Human borders?
Regulating immigration and human trafficking in East Asia

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With participants from various disciplines, such as area studies, history, anthropology, sociology, political science, and law, we discussed in what manner the East Asian region is characterized by intraregional migration patterns, how national immigration policies are reformed under the pressure of demographic change and global migration flows, and in which ways these policies show similarities in discourses and practices of immigration regulation. During 2017 and 2019, we held several workshops scrutinizing how (international) and practices of immigration regulation. These policies show similarities in discourses and global migration flows, and in which ways under the pressure of demographic change national immigration policies are reformed by intraregional migration patterns, how political science, and law, we discussed in what immigrants as victims of migration industries topics for migration scholars. Human trafficking

Human trafficking

Human trafficking constitutes a contemporary form of slavery, most notably in the form of exploitation of people through forced marriages or forced labour. In 2000, the UN General Assembly adopted the Convention against Transnational Organized Crime and the two supplementary protocols on the smuggling of migrants and the trafficking in persons (Resolution 55/25). The resolution, along with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Trafficking Protocol), acknowledged women as especially vulnerable to human trafficking and forced labour. In 2015, ASEAN implemented this approach issuing the ASEAN Convention Against Trafficking in Persons, Especially Women and Children (ACTIP) and the respective Plan of Action. The latter document is based on the Palermo Trafficking Protocol and similarly addresses women and children as victims of sexual exploitation, labour exploitation and organ trafficking. Although none of the East Asian countries is a member state of ASEAN, the Action Plan strongly builds on international and regional cooperation, especially regarding the fight against organized crime.

China has tackled the issue since the early 2000s; the All-China Women's Federation embarked on cooperation with the International Labour Organization (ILO) in a pilot project in Yunnan fighting human trafficking of women and children. Foreign women being forced into marriages with Chinese husbands remains the biggest challenge for the Chinese government, especially in the border regions with North Korea and Northeast Asia. However, human trafficking is also a domestic problem in China as selling women from poor places in the inland provinces to more affluent localities elsewhere in the country has never been eradicated and baspeaks a long tradition of dealing with poverty, particularly in the rural areas. In South Korea, the legal system struggles to regulate the influx of foreign sex workers. Because prostitution is generally prohibited, these women struggle with ‘double illegality’: illegal as sex workers and illegal as immigrants. In 2016, the National Human Rights Commission issued guidelines to identify victims of sex trafficking. Labour exploitation, however, remains under-regulated.

The COVID-19 pandemic, resulting in border lockdowns around the world, has put migrants under stress. Illegal (sex) workers have become isolated even more as civil society organizations were increasingly unable to deliver assistance across borders. United Nations Office on Drugs and Crime (UNODC) reports show that human trafficking increased during the pandemic. Although cross-border trafficking has become more difficult due to travel restrictions and quarantine regulations, traffickers have found ways to overcome such obstacles and increase their social media presence to prey on potential victims. At the same time, it has become much harder to detect exploitation when everyone stays at home, communities are separated, labour inspections are suspended, and resources are withdrawn from online help centres that often are the only contact points for victims to report on their situation and get help. Victims of human trafficking are also more exposed and vulnerable to COVID-19 infections as they often lack proper access to health care services and testing. Moreover, domestic violence against women in forced marriages has gone up during quarantine isolation. Sex workers have lost their income due to the lockdowns and are often forced to leave their apartments and workplaces which they are no longer able to afford. Leaving these communities deprived them of the minimum security they offered. Some brothels were stripped bare overnight, leaving the workers in existential limbo and making them ever more vulnerable to exploitation. Governments rarely address these groups directly in their measures to counter the pandemic. In South Korea, however, the government acknowledged already in April 2020 that undocumented immigrants could create a blind spot in anti-pandemic measures and provided testing and treatment.

