

**MIGRANT WORKERS  
FROM  
BURMA AND THAILAND**

**POLICY REVIEW  
AND  
PROTECTION MECHANISMS**

**COMMEMORATING 10 YEARS OF POLICY  
GOVERNING MIGRANT WORKERS FROM BURMA**

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# INTRODUCTION

## MIGRANT WORKERS IN THAILAND

PRESENT POLICIES	ALTERNATIVE POLICIES
<p>MOU with Burma, Cambodia and Laos to legalize workers before they leave their home county, but the provisions have yet to be implemented</p> <ul style="list-style-type: none"> <li>❑ Workers require the permission of the sending country</li> <li>❑ Employment placement agencies controlled by the governments of sending countries and employers apply through these agencies to obtain employees</li> <li>❑ Term of employment for 2 years, but can be extended for 2 more years</li> <li>❑ Migrant workers have to contribute 15% of monthly salary to a savings fund</li> <li>❑ Thailand can access savings fund to cover administration and deportation costs</li> <li>❑ Thai labour legislation applies to legal migrant workers</li> </ul>	<p>Regional agreements should be pursued allowing for the free flow of labour</p> <p>Thailand should not implement the MOU with the SPDC.</p> <ul style="list-style-type: none"> <li>❑ Migrant workers with passports are likely to be members of civil and military militias schooled in the regime's anti-Thai propaganda</li> <li>❑ Many migrant workers, particularly those living in isolated areas will be denied passports. Many can not access the bureaucratic structures because of poverty, corruption, political incompetence or political oppression.</li> <li>❑ Many migrant workers already in Thailand are members of ethnic minorities who have escaped from human rights abuses and areas where the civil war has been actively waged</li> <li>❑ Doubtful that workers will have their savings refunded upon return to their home country. Very possible that the SPDC will appropriate the savings and the administrative system is not reliable.</li> <li>❑ Costly and time consuming process for employers looking for migrant workers. This will only encourage employers to hire illegal labour</li> </ul>
<p>Temporary but renewable registration allowing people from Burma, Laos and Cambodia illegally resident in Thailand to obtain legal employment</p>	<p>The continuation of the registration system and amnesties for people who have entered the country illegally</p>
<p>Registration only includes the migrant worker</p>	<p>Registration should include children and family members incapable of working</p>
<p>The number of workers able to obtain work permits at last registration limited, though the number varies at each registration period.</p>	<p>No limits on the number of people illegally resident in Thailand allowed work permits. This would encourage people into the legal economy. Limited registration does not appear to have limited the number of illegal workers in Thailand.</p>
<p>Time period when people can register restricted to approximately one month per year</p>	<p>Registration for work permits should be available throughout the year. This would encourage people to take up registration.</p>
<p>Legal employment restricted to manual labour in limited number of sectors</p>	<p>Migrant workers allowed to legally work as manual workers in all sectors</p>
<p>Registration attached to a particular employer who must support the application</p>	<p>Registration should not be linked to the employer but to the province</p>
<p>Work permits only available for 12 month periods, which must be validated at 6 month intervals</p>	<p>Work permits should be available to allow migrant workers to work for different periods of time. For example, 3 month work permits for agricultural workers during the harvest period.</p>

PRESENT POLICIES	ALTERNATIVE POLICIES
<ul style="list-style-type: none"> <li>❑ Fees the same regardless of province or sector of employment</li> <li>❑ Fees decrease with each year of registration.</li> </ul>	<ul style="list-style-type: none"> <li>❑ Fees generally lowered to encourage a larger number of people to register</li> <li>❑ Fees could be linked to a measure that indicates the average wage of migrant workers in each province. The minimum wage is one such indicator as it varies on the basis of province; Fees decrease with each year of registration to encourage ongoing registration</li> </ul>
<p>Registered migrant workers are not allowed to change their employer unless 2 conditions are satisfied</p> <ul style="list-style-type: none"> <li>❑ The old employer must sign a clearance form allowing their employee to resign and this must be lodged by the worker with the Ministry of Labour within 15 days.</li> <li>❑ The new employer must go with their new employee to the Ministry of Labour within 7 days of the employee leaving their old place of work to apply for a new work permit</li> </ul>	<p>All regulations that restrict the ease of changing employment should be removed.</p>
<p>Application form and work permit only in the Thai language</p>	<p>Application forms and registration papers in Thai and the language of the migrant worker</p>
<p>At the 2002 registration migrant workers were given copies of regulations governing change of employers in the Burmese language</p>	<p>Information regarding government policy and workers' rights available in different languages at registration</p>
<p>Registered workers allowed access to medical care on par with Thai citizens</p>	<ul style="list-style-type: none"> <li>❑ Children of registered migrant workers should have access to healthcare</li> <li>❑ Access to emergency health care regardless of legal status</li> <li>❑ Translators at hospitals and clinics in particular areas</li> </ul>
<p>Children of foreigners illegally resident in the country are allowed to attend Thai government schools for the first 6 years. They are not issued with report cards or certificates of completion.</p>	<ul style="list-style-type: none"> <li>❑ Allow all children resident in Thailand access to education on the same grounds as Thai citizens.</li> <li>❑ Migrant worker schools allowed and with curriculum taught in Thai and in the native language of the children.</li> <li>❑ International agencies and NGOs encouraged and allowed to supplement the Thai education sector to cover the costs imposed by migrant workers</li> </ul>
<p>Repatriation procedures vary</p>	<p>Repatriation of unregistered workers to Burma should be undertaken with extreme caution.</p> <ul style="list-style-type: none"> <li>❑ People should not be sent to the repatriation centre at Myawaddy as some repatriated workers have been used as forced labour, reprisals against opponents of the regime and compulsory HIV testing</li> <li>❑ Stateless people and recognizable opponents of the regime should not be repatriated. Stateless people should be provided with residency and left to languish in detention.</li> </ul>

THAI MIGRANT WORKERS	
PRESENT POLICIES	ALTERNATIVE POLICIES <sup>1</sup>
<p>Labour Recruitment and Protection Act 1985 (Amended 1994) – The legislation governs employment recruitment agencies placing Thai workers in local and overseas employment. It is the main legislation governing Thais proceeding to work overseas.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Employment agencies must be registered</li> <li><input type="checkbox"/> Executives required to be of good reputation</li> <li><input type="checkbox"/> Ceilings on fees</li> <li><input type="checkbox"/> Applications must be submitted to Ministry of Labour for approval</li> <li><input type="checkbox"/> Medical examinations</li> <li><input type="checkbox"/> Employment agency must notify Thai embassy in recipient country</li> <li><input type="checkbox"/> Employment agency must enforce employment agreement</li> </ul> <p>Suppression of Trafficking in Women and Children Act 1997</p>	<p>New and enforceable laws governing employment placement agencies and people smuggling as present legislation is ineffective.</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The 'employment placement' industry riddled with poor governance and corruption.</li> <li><input type="checkbox"/> In practice fees are above those set by the government</li> <li><input type="checkbox"/> Many unregistered agencies and many agencies re-open after losing their license</li> <li><input type="checkbox"/> Punishment minor and rarely occurs</li> </ul> <p>Dissemination of information regarding the legality of employment placement agencies</p> <p>Legal assistance to Thai citizens who have had problems with employment placement agencies or other relevant agencies involved in processing people to work in foreign countries</p>
<ul style="list-style-type: none"> <li><input type="checkbox"/> Half day orientation for workers going overseas</li> <li><input type="checkbox"/> Information campaigns warning against illegal labour migration and trafficking</li> </ul>	<ul style="list-style-type: none"> <li><input type="checkbox"/> Asian Research Centre for Migration has proposed a 2-3 week orientation course</li> <li><input type="checkbox"/> Public information campaign of the potential costs of working overseas.</li> </ul>
<p>9<sup>th</sup> National Economic and Social Development Plan (2002-2006) includes the promotion of overseas employment for Thai citizens</p>	<p>Some commentators have argued there should be no policy promoting the export of Thai workers.</p>
<p>A skill development program for Thais interested in working overseas. This has included short courses in Thai massage and home care.</p>	<p>Improvements and greater equality in the education system in Thailand and post-school training with a focus on basic skills for the workplace</p>
<p>The Small and Medium Enterprise Bank was established by the Thai government in December 2002, to provide credit to small and medium sized businesses. One function of the bank is to provide loans to workers wishing to work overseas.</p>	<p>Good idea in theory but government development banks in many countries often associated with poor governance and corruption.</p>
<p>The Overseas Employment Administration Office is the official 'employment placement agency' for Thais wishing to work overseas. The office maintains a database that was recently automated, of prospective employees for foreign employers. An agreement in principle to establish official employment placement agencies to match Thai workers with Malaysian employers.</p>	<p>Improve the efficacy and usage of the Overseas Employment Office</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> The employment placement services of the office has been under utilized as the processing procedure is complicated and slow</li> <li><input type="checkbox"/> The Overseas Employment Administration Office is under funded</li> <li><input type="checkbox"/> Automated database not fully functioning</li> </ul>

<sup>1</sup> Suggestions for alternative polices taken from Salika Sorapipatana and Taksa Aura-ek, ARCM

PRESENT POLICIES	ALTERNATIVE POLICIES
<p>Fund to Assist Workers in a Foreign Country. The Fund has 3 functions</p> <ul style="list-style-type: none"> <li>❑ Assist Thai workers who find themselves unable to return to Thailand</li> <li>❑ Assist Thai migrant workers in trouble overseas</li> <li>❑ Select and test the skill of workers leaving to work overseas</li> </ul> <p>The money in the fund comes mainly from Thais who obtain employment overseas legally. Each worker has to contribute 500 baht</p>	<p>Improve the efficacy of the operation of the Fund. Allegations that officials in the Ministry of Labour have mismanaged the fund. Cooperation between the Ministry of Foreign Affairs and the Ministry of Labour to properly utilize the fund for its intended purpose.</p>
<p>Bilateral agreement between Thailand and Taiwan governing the employment of Thai citizens signed at the end of 2002.<sup>2</sup></p> <ul style="list-style-type: none"> <li>❑ Complaint centres for Thai workers with translator to be established in large cities.</li> <li>❑ Taiwanese employment agencies trading job vacancies will lose their licenses.</li> <li>❑ Some discussion of the provision of health care arrangements for Thai workers</li> <li>❑ Future discussions to establish state-to-state procedures for the employment of Thai workers to by-pass private brokers and lower fees</li> </ul>	<p>Policy yet to be proved effective, but some problems include</p> <ul style="list-style-type: none"> <li>❑ Taiwan in the habit of using migrant workers as a political tool in 'negotiations' with the government of sending countries</li> <li>❑ Relations with Taiwan occasionally problematic due to Thailand's one China policy</li> <li>❑ State-to-State procedures many prove ineffective because of slow administrative procedures in Thailand and the common problem of graft and corruption</li> </ul>

<sup>2</sup> Taiwan began the official importation of migrant workers in May 1992 with the introduction of the Employment Services Act. Officially workers are imported from Thailand, the Philippines, Indonesia and Malaysia. Thailand is largest single source of migrant workers supplying about 30% of the registered migrant workers in Taiwan. Also about 50% of the registered migrant workers exported each year by Thailand go to Taiwan.

## POLICY GOVERNING MIGRANT WORKERS IN THAILAND: AN EXAMINATION OF POLICY AND ITS CRITICS

*Alison Vicary*  
Macquarie University  
School of Economics and Financial Studies

This volume “*Migrant Workers from Burma and Thailand*” commemorates the tenth anniversary of the implementation of policies in Thailand, to govern migrant workers from Burma. This anniversary provided the opportunity to not only review and evaluate policy and protection measures governing migrant workers in Thailand, but also Thai workers who venture overseas for employment. Migrant workers from Burma far outnumbering, the workers from Laos and Cambodia in Thailand received the most attention from the commentators in the volume. Though, workers from Laos and Cambodia are little mentioned, they are no doubt confronted by similar choices and problems as are Burmese and Thai migrant workers.

