paying wages at all |
| | | - employers are taking migrants’ passports |
| | | - no access to the means of communication and/or to the authorities that can protect them |

In Bangladesh, an employment agent is usually a foreign citizen - Pakistani or Indian - thus, the state cannot really control their activities, and neither is this agent reporting to any local state office. Only a few of Asian countries have standard rules and relative transparency in procedures of secondary employment of their citizens’ abroad (Rubinskaya et al., 2018).

For example, Filipino authorities have come up with a single register of entrepreneurs that are granted the right to assist local citizens with their employment abroad. This register of licensed recruiters is known well enough both inside the country and outside its borders (among foreign employers potentially interested in hiring people from the Philippines). Besides that, the country is implementing the service project of the so-called “single window”: once an interested potential migrant turns to this single-window office, he/she may get all necessary information about the vacancy, also read the labor contract, get info about additional opportunities and so on. Finally, we need to mention that during the period since 2011 till 2013 20+ licensed agents in the Philippines got
their licenses revoked and were also banned from employment activities due to their violations with labor contracts (International Organization for Migration, 2012).

Weakness of state protection, lack of transparency in the course of recruiting, simply fears and complete legal illiteracy are the key reasons why future labor migrants turn to such recruiters, following the recommendations from friends or relatives. In India, for example, the share of migrants who turned to labor brokers because of family recommendations is around 78% (Labour shortages and migration policy, 2013).

The system of secondary recruiting is first of all beneficial for the final employer - the business in a destination country. On the one hand, involving a third party into the process of candidates’ search and recruiting means additional costs for the company and does not necessarily means better recruiting in terms of quality (usually lower quality, actually). On the other hand, the presence of an intermediary in the process of employment usually allows final employers openly violate the rights of labor migrants (to delay wages, to provide accommodation of significantly lower quality than promised initially, not to provide meals though promised etc.). Under such conditions, final employer can also easily fire migrants since the latter were hired through independent brokers, and this automatically means zero obligations. Interestingly, all of these would be completely legal since there is no contract between a final employer and a labor migrant from another country. In many such cases migration broker companies are quickly changing names, location and/or property form, they can be easily closed as such. This means that in any unfortunate situation the labor migrant would find him/herself completely unprotected, both abroad and at home.

Table 2. Comparative analysis of the legal statuses of foreign labor migrants in South Asia. (Source: made by co-authors)

| Country  | Rights of migrants and their families (ratified or not) | The maximum allowed number of work hours for foreign migrants | Legally specified minimum wage amount for foreign migrants | Migrants have the right for strike and trade union organization | There is a standard labor contract to be signed with labor migrants | There are fines and other forms of punishment for local businesses violating labor rights of migrants | Additional payments (taxes for migrants are higher than those for local residents) | Direct prohibition of forced labor (ratified or not) | Additional guarantees for migrants (ratified or not) |
|----------|--------------------------------------------------------|-------------------------------------------------------------|--------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|
| Egypt    | YES                                                    | NO                                                          | NO                                                     | NO                                                            | NO                                                            | NO                                                            | YES                                                            | YES                                                            | NO                                                            |
| Jordan   | NO                                                     | YES                                                         | YES                                                    | YES                                                           | YES                                                           | YES                                                           | NO                                                            | YES                                                            | NO                                                            |
| Malaysia | NO                                                     | NO                                                          | NO                                                     | NO                                                            | YES                                                           | NO                                                            | YES                                                            | YES                                                            | NO                                                            |
| UAE      | NO                                                     | YES                                                         | YES                                                    | NO                                                            | YES                                                           | NO                                                            | YES                                                            | YES                                                            | NO                                                            |
| Qatar    | NO                                                     | YES                                                         | YES                                                    | NO                                                            | YES                                                           | NO                                                            | NO                                                            | NO                                                            | NO                                                            |
| S. Arabia| NO                                                     | NO                                                          | NO                                                     | NO                                                            | YES                                                           | NO                                                            | NO                                                            | NO                                                            | NO                                                            |
| Singapore| YES                                                    | YES                                                         | YES                                                    | NO                                                            | YES                                                           | YES                                                            | YES                                                            | YES                                                            | YES                                                            |

Interestingly, even in such a transparent and relatively clean from corruption country as Malaysia back in 2008 there was a big scandal that involved the state association of recruiting companies that were attracting professionals and non-qualified workers to Malaysia from all over the world. In two years only this association became a highly profitable business involved in organization of illegal migration from Indonesia, the Philippines, Myanmar, Vietnam and India. Moreover, the association was involved in organization of actual slavery and various other violations of foreign migrants’ rights. Even today, the Ministry for Migration in Malaysia admits that at least 2 or 3% of the overall
migration volume in the country are to some extent related to criminal activities (Papademetriou et al., 2011).