Monitoring anti-trafficking efforts

In 2000, the U.S. Congress passed the Trafficking Victims Protection Act (TVPA) instigating the U.S. State Department to globally monitor countries' efforts to counter human trafficking. Since then, the latter’s annual Trafficking in Persons Report distinguishes between Tier 1 countries (indicating governments’ efforts to combat trafficking and its willingness to acknowledge responsibility taking corresponding measures), Tier 2 countries (whose governments do not fully meet the TVPA’s minimum standards but are making significant efforts to bring themselves into compliance with those standards), a Tier 2 Watch List that sharpens
has become an accepted norm in the region. There are still considerable shortcomings in enforcing these working mechanisms show that although the Bali Process Ad Hoc Group (AHG) was established to combat human trafficking, the recommendations. For instance, in 2014, experts to formulate more concrete policy groups could be installed bringing together country’s efforts has thus shown to have positive effects on governments’ behaviour and slowly stepping up anti-trafficking efforts. Besides this indirect mechanism, the Palermo Trafficking Protocol motivates efforts. The Chinese government classifies Myanmar refugees as ‘border residents’, thus expediting their return across the border. Hong Kong, for its part, hardly grants political asylum to any refugee and keeps asylum-seekers in a state of limbo until they are transferred to a third country that is willing to accept them. The Chinese government trusts the human trafficking question on a practical level as it shows how governments are willing to allocate resources towards non-citizens. Often, victims of human trafficking fall into the same category with refugees and by not providing for their legal status, the victims are denied legality. Consequently, North Korea can seek legal assistance to apply for political asylum in China as immigrants for or for further travel to other countries but are often forced into marriages with Chinese citizens as the only available option to avoid repatriation. Particularly in China, refugees are sensitive (as seen having illegally entered the country). They use local news to find ways to ‘legalize’ them and their children temporarily, hence providing them with access to basic health care at least. In her upcoming book on governing the Chinese border (to be published by Amsterdam University Press), Fransiska Plümmer argues that the reason local governments often apply exit and entry regulations in a more inclusive way, thus easing temporary immigration from across the border, is foremost economy. cross-border migrants are a valuable and indispensable resource to spur local development, hence border regulations are selectively enforced temporarily to avoid these migrants work in near-by Chinese farms or factories, providing relatively cheap labour. The migrants are not allowed to leave the border area and travel further inland to look for more profitable job opportunities. Some local governments extend these practices, which are not officially sanctioned by higher administrative levels, to foreign wives, by issuing locally valid registration cards for them. This way, local governments hijack immigration control from the central state and, to some extent, ‘normalise’ cross-border mobility. The central state, for its part, is well aware of these local border regimes but gives local authorities the necessary leeway to comply to upper level development targets. This example also shows how immigration norms and standards domestically travel between prefectures and counties at the Chinese border. Local governments compete in attracting immigrants to satisfy labour demand. While it suffices to supply basic social services for them in the border areas, larger cities elsewhere compete with each other in attracting high-skilled workers and talent immigration to boost their often highly specialized industries. Immigration policies undoubtedly exacerbate risks of human trafficking in East Asia, and the intersection of seeking refuge and human trafficking should be regulated in a more cooperative and coordinated manner among the different countries and across government departments. Although the international prohibition of slavery stands, the victims’ reality of life often remain dire as officials turn a blind eye and legal regulations are often lacking. The 2018 verdict by the Seoul High Court, stating that the South Korean government was responsible for not properly monitoring the living and working conditions on Sinui Island is telling testimony, to how victims are able to seek redress through the legal system, but also how local police and governments can support systems of exploitation. This case on Sinui Island involved two disabled persons who were recruited by an unregistered employment agency that later sold them into forced and unpaid labour in a salt farm, where they experienced severe abuse for several years. After several escape attempts, they finally managed to get help from outside and went to court. The role of the local police remained unclear. While the prosecution believed, but could not prove, that the police had helped the farmers keep their victims enslaved, the local authorities certainly did not comply with their responsibility of monitoring labour conditions properly on the island. Following the victims’ rescue, a nation-wide investigation of labour conditions in salt farms was conducted in which dozens of more unpaid workers were found. The role of local officials and police was investigated but did not result in arrests. No. 87 Autumn 2020