Nearly all the participants at the conference were critical of the Thai government’s migrant worker policy and its implementation, though the criticisms arose from quite different perspectives. This introduction aims to overview and evaluate the differing but nevertheless critical perspectives of the participants. The participants’ evaluations of government policy fall into two broad camps. One view argues that government has not been ‘*tough*’ enough, to prevent foreigners from entering Thailand and that harsher policy should be implemented. The other view seems to accept that in the present circumstances many people from Burma will enter Thailand for work. The participants in this camp argue that the present ‘*tough*’ policy only exacerbates the problems for migrant workers and Thailand. In contrast, there was greater unanimity between the participants regarding the flaws in policy governing Thais seeking employment in other countries.

The government of Thailand in 1992 in response to the large number of people from Burma, entering their country introduced a series of policy measures designed to manage and control this movement. Policy since has centred on curtailing the inflow of migrant workers, controlling population movements within the country and limiting what is perceived to be the damage to the Thai economy and national security. However, the policy granting temporary amnesty and the issuing of work permits has provided many migrant workers with improved protection and goes some way to acknowledging the contribution of migrant workers to the Thai economy.<sup>3</sup>

Most of the contributors, even if supportive of the Thai government’s perspective are highly critical of policy shifts and the capacity of the various agencies to effectively implement the stated program. A criticism shared by many of the participants is the lack

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<sup>3</sup> Migrant workers from Burma, Cambodia and Laos dominate the labour force of some of the most important export sectors of the Thai economy – fisheries, rubber plantations, agriculture, food processing and garments. They also work in many other sectors providing the labour for many of Thailand’s lowest paid jobs.

of focus and the failure of government to implement policy with a long term perspective. One perspective on the perceived shortcomings of policy governing migrant workers in Thailand was summarized by Dr. Supang.

*Prior to the 1997 economic crisis the policy aimed to decrease the number of alien workers by 10-20% each year, until no alien workers remained in the country. The idea was to move from labour intensive industries relying on cheap labour, to high-tech industries. However, the economic crisis shifted the focus to the creation of employment for Thai citizens as the unemployment rate increased. Since the economic crisis policy became less clear. Policy is neither focused on the development of high-tech industries or on decreasing the unemployment of Thai citizens. ... The role of alien workers in the Thai economy has not been adequately addressed.*

A criticism shared by the participants from the NGO sector is the Thai government's focus on the containment and control of migrant workers.

*The government has emphasized the containment and control of migrant workers. Containment and control has been justified on the basis that migrant workers prevent a threat to national security and a danger to Thai society. The demand for cheap labour has also encouraged the development of control and containment policies as it creates a downward pressure on wages and conditions. Immigration law and a range of other regulations have been utilized by the government to institute its policy of control that de-emphasizes legislation designed to protect all workers.<sup>4</sup>*

The Thaksin government has tried to respond to some of the criticisms of migrant worker policy, introducing a number of new policy measures, albeit not markedly different from the past. The Thai government in 2003 signed bilateral agreements with Cambodia, Laos and Burma in an attempt to legalize the flow of workers between their respective countries. The agreements aim to legalize entry with workers having to obtain employment through official government channels, prior to leaving their home country. There are as yet no sign that these agreements have been implemented. In October 2001 the Cabinet decided to establish the Alien Labour Policy Committee to decide policy governing migrant workers in Thailand. The first resolutions were issued at the beginning of 2003 specifying 5 guidelines for policy.

- ❑ Thai citizens have priority to employment
- ❑ Employers hiring migrant workers will be required to register
- ❑ Companies receiving Board of Investment concessions will not be allowed to employ migrant workers
- ❑ Residential zones to be established for migrant workers
- ❑ A campaign to promote the employment of Thai citizens

The perspective of the committee is presented by two of its members - the Director of the Ministry of Labour and the Chairman of the Labour Committee in the House of Representatives – in the first two essays in the volume. The essays that follow critique the perspective and policies of the Thai government.

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<sup>4</sup> Adisorn Kerdmongkol from the Thai Action Committee for a Democratic Burma

In contrast to the policies aimed at controlling the entry of migrant workers, the present government has again initiated policies to encourage Thai citizens to become migrant workers. The first attempt to promote the export of Thai workers was with the 5<sup>th</sup> National Economic and Social Development Plan (1982-1986). In accordance with the promotion, the Labour Recruitment and Protection Act was introduced in 1985 to regulate the placement of Thais in overseas jobs. A Labour Recruitment Office was established in the then Ministry of Labour and Social Welfare to assist Thai workers in obtaining legal employment overseas.<sup>5</sup> The Labour Recruitment Office initiated the “Fund to Assist Workers in a Foreign Country” that is now managed by the Overseas Employment Administration Office. Thai workers processed by the office pay 500 baht per year into the fund, established to assist Thai citizens faced with problems when employed overseas.

The policies of the Thai government in this area are also heavily criticized, though the criticisms tend to emanate from very similar perspectives. Dr. Supang pointed out the erratic changes in policy governing Thai citizens in their role as migrant workers.

*There was no government policy to promote Thai citizens going overseas for employment until ... the 5<sup>th</sup> National Economic and Social Development Plan.<sup>6</sup> In 1983 legislation, governing employment agencies involved in placing Thais in employment overseas was introduced. However, because of the large amount of corruption, fraud and misrepresentation perpetrated by the employment agencies, there was no mention of any policy to promote Thais to go overseas for employment in the 6<sup>th</sup> National Economic and Social Development Plan.<sup>7</sup> The government did not want to be so openly associated with the widespread corruption in the industry. ... There is now another change in policy with the 9<sup>th</sup> National Economic and Social Development Plan.<sup>8</sup>*

The latest policy promotes the export of Thai workers and appears to be driven by a desire to decrease unemployment and poverty and an acknowledgement of the benefits of remittances.<sup>9</sup> The Thaksin government in line with the 9<sup>th</sup> National Economic and Social Development Plan has initiated the following policy changes to encourage Thais to seek employment overseas.

- ❑ Training programs to develop basic skills
- ❑ The Small and Medium Enterprise (SME) Bank to provide loans (without collateral) to cover the costs of Thais going overseas to work

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<sup>5</sup> The office is now called the Overseas Employment Administration Office in the Department of Employment. The Department of Employment is part of the Ministry of Labour.

<sup>6</sup> 1982-1986

<sup>7</sup> 1987-1991

<sup>8</sup> 2002 - 2006

<sup>9</sup> Thai migrant workers supply some of the low paid, semi or unskilled labour in Taiwan, Singapore, Japan, Malaysia, Brunei, South Korea and Israel. Data from the Overseas Employment Administration Office for 2000 showed the following numbers of registered workers from Thailand. Japan 3,186; Taiwan 73,031; Hong Kong 3,547; Singapore 16,893; Malaysia 18,379; Brunei 5,208; Note these figures do not include unregistered migrant workers. There are also about 28,000 Thai workers, registered and unregistered in Israel.

Taiwan is now the favoured destination, with about 120,000 -140,000, registered and unregistered Thais working in construction and manufacturing. Thai workers are the largest group, occupying about 30% of the semi and unskilled jobs filled by migrant workers in Taiwan.

- Automated labour database under the control of the Overseas Employment Administration Office

## CROSSING BORDERS

However, before we evaluate the Thai government's policies and its critics, we must have some understanding of the reasons for migration, the impact of policy on the decision to migrate and the costs incurred by those who do migrate. Policy can only be effectively evaluated if these issues are properly addressed. Unfortunately, these issues were bypassed by a number of the participants, leading them to be overly optimistic about the success of containment and control policies implemented by successive Thai governments.

### Higher Incomes, Human Rights and Economic Disaster

A number of the authors recognized that higher income was a motivation for people from Burma to leave their home country. Nakorn the Director of the Ministry of the Labour, stated the "*it is only natural for people to search for employment and better living conditions.*" Ma Suu the young woman who was murdered by her employer, came so she could support her family in Burma. Another migrant worker from Burma stated "*we work as hard as we can to be able to send money back to our families in Myanmar.*"<sup>10</sup> Moreover, the military regime in Burma has facilitated the large movement of people into Thailand, either in search of higher incomes or to escape human rights abuses, civil war and political oppression. Human rights violations also have direct economic consequences that limit the capacity to engage in the activities that are necessary to earn a livelihood. The regime's continuing use of forced labour, forced procurement, land confiscation, heavy and arbitrary taxation have made it impossible in many areas for people to even feed themselves. The problem with human rights violations in Burma is not just the individual abuses of liberty, but the widespread destruction of the economic fabric and life of the country. The consequences stemming from the policies of the military regime was acknowledged by some of the authors, notably from the NGO sector.

The participants who addressed Thai citizens also stated that the search for higher income was an important motivation in the decision to migrate for work. H.E. Kasit the Thai Ambassador to Japan stated that "*poverty and increasing disparities combined with materialism spurred some low income rural families to dream of easy money in a foreign land.*" Dr. Yongyuth, addressed not the motivation of Thai migrant workers, but the social and economic disparities that meant people had to leave their province in search of higher incomes. He argued that policy needed to be directed at these fundamental problems.

*The causes of internal and inter-country migration are income inequality, and disparities in employment and education opportunities. There are about 8-9 m Thai citizens living below the poverty line. The standard of education in Thailand is poor with only 62-64% of the labour force having completed primary school. There is also a large disparity in education levels, coupled with differences in employment opportunities, between the regions in Thailand. There is a strong relationship between low education and unemployment. It is people with low education that migrate overseas or come to Bangkok where they drive taxis.*

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<sup>10</sup> Interview by Dr.Sirinan Kittisubsatit, Institute for Population and Social Research Mahidol University

Thailand and Burma have very serious problems with the distribution of income and the level of national income, respectively. These problems require long-term rationally directed and implemented government policy. The government in Thailand overseeing an economy that has experienced rapid growth in the last 20 years has the capacity to create and implement rational policy. Unfortunately, for the people of Burma the military regime has no concept of the public good and has managed to oversee an economy in continuous decline.

### Controlling Illegal Entry

Migrant workers in pursuit of a better life cross national borders and most governments including Thailand have instituted polices to control and manage the inflow of people. Controls designed to prevent people from crossing borders is a controversial and complex issue not easily resolved. However, Dr. Premsak Chairman of the Labour Committee in the House of Representatives, not afraid of complexity or controversy argued that people smuggling can be curtailed by more restrictive policy.

*Human trafficking has to be eliminated in a similar manner to the drug smuggling policy and the concern should not just begin when people are inside Thailand. .... As illegal cross border migration is a matter of national security the Ministry of Defence must be involved.*

Conceivably, the implementation of harsher policies of control and containment would lower the rewards of migration.<sup>11</sup> However, even if harsher policy does lower the rewards of migration, a number of factors need to be borne in mind when assessing any potential policy benefits. Income differentials between Burma and Thailand are so large that the costs of migration would need to dramatically increase, to limit the flow of migrants.<sup>12</sup> Many people are leaving Burma because of hunger, so any increase in the cost of migration would have to be very large to curtail the movement of these people. Some people 'migrate' to Thailand to escape human rights abuses and political oppression. Under these circumstances the losses from migration are small. In fact, when life and liberty is threatened, the act of migration is itself a benefit. An increase in the cost of migration through the enactment of control and containment policies will not outweigh the misery of oppression, persecution, hunger and the loss of life and liberty.

The long porous borders between Thailand and its neighbours also make the effective curtailment of the inflow of people very difficult. Bandit from Arom Pongpa-Ngun Foundation pointed out the connection between geography, politics and migrant

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<sup>11</sup> Periodic increases in surveillance and round-ups by Thai authorities does not necessarily lead to a decrease in the total flow of migrants. It probably just redistributes the flow of migrants over time.

<sup>12</sup> Most of the international agencies estimate the GNP/capita for Burma to be around USD800. Even if this estimate is reasonable, it does not necessarily reflect the income that most people receive, especially if the government spends of the countries output on the military or just steals it. The following simple calculation highlights that this figure can not reflect the income received by most people in Burma. If migrant workers are paid 100 baht per day and if they work every day of the year then their yearly income = 36,500 baht. At an exchange rate of 42 baht to the USD then a typical migrant worker in Thailand receives the equivalent of 869 USD a year. This is very similar to their income according to official calculations and would hardly explain the large movement of people out of Burma into Thailand.