4. Problems of foreign migrants’ legislation and protection in South Asia

Another important peculiarity (trend) of the current stage in the development of international migration in South Asia is lack of protection for foreign migrants in the legislation of recipient countries. Inside South Asia, labor migrants are usually moving from one developing country to another, which means they are losing their basic rights in their home country but then find themselves in the environment of much lower legal protection (Neugart et al., 2002).

Table 3. Comparative analysis of pre-migration procedures in the countries that are major suppliers of labor migrants in Asia.

(Source: made by co-authors)

| Country  | Duration of pre-migration procedures | Contents of pre-migration procedures | Problems faced in the course of pre-migration procedures |
|----------|--------------------------------------|--------------------------------------|--------------------------------------------------------|
| Bangladesh | - one-hour lecture + a leaflet - training is specialized (its duration depends on a profession and the current level of migrant’s preparedness - from 1 to 3 weeks) | General information about the country and the language | Many migrants do not participate in such trainings |
| India    | No such programmes                   |                                       | There are some legal initiatives on introduction of pre-migration procedures but none of them is approved yet All procedures are really short-term and thus too quick |
| Philippines | - the minimal training lasts 6 hours - there is a national system for certification of migrants’ professional level | Language, cross-cultural communication, info on financial and banking systems, how to get state support while being abroad | There is a lot of corruption in the system; some of the recruiting agencies work without any licenses or certificates |
| Sri Lanka | There are various programmes for migrants’ preparation: 12-21-day programmes for unskilled workers; 40-day programmes for textile industry workers; 18-day special course for those who are heading to South Korea | Specificity of a destination country; basic literacy course; language; key features of the financial system and banking in a destination country |                                            |
| Vietnam  | No pre-migration preparatory work as such |                                       |                                            |

In some of Asian countries the legal status of foreign migrants is by default much lower when compared to the status of local citizens (Ruhs et al., 2010). This is especially relevant for the countries of Persian Gulf. Other countries, on the contrary, are strictly following international laws which leave
no space for discrimination of foreign laborers. In some of such countries these legal norms are fully acknowledged and have already proved to be efficient (see Table 2).

Separately should be mentioned the so-called special economic zones and zones of free trade, quite many of them in Asia. Such zones are essentially oriented on creating the most favorable regimes for doing business, and this means that protection of labor rights is not a priority for them by default.

For example, in the period of 2006-2008 (once the trade between the USA and Egypt became customs-free) numerous textile business moved from the neighbouring Jordan to Egypt (first of all those that already had contracts with the US partners). They moved despite the fact that Egypt actually has quite harsh legal conditions and generally strict attitude to foreign labor migrants (According to the data of QIZ, Ministry of Trade and Industry, www.qizeegypt.gov.eg).

Quite frequently foreigners have to pay higher taxes and social security payments. For example, in Malaysia foreign migrants are to pay a special levy imposed on the federal level.

There is an interesting difference observed in this regard: while in European countries the larger share of financial load falls on the employers of foreign labor force, in Asia it becomes the load solely on the shoulders of foreign migrants themselves.

5. Conclusion

Thus, Asian businesses could be less responsible for social and economic consequences from foreign labor migration, and these forces state authorities to support the infrastructure for efficient regulation and control over foreign migration (which sometimes can be forced one). In some of the Persian Gulf countries migration services are integral part of law enforcement authorities; in Malaysia the civil militia units called RELA are responsible for control and regulation over foreign labor migration.

Majority of labor migrants arrive to a destination country being very poorly prepared for work and for local conditions of living, they usually do not know much about the local socioeconomic environment. In some cases there is some sort of pre-migration preparations (see Table 3), it usually consists of a brief history overview, basic cultural knowledge, some language preparation (strictly to the level necessary to perform the work, but not really sufficient for full socialization).

In the absolute majority of cases migrants have zero information on their rights or the institutions that can protect them; neither do they know where to turn for consular support in case of a trouble.

Since most migrants do not have enough financial support and state support on the side of donor countries is also poor, this preparatory stage becomes of vital importance. This is the reason why so many international non-profit organizations are actively working on creation of specialized centers and introduction of services on preparation of migrants (for example, in India, Bangladesh and Nepal).

It is obvious that the South Asian migration policy will be effective as long as it remains tough and discriminatory, cynical in determining the level of foreign personnel qualifications and not-variative to unskilled migrants. Any liberalization or democratization of South Asian migration policy as well as a decrease in migration services efficiency (for example, their bureaucratisation or corruption) will make relatively prosperous Asian states faced such an influx of foreign workers, in comparison with which “the great resettlement of peoples in Europe is nothing”. It is worth noting that there are more than 60 million of potential migrants only in Bangladesh (it is comparable to the population of Italy or France), 10 million - in Nepal, hundreds of millions - in Pakistan and India!

Thus, our research study has outlined the key trends of the contemporary stage in the development of international labor migration in Asia, all being related to the growth of intermediary activities in the course of migrants’ employment, low level of their legal protection and also underdevelopment of pre-migration preparatory procedures in donor countries.

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