The GNP/capita for Thailand is around USD 2,700, which works at around 9,000 baht per month. Given the poor distribution of income in Thailand this is reasonable, though much higher than median income. Official estimates for Laos = 350 USD and Cambodia = 270 USD. These figures explain the movement of people from Laos and Cambodia into Thailand.

workers. *There is a long border between Thailand and Burma, hence political problems in Burma will lead to people entering Thailand.*" Adisorn from the TACDB argued that the policy of control and containment has been unsuccessful.

*The government for the last 10 years has continued to institute a series of highly unsuccessful policies in an attempt to stem the influx of migrant workers. Government policies to manage migrant labour have been designed for ... the national security of Thailand. This policy has emphasized controls over the migrant worker population, without any emphasis on the protection of their fundamental rights.*

Thailand itself incurs significant costs from this policy focus as a large amount of scarce resources are needed to marshal the bureaucracy and the various law enforcement agencies. This policy has resulted in the diversion of public resources and provided increased opportunities for corrupt police and officials to garner resources from the public purse and from migrant workers. Many of the participants at the conference, including politicians and government representatives, noted the serious problems of corruption and conflict between various institutional structures.

The policies of governments to prevent people from crossing borders has consequences for individuals attempting to flee persecution, hunger, economic hardship or just those in search of a better standard of living. Regulations on the flow of people ultimately impose hardship and debt, forcing some people to use brokers, human smugglers and criminal networks to cross boundaries. Migrant workers deciding to leave their home country face the problem of how to enter a foreign country and the problem of limited knowledge regarding what awaits them. The problems are exacerbated by the illegal nature of much migration and the severe limits on the availability of correct information due to distance, culture and language. These reasons mean that people can enter into agreements with brokers that cause them to end up in situations, at variance with their expectations.

*The broker charged each of them 20,000 kyat each to be taken to Bangkok. They were told by the broker that the men would earn 3,500 baht/month and the women 2,000 baht/month at a sewing factory. However, they were only paid between 1,100-1,300 baht for 3 months employment.<sup>13</sup>*

As brokers have access to superior information, contacts, etc they are in a more powerful position than the migrant.

*It was agreed between the elder brother, sister and the broker that their sister would be brought to Bangkok for 17,000 baht that would repaid from all their salaries. The agreement was that she would be brought to her elder sister, but was instead taken to a house where she looked after an elderly woman. The young girl was eventually able to contact her elder sister about 3 ½ months after she arrived in Bangkok. The broker subsequently agreed to bring the girl to meet the elder siblings, where he would receive the rest of his fees. However, on the day the broker refused and the elder brother and sister, at the time of the case report, had not had contact with their sister for nearly 7 months.<sup>14</sup>*

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<sup>13</sup> Interpretation and Translation Service (ITS) Case 27 Appendix 2

<sup>14</sup> Interpretation and Translation Service (ITS) Case 29 Appendix 2

Some Thai citizens, like people from Burma seek employment overseas regardless of their legal status. However, it is the duty of government to enact workable laws and encourage their enforcement. Various Thai governments have been unsuccessful in their attempts to effectively regulate the placement of Thai citizens in overseas employment. This issue is addressed by Salika and Taksa from the Asian Centre for Migration.

*There are a large number of employment placement agencies without licenses or have had their licenses revoked. Also these agencies can easily reopen even after their licenses have been revoked. Many employment placement agencies accept fees, without having any overseas positions on their books. Charges levied by employment placement agencies are significantly larger than the actual costs of relocating workers overseas.*

According to Salika and Taksa from the Asian Centre for Migration

*Another problem is the poor bureaucratic practices of the government, the ministries and governmental agencies. ... Poor governance has provided opportunities for people smuggling groups, as the state has been unable to provide adequate services ... Corruption in state agencies.*

Another serious problem associated with migration, particularly illegal migration, are the costs of reversing a decision made on mistaken information. This does not mean that people on the average don't benefit from migration, but this does not resolve the issue of individual migrants who find themselves in serious distress. If people agree to pay a broker to arrange travel to another country, and the situation is different from that promised or envisaged, then the debt effectively, means they are unable to reverse their decision. The Labour Fund was designed to assist Thai workers in this situation, however, poor governance in Thailand has meant that the fund has been inadequately utilised. In contrast, the military regime in Burma actually refuses to accept many of its own citizens, who have migrated illegally, particularly if they are from some of the ethnic minorities.

*[T]he government will still not accept their own people, repatriated from areas such as Mae Hong Son, Chiang Rai and Chiang Mai. During discussions with representatives of the Rangoon government, they openly stated that it is good that these people are leaving Burma as it solves internal problems.<sup>15</sup>*

Some of the participants argued that governments can assist citizens who contemplate working overseas, by providing information about potential problems that they may encounter. Information campaigns that highlight the full costs of migration can help people to make decisions based on more complete information. However, the military regime in Burma will at best pay lip service to any information campaign or program to discourage migration. In fact, a truthful campaign about life in Thailand might actually encourage more people to migrate. Regardless of government policies to control and manage labour migration many people will still choose to take the risks associated with the search for a better life in another country.

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<sup>15</sup> Dr. Premsak Piayara, Chairman of the Labour Committee House of Representatives

## MIGRANT WORKERS AND THE ECONOMY

Despite the best efforts of the Thai government, controls over the inflow of people into Thailand have only met with limited success. The limited success of this policy was indirectly acknowledged by all the participants involved in policy design, given their focus on the detrimental impacts of migrant workers on the economy of Thailand.<sup>16</sup> The following evaluates the positions of these participants at the conference. Though, attention is focused on Thailand the analysis is potentially applicable to any country receiving Thai workers.

### Wages and Unemployment

One member of the Alien Labour Policy Committee views the employment of foreigners as a zero sum game, with migrant workers pushing Thai citizens out of jobs.

*[M]any argue that Thai workers are too selective in their choice of employment. However, there are many Thai citizens who are unemployed even though the official figures for unemployment are very low.<sup>17</sup>*

The resolution of the Committee to remove Board of Investment tax concessions from firms employing migrant workers also reflects the misconception that Thailand does not benefit from the employment of foreign workers.<sup>18</sup>

*The committee believes that Thais do not receive any benefits from factories employing foreign labour. The committee is asking the Board of Investment to support Thai workers, by reconsidering its support for firms employing alien workers.*

More reminiscent of the isolationist mentality of the military regime in Burma, the Director of the Ministry of Labour in Thailand seemed to be suggesting that the economy of Thailand was at the mercy of migrant workers.

*Thailand as a sovereign state must limit the use of foreign workers, as we should rely on ourselves. Thailand can not become dependent on other nationalities, as the country will not know what to do when they stop coming for work.<sup>19</sup>*

The inflow of large numbers of migrant workers into Thailand probably has caused the wage rate for unskilled workers to decrease.<sup>20</sup> However, the wage that actually decreases may either be the wage of unskilled Thais or the wage of other migrant

<sup>16</sup> See Nakorn Silap-acha, Directory of the Ministry of Labour and Dr. Premsak Piayura Chairman of the Labour Committee in the House of Representatives in this volume.

<sup>17</sup> Dr. Premsak Chairman of the Labour Committee House of Representatives

<sup>18</sup> The Board of Investment was created in 1958 to provide assistance to private investors. Companies investing in Thailand can receive certain tax concessions from the Board of Investment, designed to promote local investment and attract foreign investment to Thailand. Thailand was divided into a 3 zone investment promotion system in 1993, with different BOI concessions available for investors in each of the zones. The policy was designed to promote development in rural areas, with the zones determined by the level of industrial development. These zones are essentially the same as those for minimum wages, though there are some differences across time.

<sup>19</sup> Nakorn Silap-acha Directory of the Ministry of Labour

<sup>20</sup> This does not mean that wage decreases need to be observed across time, as other factors also influence the wage. It is more likely that in the absence of the large inflow of migrant workers the wage rate would have been higher.

workers. There is no reason to assume that it is always the wage rate of unskilled locals that is depressed. Evidence from the United States shows that increases in the number of Mexican workers did not affect the wage rate of unskilled locals, but rather lowered the wages of other immigrants.<sup>21</sup>

However, let's accept the worst case scenario for unskilled Thai workers; that their wage does decrease. This means that some unskilled Thai workers may choose not to work at the lower wage rate. Hence, any subsequent unemployment that occurs amongst unskilled Thais is because these workers are not willing to offer their labour at the lower wage. The unwillingness of Thai's to accept employment in some types of jobs is evidenced by the appearance of labour shortages, whenever the Thai authorities increase surveillance, deportation and tighten controls at the border. These shortages illustrate the availability of better employment and are not a reflection of any shortcomings on the part of Thai citizens. Thai citizens are not willing to accept these jobs as they are relatively privileged in having alternative employment opportunities.

*The higher education, skill levels and alternative employment opportunities for Thai citizens means that they are not willing to be employed under existing wages and conditions as agricultural or factory workers.<sup>22</sup>*

Unemployment in Thailand is concentrated in young people with low levels of education that is people with very similar characteristics to migrant workers. However, the provinces with the highest unemployment rates have the lowest and very small numbers of migrant workers. These unemployed Thais have obviously deemed that the costs of migrating to other provinces where unskilled jobs are available are too high compared to the gains from the available employment.

Though, the largest proportion of the unemployed in Thailand are the low skilled, Dr. Premsak suggested that even skilled Thai's should accept the unskilled jobs presently filled by migrant workers.

*Some people have said that Thais are highly educated, so they can't work in construction or dirty or hazardous types of work, though in Brazil even medical doctors drive taxis. This should also be the case in Thailand, where even highly educated Thais should be willing to undertake manual labour.*

Dr. Premsak did not outline the mechanisms that the Thai government could utilize to induce, presumably unemployed skilled and educated Thai workers, to accept manual work. Since, the unemployed in Thailand do not receive social security; the threat of its removal is not an option. Additionally, if skilled workers and their families have enough reserve income that allows them to be unemployed until suitable employment becomes available, then there is no apparent reason or possibility of forcing Thai people into unsuitable employment. The fact that the skilled and educated in Thailand do not accept employment as low skilled, low paid workers is a signal of the health of the Thai economy. Doctors accepting employment as taxi drivers are not a cause for national celebration, but a sign of serious economic problems. Thailand can only hope that Dr. Premsak's vision will not come to pass.

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<sup>21</sup> George J. Borjas (1987) "Immigrants, Minorities, and Labour Market Competition" *Industrial and Labour Relations Review*, April, 382-392.

<sup>22</sup> Dr. Sirinan Kittisubsatit Mahidol University

Thailand, like every other country confronts a competitive international economy and the present structure of the economy, means that it faces competition from cheap labour countries. Presently, it is migrant workers who are assisting Thailand's economy to remain internationally competitive, with low-paid migrant workers employed in some of the countries most important export sectors. Although, Dr. Supang seems to believe that the Thailand's reliance on cheap labour and its failure to become a high-tech nation is due to the employment of migrant workers.

*Prior to the 1997, economic crisis the policy aimed to decrease the number of alien workers by 10-20% each year, until no alien workers remained in the country. The idea was to move from labour intensive industries relying on cheap labour, to high-tech industries.*

However, it is the failure of successive Thai governments to transform Thailand's economy to the next 'stage of development'. According to Bandit from the Arom Pongpa-Ngun Foundation,

*The government and industry do not see the importance of developing a skilled labour force capable of competing in a global market.*

One of the failures of government policy in this area is the poor standard and level of education in Thailand. This is one of the central reasons for Thailand's 'dependence' on cheap labour and its limited economic transformation; not the employment of migrant workers.

*Employers are not willing to replace low cost labour with more productive technology, as the costs of capital are too high, coupled with their belief that neither Thai nor Burmese workers education levels are sufficient to operate the machinery.*

### More Employment and Higher Wages

Migrant workers can have other positives impacts on an economy, even if we still accept the worst case scenario, where the wages of unskilled Thai workers decrease, causing them to leave their jobs. Let's continue to accept the worst case scenario that some unskilled Thais leave their as they are not willing to accept the going wage. Even in this scenario the inflow of migrant workers will still increase national income. A lower wage simply means that employers will hire more workers. Simply because more workers are employed more goods and services are produced. The increased production is synonymous with an increase in national income. In the case of Thailand much of the production undertaken by migrant workers is for the export market. Some of the participants at the seminar failed to acknowledge that migrant workers, even though performing mostly semi or unskilled work are associated with increases in national income.

Rather than causing unemployment amongst Thais, the lower wages that many migrant workers are willing to accept has caused the overall level of employment in Thailand to increase. A simple example is the employment of domestic workers. The steady rise in wage rates due to economic growth in the last 20 years has meant that most Thai households could not afford to employ local domestic workers. This is a common phenomenon where increases in wealth, absent labour migration, have led to the decline

in people working as domestic servants. The low wages that migrant workers are willing to accept has led to the re-emergence of this form of work. There are also many agricultural projects and textile and garment firms that have also become viable due to the low wage of migrant workers.

If migrant workers ceased to enter Thailand, then firms to attract Thai citizens into 'migrant workers jobs' would have to increase wages and improve conditions. Though, an increase in the wage rate *large enough* to attract local workers would probably cause the total number of jobs to decline. The deportation of 1 million migrant workers would not result in 1 million jobs becoming available for unemployed Thai citizens. Nonetheless it could result in the disappearance of significant components of certain sectors in the Thai economy. These sectors could include key export industries such as fisheries, food processing and garments. Certainly agricultural projects and garment firms established to take advantage of cheap labour from Burma will disappear.

Thai workers may have higher wages and more employment opportunities because of migrant workers. The extent to which other employment is created will militate against any losses experienced by unskilled Thai workers. The willingness of migrant workers to accept work lower wages than Thais lowers the production costs for many Thai firms, increasing the output of goods and services and this can cause an increase in demand for more workers. The increase in demand for workers will not just be for migrant workers, even though they are willing to work for lower wages. There is strong anecdotal evidence that Thai and migrant workers are not competing for the same jobs, allowing many new jobs to go to Thai citizens.

*The labour force characteristics and employment profiles of Thai citizens and Burmese migrant workers in the Mae Sot District are notably different. Burmese migrant workers have lower education levels than the local Thai citizens. Most have very little Thai language skills making communication in the workplace and the carrying out of daily tasks difficult. Many of the local Thai citizens migrate to larger urban areas such as Bangkok in search of better employment. The majority of Thais who continue to live in the district own family businesses in the agricultural sector.*

When migrant workers are employed in unskilled work in the fisheries and agricultural sectors, they free Thai's to search for different and better types of employment. In the fisheries sector, low wages paid to migrant workers has led to a boom in the industry, creating an increase in demand for say Thai transport workers, who distribute the output between the various stages in the production process. Migrant workers in agriculture are usually employed in border areas working for Thai farmers, who would otherwise be unable to obtain workers. In the construction sector, Thai citizens no longer perform the hard physical labour, but are now employed in overseeing Burmese workers.

#### Distribution of National Income

Despite, the many positive benefits of migrant workers, there are some possible negative impacts. Let's continue to accept the worst case scenario that the wage rate for unskilled Thais decreases causing some to leave the work force. In this scenario unskilled Thai workers can lose a share of the national income generated in the sectors employing unskilled workers. Unskilled Thai workers who are not willing to work for the lower wage will look for employment elsewhere. The unskilled Thai workers still

employed in the jobs will now be paid the lower wage. This means that these workers will lose some of the national income they previously received as wages.

So who gains the share of national income lost by unskilled Thai workers? Migrant workers (or any other worker who was previously unemployed) capture part of the increase in national income, but it is not migrant workers who receive the income that was once received by unskilled Thai workers. It is the employers of migrant labour who receive the share of national income lost by unskilled Thai workers. Employers also receive a share of the increase in national income brought about by the employment of a larger labour force at lower wages.

So in the worst case scenario, some national income might be redistributed towards capital and away from labour. Arguably this supports the resolution of the Alien Labour Policy Committee to remove Board of Investment (BOI) privileges. Any redistribution of income supports the removal of BOI concessions on the basis of equity, though not on the argument presented by the Director of the Department of Labour.

*Companies receiving Board of Investment concessions should not employ alien workers. Official inspections conducted in Mae Sot found a large number of factories and warehouses receiving Board of Investment concessions were employing mostly labourers from Burma. ... The committee believes that Thais do not receive any benefits from factories employing foreign labour. The committee is asking the Board of Investment to support Thai workers, by reconsidering its support for firms employing alien workers.*

Similarly, Dr. Premsak argues that “*the national good, rather than the profits of individual companies should govern the employment of foreign workers.*” The concept of the national good is not articulated though his argument fails to recognize that even if there is a redistribution of income towards capital, the total level of national income has increased. Any increase in national income is a benefit to Thailand. Policy measures such as the removal of BOI privileges and the imposition of taxes on the wealthy could be used to supplement programs of social benefit, redirecting national income to the poor.<sup>23</sup>

Dr. Yongyuth points out that the large income disparities in Thailand are a major cause of people leaving their provinces and migrating to either Bangkok or another country for work.<sup>24</sup> National disparities in income and employment opportunities are a common cause of internal migration, though not directly related to decisions to seek employment overseas. Rather it is income disparities between countries that motivate decisions to migrate (amongst other reasons). Sometimes, poor income distribution can be responsible for widening income differences between countries for the poorer sections of the population, thus encouraging migration.

There is no evidence that migrant workers have impacted on the distribution of income and the incidence of poverty in Thailand. Even, Dr. Yongyuth does not argue that Thailand’s poor income inequality is related to migrant workers. The provinces with the highest incidences of poverty, as with unemployment have the lowest and very small

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<sup>23</sup> The imposition of extra taxes would need to be carefully considered so it did not result in it being passed onto employees. A discussion of appropriate taxation measures is beyond the scope of the introduction.

<sup>24</sup> The poorest 10% of Thai citizens have been receiving a declining share of national income since 1975/76.

numbers of migrant workers.<sup>25</sup> Poverty in Thailand is associated with households headed by one person over 40 with limited education, who lives in a rural area in the Northeast, and is responsible for children. It is these characteristics that make it difficult for them to leave their villages and search for employment elsewhere. The structural shortcomings in the Thai economy and the disparities in the education system are two of the important causes of poverty in Thailand. Poverty amongst Thais is not related to migrant workers who themselves live well below the Thai poverty line.

## LABOUR RIGHTS

Authors from all sides of the debate often mentioned that migrant workers, both in Thailand and abroad rarely received the mandated minimum working conditions. Another, issue is the egregious abuses of migrant workers particularly those that are not registered.

### The Minimum Wage

A number of the authors, referred to the non-receipt of minimum wages by migrant workers in Thailand. There is no systematic data on the percentage of migrant workers not receiving the minimum wage, though it appears to be endemic. Many Thai workers, about 30% of all wage employees, also earn less than the minimum wage.<sup>26</sup> About 30% are self-employed and some of these may earn less than the minimum wage. Nearly ¾ of all Thai workers with less than primary school education earn less than the minimum wage. There are also large regional variations in the proportion of Thai citizens receiving minimum wages. Bangkok has the smallest proportion of workers earning less than the minimum wage (15-20%), then the Southern and Central Regions (23-25%). In the North and Northeast ½ of all Thai workers earn less than the minimum wage.<sup>27</sup> The regional disparities between the wages of Thai workers are also reflected in the wage disparities of migrant workers.

*The minimum wage in most provinces is 165 baht, but Burmese in Mae Sot are only paid about 80 baht. In Bangkok, migrant workers are paid 100-120 baht, when the minimum wage is 180 baht.<sup>28</sup>*

Dr. Yongyuth stated that “*Thai people in the agricultural sector don’t have income security, are not paid the minimum wage and the work conditions are poor.*” In fact 80% of agricultural workers earn less than the minimum wage. In contrast only about 26-27% of workers in the construction and 15-17% in the manufacturing industry earn less than the minimum wage. This is a common pattern across most countries where the non-receipt of minimum wages tends to be concentrated in certain sectors. The sectors where workers are predominantly not paid the minimum wage tend to have a labour force dominated by unskilled workers. The limited amount of skills needed for these jobs means workers are easily replaced, keeping wages low. So it would not be surprising to find in certain sectors, Thais and migrant workers not being paid the minimum wage.

<sup>25</sup> These provinces are mostly located in the Northeast and include Khon Kaen, Udon Thani, Buri Ram, Si Sa Ket, Surin and Roi Et. Four of the poorest provinces account for about a ¼ of all the poor in Thailand and poverty is concentrated in the rural areas within these provinces. [Thailand Social Monitor (2002) Poverty and Public Policy, World Bank]

<sup>26</sup> Labour Force Survey data 3<sup>rd</sup> quarter 1999

<sup>27</sup> Thailand Social Monitor (2000) “Thai Workers and the Crisis” World Bank p.35

<sup>28</sup> Nay Min a representative for migrant workers from Burma

*Workers in fisheries and domestic services, whether they are Thai or foreigners, are not paid minimum wages and do not enjoy the same conditions as workers in factories.*<sup>29</sup>

However, there is anecdotal evidence that in some sectors Thais will be paid the minimum wage, when migrant workers are not. Also, the anecdotal evidence suggests that most migrant workers are not paid the minimum wage, though the lack of data on migrant workers makes any systematic comparison, between the percentage of Thais and migrant workers not in receipt of the minimum wage very difficult.

The non-receipt of minimum wages by Thai migrant workers in Taiwan is pointed out by Salika and Taska from the ARCM. The basic hourly wage is NT\$66 and the law limits the work week to 48 hours. So the monthly minimum wage in Taiwan is NT\$15,840 or 18,532.8 baht.<sup>30</sup> However, as most Thai migrant workers, work longer hours than those mandated by law, their median monthly wage at 29,000 baht is higher than the minimum.<sup>31</sup> Their wage rate though below the Taiwanese hourly minimum is much higher than in Thailand. Most Thai workers in Taiwan are employed in construction and manufacturing and average monthly wages in these sectors in Thailand are only about 6,000 and 5,000 baht, respectively. This highlights a similarity between Thai migrant workers and their counterparts from Burma, Laos and Cambodia. Though, both groups of workers are often not paid the minimum wage, both receive much higher wages than in their home countries.<sup>32</sup>

Another issue with regard to wages, encountered by some migrant workers is the non-payment of wages. The ARCM reported that some Thai migrant workers were confronted with *“violations of the conditions of the employment contract including nonpayment of wages and additional benefits.”* Adisorn from the TACDB also reported this was a problem for migrant workers in Thailand.

*There are also problems with workers actually being paid as sometimes workers are paid less than the agreed wage, payments are delayed or irregular and sometimes workers are not paid for work completed. Migrant workers also work longer hours than the mandated 8 hours in the legislation, with the average workday, between 10-14 hours.*<sup>33</sup>

There is however, no information on the extent of these violations, but an examination of the Interpretation and Translation Service (ITS) case summaries suggests that unregistered migrant workers are more likely not to be paid for work done.<sup>34</sup> The following is an example of a situation where an employer refuses to pay due wages to unregistered migrant workers.

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<sup>29</sup> Bandit Thanchaisettawut from the Arom Pongpa-Ngun Foundation

<sup>30</sup> Exchange rate in October 2003

<sup>31</sup> Ching-lung Tsay “Labour Migration and Regional Changes in East Asia: Outflows of Thai Workers to Taiwan” IUSSP Conference “Southeast Asia’s Population in a Changing Asian Context” Siam City Hotel, Bangkok, Thailand, 1-13 June 2002. [In October 2003 NT\$25,000 = 29,250 baht]

<sup>32</sup> Migrant workers as already discussed often incur large debts. 43% of Thai workers in Taiwan incurred debts between 80,000 and 140,000 baht and 48% more than 140,000 baht. Ching-lung Tsay “Labour Migration and Regional Changes in East Asia: Outflows of Thai Workers to Taiwan” IUSSP Conference “Southeast Asia’s Population in a Changing Asian Context” Siam City Hotel, Bangkok, Thailand, 1-13 June 2002. There is also the higher cost of living in Taiwan relative to Thailand.

<sup>33</sup> Adisorn Kerdmongkol TACDB

<sup>34</sup> See Appendix 2 Cases 18-21

*The factory had employed about 80 workers, but the employer only agreed to registered 5 or 6 of the workers from Cambodia and Burma. ... The employer was in the habit of waving about his gun, when any of the workers asked for their wages. Anytime, anyone attempted to arrange to change employment, the employer would arrange for their arrest. At the time of this case there were only 20 workers, because the employer had arranged the arrest of 60 workers on the day they were about to change jobs.<sup>35</sup>*

#### Occupational Health and Safety

Occupational health and safety is a serious issue for many migrant workers. The poor conditions in many work places and the long demanding hours mean that migrant workers often incur damage to their health, general well-being and their capacity to earn a living. The poorer and more desperate a worker the more willing they will be to accept employment in dangerous or unhealthy environments. This is simply because the demands of day-to-day survival take priority over the capacity to earn future income. In other situations the worker may not know the damage that is being done to their health or the potential for workplace injuries. One of the participants state that,

*When employers hire Thai workers they have to follow labour protection laws regarding occupational health and safety, an 8 hour day and paid holidays. Migrant workers do not receive any of these benefits.<sup>36</sup>*

However, Thai workers like many migrant workers face occupational health and safety problems. At this stage it is impossible to make any reliable comparisons between the two groups of workers, as the data on workplace injury and illness for Thai workers is unsatisfactory, while data for migrant workers is non-existent. All that can be stated is that it is a serious issue for all low-income workers, as significant numbers of workers are injured in the workplace in Thailand. Though, Thai workers have at least one advantage, the relative ease with which they can change location and employment. Migrant workers have difficulty changing employment due to restrictions imposed by the Ministry of Labour. The Interpretation and Translation Service (ITS) had to provide help to the following worker, among many others, so he could legally change employment to avoid potentially serious damage to his health.

*The worker wanted to move to a new job at a wool factory, because he was suffering health problems due to chemicals used in his factory. He had been sick 10 times in 3 months.<sup>37</sup>*

Legislation to protect the health and safety of workers has been enacted in Thailand, but the measures and their implementation are ad hoc with little coordination between the various government agencies and other interested groups. The best solution to occupational healthy and safety is to prevent illness and injury to Thais and migrant workers and this requires comprehensive initiatives at the state and workplace level, which are yet to occur.

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<sup>35</sup> Case 19

<sup>36</sup> Nay Min, Migrant Workers from Burma Representative

<sup>37</sup> Case 4 Appendix 2

## Enforcement of Mandated Minimum Wages and Conditions

Even though violations of wages and conditions were often mentioned as a problem by the participants, little attention was focused on the mechanisms for their enforcement. Salika and Taksa from the ARCM noted that Thais working overseas have no mechanism to enforce wages and conditions promised prior to departure and appear to be advocating the creation of a government body or official representative as the enforcement mechanism.

*There is no government agency or worker's representative to provide advice and protection in countries where Thai citizens work. Thai workers have limited understanding of their legal rights abroad.*

Adisorn Kerdmongkol from TACDB was the only other participant to mention the need to address enforcement mechanisms.

*[E]ven the existing legislation designed to protect all workers in Thailand can not be enforced as there are not enough labour inspectors to monitor conditions. Mechanisms need to be developed to provide incentives for state officials to enforce labour protection laws.*

Unfortunately, labour inspectors and government agencies have never by themselves proven to be an effective mechanism for the enforcement of labour protection legislation. There are never enough inspectors, they have limited mechanisms to persuade, encourage or threaten employers and are open to corruption. Government agencies also suffer from similar limitations. These enforcement mechanisms to be effective need to be supplemented and trade unions are probably the only viable mechanism for the enforcement of mandated conditions, although the very low rate of union density at less than 3% means that both Thai and migrant workers will have extreme difficulty enforcing wages and conditions. A problem with trade unions is that they are often opposed to the use of migrant workers and this is the situation in Taiwan, where they are a vocal opponent of migrant labour.

Dr. Yongyuth correctly points out, that Thai citizens face problems that are similar to those of migrant workers. The large inequalities in Thailand, the labour market structure, low trade union density and the low-tech nature of employment, impact on both migrant and unskilled Thai workers. Nevertheless Dr. Yongyuth is incorrect in arguing that the problems faced by some Thai workers can be dealt with as a policy issue completely independent of the problems of migrant workers.

*The protection of migrant workers and the need to improve protection mechanisms, notably for agricultural workers has been given a lot of attention. However, we have problems ensuring that our own people are covered by the labour protection act, so how can we dream of protecting alien workers. ... We must protect Thai workers first, and then examine the conditions for alien workers.*

The workplace problems of migrant workers and unskilled Thai workers have to be seen in the overall economic context in Thailand. Any policy designed to improve work conditions for either unskilled Thai workers or for migrant workers, must consider the wider labour market and policy context, otherwise any policy will be doomed to failure.

Much more attention needs to be focused on addressing workable mechanisms aimed to improve conditions and aid the enforcement of wages and basic conditions for both unskilled Thais and migrant workers.

## REGISTRATION

Some of the problems of migrant workers have been alleviated with the policy of registration, providing amnesty and legal employment, to those who have illegally entered Thailand. Anecdotal evidence suggests that unregistered migrant workers are more likely to be the victims of serious violations and abuses.

*The illegal status and the view of many employers that migrant workers are inferior, means that dissatisfaction with employees can result in dismissal and/or physical abuse. Violence is a common method of workplace control and is often employed to quell complaints or protests arising from poor wages and conditions. Women, especially those working in domestic services are subject to additional violations with the prevalence of sexual harassment and assault. Very few violations receive redress in the Thai legal system.<sup>38</sup>*

There are systemic problems in the legal system in Thailand, which cause serious problems for many Thais. However, unregistered migrant workers are more likely to fall prey to the failures in the judicial system, because of their illegal status. The case of the young unregistered migrant worker, Ma Suu, who was murdered by her employer, highlights this vulnerability. Ma Suu was brought to the police station for protection by a Thai citizen, but the police failed to protect her, even though she had already been confined and severely beaten by her employer.

*On the 5<sup>th</sup> day early in the morning at about 6:00 a.m., Ma Suu climbed through a hole in her toilet roof and fled to a field behind the factory. There she asked help from a women working in the field. ... The women then took her to the Khaw Thont Police Station, where upon an officer at the station informed the father of the employer of Ma Suu's whereabouts. ... [T]he employer ordered the two Thai soldiers who had previously beaten her, to go to the police station and tell the police officers that her employer would send Ma Suu to Mae Sot. However, she was taken back to her employer's house, where she was again tortured, chained at the legs and imprisoned in her room. The following day ... she was then taken downstairs in front of her room where her employer poured petrol on her hands and then set fire to Ma Suu. The fire spread to most of the front of her body. The employer then poured acid over her body, below her head. She was then taken back to her room.<sup>39</sup>*

In response to queries regarding the investigation, “*The police commented that Ma Suu entered the country illegally.*” The corruption and incompetence of certain police officers not only caused the death of a young woman, but allowed the crime to go unpunished as the police failed to properly investigate, even though Ma Suu’s employer has been clearly identified as one of her killers.

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<sup>38</sup> Adisorn Kerdmongkol TACDB

<sup>39</sup> Preeda Thongshumnun Law Project Coordinator Forum-Asia and Surapong Kongchantuk Law Society of Thailand

Illegal status also impacts on the capacity of migrant workers to protect and improve their wages and conditions. The need to hide from the authorities can bind employees to employers, because of the costs of finding alternative employment. This can force illegal workers to accept even lower wages and work conditions, lowering the wage rate for all workers employed in the same labour market. Many illegal workers spend years working and living inside the four walls of a factory due to the fear of arrest and the loss of employment, as their wages keep them and their families in Burma alive. There are many illegal migrant workers eking out an existence in the forests, fields, and the peripheries of Thailand's economy.

The extra vulnerability of illegal migrant workers is one reason the registration system should be designed to encourage the maximum number of migrant workers to register. The regulations governing registration are important, if migrant workers are to be encouraged to register. One of the problematic regulations is the limitations on the number of people who can obtain work permits. A ceiling on the number of work permits issued will not lower the number of people illegally resident in Thailand, it only increases the number illegally employed. Also, policy that arbitrarily limits the employment of migrant workers to certain sectors only promotes illegal employment in other sectors.

Some of the rules governing registration actively discourage migrant workers from registering. One such rule is the size of registration fees. The Thai government is interested in maximizing the revenue they obtain from migrant workers. However, high fees are not the same as maximizing government revenue. Lower fees would encourage more people to register and the larger registration numbers can offset the less money obtained from each worker. Fees could be determined by some measure, such as the average wage of unskilled workers in each province. This would not be unprecedented in Thailand as minimum wages already vary on the basis of province. A fairer method would be to base registration fees on the income of the worker, but this would be administratively impossible and only provide another opportunity for corruption. Allowing registration to occur for a short period once a year also encourages migrant workers to work illegally. This also encourages employers to hire illegal workers as the demand for workers is not dependent on the registration period. Registration should be possible at any time in the year.

The present regulations on changing employers effectively ties many registered workers to their employer. The present regulations allow migrant workers to change employment, but this requires the old employer to sign a clearance form allowing their employee to resign, which must be lodged by the worker at the Ministry of Labour within 15 days. In addition, the new employer must go with their new employee to the Ministry of Labour within 7 days of the employee leaving their old place of work. So simply changing jobs requires the consent of two employers and the time of the migrant worker and both employers. It also requires that migrant workers and employers are able to navigate a considerable amount of bureaucratic red tape.

These regulations on changing employers have a number of deleterious effects. It encourages migrant workers and employers to engage in illegal transactions. It exacerbates the low wages and conditions of migrant workers. Importantly, the right to withdraw labour is a fundamental freedom. If an employee is unhappy with the wages and conditions at a particular place of employment, then they should have the right to remove their labour and search for alternative employment. There are alternatives to the linking of work permits to one employer. Work permits could be linked to particular

provinces or even industries without other restrictions. This would still limit the right to freedom of movement, but could arguably be less costly to migrant workers and their employers than the present system. This would not solve all the problems, but it should provide some relief in the case of more extreme abuses, as it would make it easy for migrant workers to find alternative employment.

Employers could also be charged a registration fee, because of the benefits they obtain from the employment of migrant workers. The registration fee should not be linked to the number of workers employed, as this would encourage the employer to pass on the fee to workers, lie about the number of workers employed and encourage the use of illegal migrant workers. Registration fees could alternatively be linked to measures such as taxable profits, turnover or sales. Money raised from employers can then be used to cover costs of health and education for migrant workers. However, the size of the registration fee has to be balanced with the need to encourage employers to register and the potential for the tax to be passed onto employees.

## HEALTH AND EDUCATION

In spite of the importance of health and education, both in terms of costs to Thailand and the basic rights of migrant workers, no one at the conference focused on the issue though nearly all participants touched on the problem. Unfortunately, there were no representatives from the Ministries of Education and Public Health. Important progress for migrant workers was achieved in 2001 when a change in policy, allowed registered migrant workers to access healthcare. Registered migrants workers now pay health insurance, providing them with access to the government's 30 baht health care scheme. Despite the improved access to healthcare for registered migrant workers, Thailand has no systematic policy on the provision of emergency health care for unregistered migrant workers, with access depending on the hospital and the particular doctors on duty. Dr. Supang mentioned that Thai migrant workers have problems accessing health care overseas, but detailed information was not presented.

The debate on the provision of health care and education for migrant workers and the oft mentioned threat to public health would be enhanced, if the costs incurred by the Thai government were available. The paucity of information about the costs, limit the debate over policy and attempts to find reasonable solutions. There appears to be no publicly available estimates of the costs incurred by the health care system. There is no information about the relationship between the costs of providing registered workers with health care and the fee charged for health insurance. There is no information about the usage of health facilities vis-à-vis illegal and illegal migrant workers. Dr. Premsak went some way to acknowledging this problem,

*"[J]ust take a look at medical costs. If we don't know the real number of migrant workers in Thailand it is not possible to provide adequate medical services."*

Moreover, the long-term social costs of the non-provision of health and education to migrant workers and their families, along with the direct costs of the provision must be considered. Dr. Premsak acknowledged the costs to public health, through neglect.

*Thailand ... [has] not given sufficient attention to medical care, sanitation and health. Thailand has incurred costs due to government neglect, but with proper management this will become a minor problem.*<sup>40</sup>

The social costs of the non-provision of education was also addressed, albeit briefly by the Director of the Ministry of Labour, noting the problems of limiting access to children living in Thailand.

*“[T]he government is also concerned for the wellbeing of the Burmese and any of their children born in Thailand. Certain social problems could arise from the limited access that stateless children have to education and health care. This raises the question of the education these children should be allowed to access.”*

Nevertheless, some sectors of the Thai bureaucracy, notably the Ministry of Education, are implementing policy that is in contradiction to this publicly expressed concern. Many of the poorer schools will allow foreign children without documentation to attend, but the Ministry of Education has stipulated that attendance be restricted to standard 6 and that report cards not be provided. The policy of the non-provision of report cards is senseless and churlish. Schools for the children of migrant workers conducted in Thai would provide for integration and would go some way to preventing the creation of an underclass, born and raised in Thailand. Allowing children to also study in their first language would allow people to be more easily integrated into their home countries, if and when possible.

An analysis of the costs to the health and education systems would assist in making more informed assessments of the impact of migration on Thailand and allow for more effective delivery of services. Any analysis of the costs of providing health and education must include public health issues and the long-term social costs, if these services are not provided. International agencies, foreign governments and NGOs should be encouraged to participate in the alleviation of some of the costs to Thailand and the provision of services for migrant workers, both legal and illegal.

## CONCLUSION

The Director of the Ministry of Labour pointed out one of the responsibilities of government in a world dominated by national boundaries.

*Governments of all nationalities should improve the quality of life and not suppress their own citizens, so they can live in their own country. People should not be forced to migrate to find work, where they will encounter many types of problems.*

Unfortunately, the military regime in Burma is one ‘government’ in the ASEAN region that has not carried out its responsibilities. The military regime has proven itself very effective at creating the problem and completely ineffective in being able to find any solution. In fact, the regime must bear the main responsibility for the large number of people leaving the country and for the very low wages and conditions that people from Burma are willing to accept in Thailand. Lack of employment, hunger, human rights abuses, arbitrary taxation, conscription, inflation, forced procurement of crops, lack of

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<sup>40</sup> Dr. Premsak, however, seemed to be suggesting that residential zones for migrant workers were the solution that would allow for targeted public health measures.

inputs and credit for farmers are responsible for the widespread movement of people into Thailand. The deprived, disposed and the hungry from Burma are willing to accept lower wages and conditions than Thais, who don't face such severe deprivation. It is the oppressive and idiotic rule of successive regimes that has created this dire economic situation for many people in Burma.

Despite, the incompetent and oppressive nature of rule in Burma the Thai and other ASEAN governments have not pushed the regime to reform. Thai politicians, officials and academics interested in limiting the flow of people into Thailand should be addressing the political situation in Burma, rather than concentrating on control and containment policies. Unfortunately, the economic problems in Burma have become so dire that the improvements necessary to limit the flow of people will require any new government to implement and maintain deep rooted reforms and for the people of Burma to be patient enough for these to take effect. Even responsible government in Burma will not be able to limit the flow of people into Thailand overnight.

Dr. Yongyuth argued that the government of Thailand had certain responsibilities to enact policies to resolve the problems that lead Thais to migrate from their provinces to the larger metropolitan cities and to other countries. Successive governments in Thailand have failed to invest and develop the human capital of the Thai citizenry. The level and standard of education in Thailand is lower than most countries with a similar GDP per capita. The large income inequalities in Thailand has exacerbated the under funding of the education system. An under funded education system and large regional inequities has meant that significant sections of the Thai population have been effectively denied an education. Dr. Yongyuth is right to highlight the failure of Thai policy in this area.

*The cause of migration is the disparities in Thailand and these must be solved, if the problems associated with labour migration are to be ameliorated. Moreover, the problems in Thailand must receive priority, before we solve the problem of the disparity with neighbouring countries. Alien workers are the victims of economic disparity, but the disparities in Thailand must have priority. The National Economic and Social Development Board should create policies to diminish the inequalities in Thailand and when these are resolved, Thailand can tackle the problem of alien workers.*

However, it is not possible to develop workable policies in isolation. In fact, any improvements in Thailand are only likely to attract more migrant workers to the country. The Thai government can not enact policy that will resolve the economic crisis in Burma or for that matter enact policies that will overnight negate the income differentials between Thailand and Burma or any other country. The large income differentials between countries mean that many countries, especially those with porous borders will have to learn to design workable policies to manage migrant workers. The only sensible policy position is to accept a relatively free flow of labour and for management policy to be determined by regional cooperation. Meaningful cooperation in ASEAN requires a shift on the part of certain member countries to invigorate an almost moribund organization. This requires more than handshaking and numerous television appearances. The government in Thailand is in a position to at least initiate this dialogue and in the words of Dr. Premsak the Chairman of the Labour Committee.

*Thailand should be leading the development of policies governing foreign workers in the ASEAN region. The government has done and is prepared to continue doing a very good job.*

The authorities in Thailand and other countries in the region have to accept the reality that people will continue to migrate to higher income countries and that recipient countries benefit from these workers. This reality must be acknowledged if policy is to promote the interests of Thailand and protect migrant workers. The Thai government should also acknowledge the extensive problems of corruption and maladministration in its own country and most other countries in the region. Policy that does not take this into account will only exacerbate the problem enriching corrupt officials, criminals, people smugglers and damaging the long term prospects for Thailand. Without an honest recognition of these realities, both Thailand and migrant workers will face increased costs limiting the benefits to both groups. The very large income differentials and porous borders in the region, means that labour migration is an intergenerational issue for all the countries in the region. Hopefully, nationalism will give way to a greater respect for the poor and the disposed, who like all of us, only want a good life.

# MIGRANT WORKERS IN THAILAND

PROBLEMS

POLICIES

PROTECTION

## OPENING REMARKS AND KEYNOTE SPEECH

Nakorn Silap-acha  
Director of the Ministry of Labour

During, the past 20 years economic policy in Thailand has been to promote the manufacturing sector, and in particular export industries. The success of this policy created a shortage of labour in the agriculture sector, as Thai women moved into the factories for employment, and away from their traditional agricultural work. This coupled with declining population growth rates, meant the growth in the labour force was less than the increase in the demand for labour. This provided a space for foreign labour to enter Thailand.

The Ministry of Labour is the main governmental agency responsible for migrant workers. This Ministry, along with other organizations, (including international and Thai NGOs), share common objectives, such as the enforcement of migrant worker rights, under the Labour Protection Act, the maintenance of national security and a concern for health, education and statelessness.

### Overview of Government Policy

In the early 1990s, the government began to realize that there were many people in Thailand, who had entered illegally and obtained employment. The government realized that it could not control this movement of people, so in 1992 the cabinet for the first time introduced a series of measures to manage people from Burma already in Thailand.<sup>41</sup> People from Burma who registered for work permits were allowed to work temporarily in 27 jobs in some of the border provinces. The restriction of registration to border provinces was the government's attempt to control the movement of Burmese within Thailand. About 100,000 people registered to work temporarily in Thailand.

The second cabinet resolutions governing foreign labour were issued in 1996, allowing foreign labourers from Burma, Laos and Cambodia to work in 24 jobs in 43 provinces.<sup>42</sup> These cabinet resolutions were the result successful lobbying by construction companies, experiencing a labour shortage due to a boom in the industry. About 290,000 foreign workers from the three countries registered to work legally. The work permits of these workers were subsequently extended for another year in 1997.

The third registration process in 1998 allowed people from Burma, Cambodia and Laos to work 47 jobs in 53 provinces.<sup>43</sup> However, in this year less than 100,000 foreign labourers registered to work.<sup>44</sup> The government at the time was perplexed regarding the

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<sup>41</sup> Cabinet Resolution 17 March 1992. It appears that records of the first registration were not kept. The Thai government had provided many members of minority ethnic groups from Burma with restricted rights of residency in 1977 and 1990. Right of residency was again granted to some ethnic minority groups from Burma, though with greater restrictions in 1995 and 1998. However, these people are required to obtain a work permit if they are to be illegally employed. Implementation though varies greater between provinces.

<sup>42</sup> Cabinet Resolution 25 June 1996; Migrant workers were allowed to register in 8 sectors.

<sup>43</sup> Cabinet Resolution 1 Feb 1998 [Ed]

<sup>44</sup> The official number of registered migrant workers is 90,911. [Ed]

large decrease in the number of foreigners registering to work. In both 1999 and 2000, only 100,000 people registered to work in 37 designated provinces as manual workers.<sup>45</sup>

The cabinet in 2001 allowed for unlimited registration as it wanted to know how many foreign workers were illegally resident in Thailand.<sup>46</sup> Foreigners illegally resident in Thailand were allowed to register for work in all sectors as manual workers, with the majority in fisheries, manufacturing, domestic help and agriculture. More than 550, 000 people from Burma, Cambodia and Laos, the largest number so far, registered for work permits. In 2002, foreign workers were allowed to register for 44 types of activities, including fishing, factories, domestic work and plantations with about 400,000 registering.<sup>47</sup>

However, the number of registered workers is not the same as the actual number of foreigners who have entered Thailand illegally in search of employment. Multiplying the number of documented foreign labourers, about 400,000 by 2, then there are about 800,000 foreign labourers in Thailand. If we multiply the number by 3, then there are about 1.2 million, foreign labourers. This is only a rough estimate, but the government knows there are a large number of alien workers who have not registered.

The large numbers of foreign workers in Thailand is of concern to the government for a number of reasons. The government is very concerned about national security. However, the government is also concerned for the wellbeing of the Burmese and any of their children born in Thailand. Certain social problems could arise from the limited access that stateless children have to education and health care. This raises the question of the education these children should be allowed to access. The government is also concerned about the human rights and employment conditions of foreign labourers in Thailand.

#### Alien Labour Policy Committee

The cabinet has established the Alien Labour Policy Committee, composed of 28 members, that has the responsibility to determine policy governing foreign labour in Thailand.<sup>48</sup> The Alien Labour Policy Committee was initiated in 2001, but it did not become active until October 2002. Prior to the establishment of this Committee, the Ministry of Labour was the secretariat overseeing the agencies that decided policy governing foreign labourers. The Alien Labour Policy Committee in determining policy will consider the issues of national security, health, and education, as they relate to foreign workers. The committee in the determination of policy will accept submissions from various organizations.

<sup>45</sup> Cabinet Resolution 3 August 1999 and Cabinet Resolution 29 August 2000 [Ed]

<sup>46</sup> Cabinet Resolution 28 August 2001

<sup>47</sup> In 2002, there were three different registration periods. 430,074 people renewed their work permits between 24 February and 25 March. Two of the registration periods extended into January 2003. The three registrations resulted in work permits being issued to 409,339.

<sup>48</sup> The nature of the relationship between members on the board is not necessarily harmonious given the political tensions between Korn Dabbaransi and Suwat Liptanponlop. Suwat recently replaced Korn Dabbaransi as head of the Chart Pattana (National Development) Party. The Chart Pattana Party was the party of Chatchai Choonhavan. Dr. Premsak Piayura is a Thai Rak Thai (Thai Loves Thai) Party m.p/

Chair – Deputy P.M Korn Dabbaranis <sup>49</sup>
Vice-Chair – Minister of Labour Suwat Liptapanlop
Director of the Ministry of Labour – Nakorn Silap-acha
Deputy of the Office of the PM
Deputy Directors of 7 other Ministries
Secretary General to the PM
Secretary General to the National Security Council
Secretary National Economic and Social Development Council
Secretary Bureau of Internal Security Affairs
Director of the Bureau of the Budget
Director of National Intelligence Agency
National Police Commander
Commanders of the Army, Navy and Air Force
Director of Department of Employment
Director of the Department of Information
Dr. Premsak Piayura; Chairman of the Labour Committee House of Representatives <sup>50</sup>
3 other persons assigned by the PM

The committee as a result of its first two meetings, decided upon five resolutions that were put to the Cabinet. These five resolutions are designed to solve the problem of illegal migration.

1. Thai citizens should be provided with employment before foreigners. The employment of foreigners should be the exception, occurring only if there is a shortage of labour in particular a sector, such as fisheries.
2. Employers of foreign labour will be required to register to fulfill certain duties, to ensure that they take responsibility for their foreign workers. Employers will be required to provide annual reports about their workers. Three committee members, after visiting Malaysia, accepted the efficacy of a regulation that requires employers to register.
3. Companies receiving Board of Investment concessions should not employ alien workers. Official inspections conducted in Mae Sot found a large number of factories and warehouses receiving Board of Investment concessions were employing mostly labourers from Burma, whose wages were well below the minimum. The committee believes that Thais do not receive any benefits from factories employing foreign labour. The committee is asking the Board of Investment to support Thai workers, by reconsidering its support for firms employing alien workers. Companies can still receive Board of Investment concessions, if there are labour shortages in their particular industry. Israel and Taiwan have similar policies relating to companies receiving concessions from their governments.

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<sup>49</sup> Assigned by the Prime Minister

<sup>50</sup> Assigned by the Prime Minister

4. The creation of zones to determine residential places for foreign workers, so there can be better controls over foreign populations resident in Thailand.<sup>51</sup> Zoning is necessary for national security reasons to prevent events such as those that happened in Cambodia and at the hospital in Ratchaburi.
5. A campaign to promote the employment of Thai citizens. Thailand as a sovereign state must limit the use of foreign workers, as we should rely on ourselves. Thailand can not become dependent on other nationalities, as the country will not know what to do when they stop coming to Thailand for work.

People should work in their own country and stay with their families, as foreign workers are suppressed, cheated and tricked. So foreign workers in Thailand have to be looked after and their human rights protected as we don't want other people to be trafficked or women to give birth in sewerage, as some Thais have done in Singapore. Governments of all nationalities should improve the quality of life and not suppress their own citizens, so they can live in their own country. People should not be forced to migrate to find work, where they will encounter many types of problems. This is the general vision, of the Alien Labour Policy Committee and the reasoning behind the five resolutions.

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<sup>51</sup> An announcement to create residential zones for migrant workers had already been announced for Samut Sakhon at the end of 2002, where about 100,00 migrant workers are presently registered. Though, it is not clear that the measures have actually been implemented. Apparently residential zones were proposed by the governors of some provinces. The committee agreed to the suggestions. As for the expense incurred the province can submit a project to the central government. [Ed]

## RESOLUTIONS OF THE ALIEN LABOUR POLICY COMMITTEE

Dr. Premsak Piayura  
Chairman of the Labour Committee/House of Representatives  
Thai Rak Thai MP

The issue of migrant workers concerns not just Thailand, but the other countries in the region. We are the receiving nation in terms of Laos, Cambodia and Burma, but also a sending country, as Thai workers are going to Singapore and Brunei. For ASEAN to effectively solve this problem we need an integrated policy approach, between all the countries in this region as we have already tried and failed at a country level.

We started negotiations at the beginning of 2002 on an agreement with the Laos government, which was finally completed at the end of 2002. We were about to sign an agreement with the Cambodian government, but the crisis in Phnom Penh delayed the signing.<sup>52</sup> We still need a bilateral agreement with Burma, but negotiations have not really begun.<sup>53</sup> There is still no solution to the internal problems in Burma and the government will still not accept their own people, repatriated from areas such as Mae Hong Son, Chiang Rai and Chiang Mai. During discussions with representatives of the Rangoon government, they openly stated that it is good that these people are leaving Burma as it solves internal problems. Any resolution of the problem requires the serious attention of the Prime Minister.

The government's focus on drug smuggling meant that the foreign worker issue did not receive the attention it deserved.<sup>54</sup> Thailand should be leading the development of policies governing foreign workers in the ASEAN region. The government has done and is prepared to continue doing a very good job. We have a lot of expertise in combating illegal migration, though more attention is still required. I am interested in policies that will solve the problem and as a member of the Alien Labour Policy Committee I would like to suggest five strategies as the solution to the problem of migrant workers in Thailand.

### Unemployment in Thailand

The national good, rather than the profits of individual companies should govern the employment of foreign workers. Employers want to employ foreign workers, as they are willing to work for lower wages and conditions and many argue that Thai workers are too selective in their choice of employment. However, there are many Thai citizens who are unemployed even though the official figures for unemployment are very low. In fact, we do not know the real unemployment rate as different unemployment rates are released by different agencies.

Thailand needs to resolve once and for all the sectors that foreign workers are allowed to legally take up employment. In 2001, ten different types of employment were allowed

<sup>52</sup> Memorandum of Understanding with Cambodia was signed 31/5/03 (Ed)

<sup>53</sup> An Memorandum of Understanding between the Thai government and SPDC was signed on the 21 June 2003. At the time of publication none of the measures had been implemented.

<sup>54</sup> The Thai government did call for a 'war on migrant workers', during the 3 months of May-July 2003.

and in 2002 it was reduced to six sectors.<sup>55</sup> The many changes in this regulation cause confusion about the intentions of the government. The government must also resolve which provinces need to hire foreign workers. If there are only 200 foreign workers in a province, then this suggests that the province does not need foreign workers. Bangkok needs foreign workers the most, followed then by Samut Sakhon and Ranong.

The number of registered workers since 2001 has reduced, but the number of foreigners living and working in Thailand has not declined. If we don't know the real number of migrant workers in Thailand it is not possible to provide adequate medical services. Foreign workers residing in Thailand have health problems and data from the Ministry of Health shows that the population growth rate amongst foreign workers is much higher than the Thai population. There are also the human and labour rights of foreign workers to consider. When our workers go to the Middle East, Taiwan or Japan we want their rights to be protected, so foreign workers in Thailand, probably also want their rights protected.

#### Controls over Employers and Tax Concessions

The continuation of Prime Minister Chatchai's policy of arresting foreign workers only addresses one side of the problem. If employers cooperated with the state then the problems would be easier to resolve, but employers prefer illegal protection methods such as paying kickbacks to the police. Employers don't trust the government's policies, so the government needs to control employers and this can be accomplished by legislating also for their registration. Presently when unregistered migrant workers are arrested, the identity of the employer is often known, but rarely is any action taken because of fear of their power and influence.

The Board of Investment should improve its criteria for promoting investment, so that rights of the workers are protected. Companies regardless of their location should not, receive Board of Investment support, if they are employing unregistered foreign workers or violating labour protection law.<sup>56</sup> An evaluation of foreign companies receiving Board of Investment support should be periodically undertaken. The Industry Ministry has taken over responsibility for the Board of Investment from the Office of the Prime Minister, so foreign investment policy should become more systematic.<sup>57</sup>

#### Residential Zones for Foreign Workers

Another important strategy to control foreign workers are restrictions on where they are allowed to live. For example, in Ranong, the residential areas housing foreign workers are slums, where contagious diseases can be very easily contracted. Different diseases, such as malaria have returned to Thailand, because we have not given sufficient

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<sup>55</sup> The types of employment foreign workers have been allowed to occupy has involved an official conflation of sectors with types of jobs.

<sup>56</sup> This differs from the interpretation of the 3<sup>rd</sup> resolution by Nakorn Silap-acha, the Director of the Ministry of Labour, who stated that any firm employing foreign workers should not receive Board of Investment concessions.

<sup>57</sup> The Board of Investment in 2000 attempted to improve the implementation of its policies after the tax base deteriorated due to the 1997 economic crisis. The transfer of the Board of Investment to the Industry and Entrepreneurs Ministry (previously called Industry Ministry) occurred on 1 January 2003. The transfer occurred because an overlapping of functions between the two agencies. This was accompanied by reforms within the Board of Investment, aimed at improving their performance. [Ed]

attention to medical care, sanitation and health. Thailand has incurred costs due to government neglect, but with proper management this will become a minor problem.

#### Replacement of Foreign Workers

We need to establish mechanisms to replace foreign workers with Thais. An organization that oversees the placement of Thai workers in the jobs of foreign workers is one possible solution. Thais, who are employed in construction and other forms of manual labour, need to have their skills developed. Some people have said that Thais are highly educated, so they can't work in construction or dirty or hazardous types of work, though in Brazil even medical doctors drive taxis. This should also be the case in Thailand, so even highly educated Thais should be willing to undertake manual labour.

During the last 7 years we have made many policy changes governing foreign workers but the basic premises are the same. Regardless of the present policies, the problem can not be solved immediately because of the economic opportunities in Thailand. Many people from Burma are attracted to our country, like our people are attracted to the Middle East, Taiwan, and Singapore. Nevertheless Thailand must control its borders. Human trafficking has to be eliminated in a similar manner to the drug smuggling policy and the concern should not just begin when people are inside Thailand. It seems that everyone is aware of human trafficking in Thailand, except the police. As illegal cross border migration is a matter of national security the Ministry of Defence must be involved. However, when the relevant ministries and agencies are invited to discuss the matter everyone just accuses each other. If we don't eliminate human trafficking along our borders, we will have to continuously discuss this issue.

# POLICY MOTIVATIONS BEHIND THE CABINET RESOLUTIONS OF 2001 AND 2002

*Sumsak Kanchnaborn*  
Representative from the Ministry of Labour

The following provides an overview of the reasoning behind the cabinet resolutions of 2001 and 2002. These resolutions centre on three broad policies of documentation, monitoring and protection of alien workers. The ultimate aim of the resolutions was to control, manage and limit the number of alien workers, eventually allowing for their replacement with Thai workers.

## Cabinet Resolutions – 28 August 2001

- The obtaining of better estimates of the number of aliens in the country was mechanism to assist with the implementation of this goal. The government did not have reliable data on the number of alien workers, but it realized that the number had dramatically increased. Despite this the number of documented alien workers was low at about 200,000. Therefore the resolution in 2001 was to allow for unrestricted registration of alien workers, so we could have a better idea of how many foreigners were in the country and this led to more than 500,000 alien workers registering.
- The establishment of a committee that would design policies governing alien workers, which led to the establishment of the Alien Labour Policy Committee.
- The Ministry of Health extended the 30 baht health care scheme to registered workers. Registered workers now have the same rights to health care as Thais, regardless of the type of illness.
- The Ministry of Labour initiated bilateral negotiations with the governments of Laos, Burma and Cambodia to regulate the flow of workers between their country and Thailand. The Memorandum of Understanding (MOU) involves procedures for documentation of migrant workers and measures to return workers to their home country when their contract of employment has expired.<sup>58</sup>
- The discussions surrounding the resolutions aimed at working out long term policy solutions.
  - The National Security Agency (NSA) was requested to liase with the Thai Development Research Institute (TDRI) to study the structure of demand for alien workers a project that had been discussed for many years.

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<sup>58</sup> Lao citizens can work in Thailand for 2 years. Once contracts have expired they have to wait 3 years before they can apply for another job in Thailand. Workers have to contribute 15% of their monthly wages to a repatriation fund and give the authorities 3 months notice before returning home. The fund will repay the contribution within 45 days of employment terminating to the address in home country.

- The National Economic and Social Development Board (NESDB) was also requested to design a master plan to solve the problem of alien workers.<sup>59</sup>

#### Cabinet Resolutions – 27 August 2002

- The policy of allowing unlimited registration across all provinces in 2001 was continued into 2002. The motivation was again to improve the estimate of the number of foreigners, resident in the country so that the government could improve policy design. The number of registered workers decreased by about 50,000 - 60,000, but not one reported to the authorities as required, that they were returning home.
- An urgent priority was to move forward with bilateral negotiations on the MOUs governing alien workers.
  - The negotiations with Laos were the most advanced and on the 14<sup>th</sup> February 2003 officials from both countries' held discussions in Nong Kai on the final details of the implementation of the MOU.
  - The Ministry of Labour had begun negotiations with Cambodia regarding a draft MOU prior to the incident in Phnom Penh. This delayed the discussions though the re-commenced negotiations proceeded smoothly with the MOU signed on 31 May 2003.
  - A similar Memorandum of Understanding was signed with the government of Burma on 21 June though implementation has yet to begin.
- There was a resolution to establish a database of employers and employees through the use of information technology.
  - The Ministry of Interior was given the task of developing the system.
  - The Migrant Worker Management Office was instructed to create a management plan for alien workers who entered the country illegally including the development of a labour registrar and information system to enable improved control, monitoring and inspection of information on migrant workers.
- Measures were also introduced to streamline the existing registration system.
  - Alien workers were allowed to change employers, when permission is granted by the original employer.
  - Due to the special status of Tak Province and the fisheries industry, extended registration periods were permitted.<sup>60</sup>
  - Registration fees for workers were reduced for those who continued to obtain registration.
- The number of sectors in which newly registered alien workers could be employed was reduced from ten to six.

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<sup>59</sup> The NESDB is the Thai government's central planning agency and prepares development plans for Thailand. The National Economic and Social Development Committee (NESDC) control the NESDB. The NESDC is composed of senior economists and no more than 9 members appointed by the cabinet. The NESDC screens the policies put forward by the NESDB and has the power to recommend economic and social development policies to the cabinet.

<sup>60</sup> Cabinet Resolution 15 September 2002 and Cabinet Resolution 1 October 2002

## MIGRANT WORKER POLICY WHERE TO NOW?

*Dr. Supang Chantavanich*  
Director of the Institute of Asian Studies  
Chulalongkorn University

### Deficient Policy Direction and Management

It is good news that the government might finally has some policy direction, with the creation of the Alien Labour Policy Committee. Many individuals and groups have made recommendations to the government for years in an attempt to obtain a clear policy response. This has been desperately needed as the Ministry of Labour has had thirteen different ministers in the last nine years, with as many changes in policy. Some of the ministers have tried to introduce very restrictive policies and one minister even threatened to kill himself when his policies failed to prevent alien workers entering Thailand.

In 1996 Thailand introduced policy that governs the temporary stay for illegal migrants, from Laos, Cambodia and Burma. There are other nationals illegally working in Thailand, but there is no policy governing these people. There have been six versions of the policy since 1996 with all governments generally wanting to limit the entrance of alien workers and control them once inside Thailand. The other focus of the policy has been to replace alien workers with Thai citizens. In the last four years the policy has become more heavily focused on the containment, arrest and repatriation of illegal alien workers.

Prior to the 1997 economic crisis, the policy aimed to decrease the number of alien workers by 10-20% each year, until no alien workers remained in the country. The idea was to move from labour intensive industries relying on cheap labour, to high-tech industries. However, the economic crisis shifted the focus to the creation of employment for Thai citizens as the unemployment rate increased. Since the economic crisis policy became less clear. Policy is neither focused on the development of high-tech industries or on decreasing the unemployment of Thai citizens. There is no policy focus on developing the service sector or the manufacturing sector. The role of alien workers in the Thai economy has not been adequately addressed.

The changes in policy governing alien workers have led to large fluctuations in the number of workers registering. The number of registered alien workers in 2000 was very low, at only 90,000. In 2001, the policy changed, allowing registration in increased types of work and even introduced a special category that did not require an employer. This allowed employers to come forward and register migrant workers, resulting in a record number of around 568,000. This resulted in a large increase in the number employed in the service sector. In 2002, alien workers with temporary stay status were no longer allowed to work in the service sector being restricted to manual labour in industries such as fisheries, plantation and mining. This partially explained the fall in the number of registered workers. Another explanation for the lower numbers is that despite alien workers being allowed to re-register many employers just continued to employ their workers, without applying for their re-registration.

There have also been many changes in the zoning of temporary stay alien workers. During 1999 and 2000 alien workers were allowed to register in 37 provinces. After, 2000, temporary stays could live and work in any province. However, the areas where temporary stay alien workers are allowed to work should be reassessed from the perspective of Thailand's needs.

The health policy governing temporary stay alien workers has become stricter in recent years. In previous years health checks were not required before registration and this meant that sick workers were sometimes returned to their home countries by their employers. Health checks are now required before registration. Repatriating seriously ill workers is a delicate issue, so the new policy has allowed Thailand to avoid criticism. HIV tests are not compulsory for alien workers to obtain registration. This is not the case in Malaysia, Singapore and Taiwan, where HIV tests are required for registration.

The shifts in policy give the appearance that the government has no idea about what to do next. Surveys and research on the consequences of policy in the following 5-6 months can not direct government policy for the next 5-10 years. The development of policy with a long-term focus requires research that focuses on the impact of alien workers in the last 10 years. We do not understand the demand for alien workers in the Thai economy or the relationship between alien workers and prevailing labour market conditions. However, in October 2003 research will be published to assist the development of long term policy.<sup>61</sup> If the Thai economy needs alien workers, then the National Economic and Social Development Board should in its next plan assess the contribution of alien workers.

In the past 10 years the Thai government, Thai academics and NGOs have been trying to establish mechanisms to manage the issues arising from the large inflow of alien workers into Thailand. The establishment of the Alien Labour Policy Committee is one of the more recent mechanisms to improve management of the problem. The cabinet in 2002 also instructed the Department of Employment to establish the Migrant Worker Management Office, but the office is very small and under-resourced for the size of the problem.<sup>62</sup> The director of the office is aware of the problems that the office is not equipped to handle the administrative tasks. The capacity of the office needs to be improved so it can implement policy and coordinate with different groups within the government and the community.

#### Containment and Control Policy

There are five sub-committees involved in the containment and control of alien workers.<sup>63</sup> The following statistics of the arrest of illegal migrants were supplied by the immigration office and are for the period between 1 November and 31 December 2002.

<sup>61</sup> The author is referring to the research being conducted by the Thai Development Research Institute on the demand for migrant workers in the Thai economy. The Interior Ministry has sponsored this research, with the money coming from the registration fees of migrant workers. [Ed]

<sup>62</sup> This office has 7 sections, 3 of which deal with expatriate workers either highly skilled or from developed countries. The main focus of the other sections is on migrant workers who have entered the country. One of the sections designed to service migrant workers who wish to change employers declared only a couple of months after opening that it can not deal with any more cases because of lack of the resources.

<sup>63</sup> The 5 Sub-Committees are as follows:

- i) Subcommittee for the Management, Inspection and Assessment of Illegal Migrant Workers; President – Mr. Chaipak Siriwat
- ii) Subcommittee for the Inspection and Assessment of Illegal Migrant Workers; President – Deputy of the Ministry of Labour

<b>Sub-Committee for the Management and Containment of Illegal Migrant Workers</b>	
Illegal Migrant Workers Arrested & Processed	33,092
Employers Arrested	120
Persons providing Housing & Hiding Places Arrested	90
Brokers & Traffickers Arrested	210

<b>Ministry of Labour</b>		
Employer/Workplace Inspected		2,763
Illegal Migrants Workers Inspected		13,988
Employers Processed		67
Illegal Migrant Workers Processed		2,442
Burmese – 1,848	Laotians – 66	Cambodians - 496

<b>National Police Office</b>	
Illegal Migrant Workers Arrested	30,656
Brokers & Traffickers Arrested	210
Persons Proving Housing & Hiding Places Arrested	90
Employers Arrested	53

These arrest figures show that the enforcement agencies have been rigorous in their implementation of government policy. There is however some shortcomings in the enforcement policy to consider. Sometimes registered workers are arrested and only a small numbers of employers that hire illegal workers have ever been arrested. Only a small number of cases have ever been filed against employers and most of these are released to continue their business. This aspect of the enforcement policy needs to be improved.

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- iii) Subcommittee for the Prevention and Interception of Illegal Migrant Workers Entering the Country; President – Chief of Staff of the Military
  - iv) Subcommittee for Investigation, Containment, Arrest and Repatriation of Illegal Migrant Workers; President – Police General Thawatchai Pailee, Deputy Commander of the National Police
  - v) Ad Hoc Subcommittee for Negotiation and Repatriation of Illegal Migrant Workers; President – Deputy of the Ministry of Labour

## CASE STUDY OF MIGRANT LABOUR POLICY: THE TEXTILE AND GARMENT INDUSTRY IN MAE SOT

*Dr. Sirinan Kittisubsatit*  
Institute for Population and Social Research  
Mahidol University

The objective of the study was to assess the process and outcomes of the 2001 registration of migrant workers in the textile and garment industry in Mae Sot District in Tak Province. The study considered the views of migrant workers, their employers and the impact of the social and economic conditions on the registration process. The methodology of the study was qualitative involving group discussions and in-depth interviews, with registered and unregistered migrant workers, Thai workers, employers and state officials. The group discussions and interviews took place in December 2001 and January 2002.

Population	Group Discussions	Interviews
Registered Migrant Workers	2	5
Unregistered Migrant Workers	2	5
Employers	2	3
Thai Workers	-	4
State Officials	-	3
<b>TOTAL</b>	<b>5</b>	<b>20</b>

### Registration Numbers

During the registration period in 2001, 562,527 migrant workers registered to work in Thailand. The majority of these, 79% (448,988) were Burmese.<sup>64</sup> About a quarter of the registered workers are located in the Northern Provinces and about half of these are in Tak Province. In Mae Sot District there are about 20,000 registered workers, mostly employed in 88 factories with the vast majority, 8,000, employed in 55 garment and textile factories.

Even though, the number of registered workers in Tak Province - 47,489 - is much lower than the estimated number, 70,000, local officials were content as the number of registrations in each category was close to their estimates. In the industrial sector the estimate for registration was 25,000 with the actual number registering around 23,000. In the service sector, the estimate was 10,000 with registrations at 12,000. However, the estimates for the agricultural sector were much larger at 35,000 than the 15,000 who actually registered.

### Labour Force Characteristics

Most migrant workers in Tak Province, prior to the province's promotion of by the Thai government as an investment zone in 1996, were employed as agricultural and domestic workers. The government's investment promotion policy led to the establishment of

<sup>64</sup> Ministry of Labour and Social Welfare (2001)

about 200 factories in the district, of which 113 employ migrant labour.<sup>65</sup> There are now approximately 100,000 Burmese workers in Tak Province, with most employed in Mae Sot District in the agriculture and manufacturing sectors.

The labour force characteristics and employment profiles of Thai citizens and Burmese migrant workers in the Mae Sot District are notably different. Burmese migrant workers have lower education levels than the local Thai citizens.<sup>66</sup> Most have very little Thai language skills making communication in the workplace and the carrying out of daily tasks difficult. Many of the local Thai citizens migrate to larger urban areas such as Bangkok in search of better employment. The majority of Thais who continue to live in the district own family businesses in the agricultural sector.

#### Wages and Conditions

*The factory does not have a television to watch, radio to listen to, or a newspaper to read. The employers do not want us to watch television or read a newspaper. They want us to work 24 hours a day. We only get to rest for 6 hours a day and all we do is read Burmese language newspapers.* [Registered Burmese migrant worker – female]

The higher education, skill levels and alternative employment opportunities for Thai citizens means that they are not willing to be employed under existing wages and conditions as agricultural or factory workers. Migrant workers are willing to work hard and do long hours of overtime, sometimes until dawn, whereas Thai citizens are often not willing to work beyond 9 p.m. Thai employers prefer Burmese migrant workers as they are perceived as hard workers, obedient and patient. Moreover, Thai employers prefer female migrant workers, believing women are more obedient and compliant so less likely to protest.

Burmese workers are paid between 50-80 baht/day, well below the minimum wage rate of 130 baht/day. The mandated minimum overtime rate is 30 baht/hour with Burmese workers are only paid between 5-10 baht/hour. Wages also depend on the workers on-the-job skills gained from years of employment at the same task. For example, a Burmese worker, with 5-6 years experience on a sewing machine will earn 60 baht for a 9 hour day, whereas the daily wage for less experienced workers, with limited Thai language skills is between 40-50 baht/day.

Workers in the larger factories are paid monthly, but in the smaller factories the workers are paid daily or by piece rates. However, workers paid on a monthly basis have their wages determined by a number of different 'incentive' schemes, designed to prevent labour turnover. Some employers pay their workers for only 20 days with the wages for the other 10 days held as a bond. Other employers pay cumulative bonuses - "*diligence money*" - to workers who are not absent or disobedient. The "*diligence money*" is paid monthly and in multiples - for instance in the first month a worker will receive 100 baht, then in the second month 200 baht and so on.

<sup>65</sup> 15% of these factories employ more than 500 workers, 80% employ between 100-500 workers and 5% employ less than 100 workers.

<sup>66</sup> No information outlining the differences in education levels was provided. [Ed.]

Most migrant workers live in factory provided dormitories, which are segregated on the basis of gender. These workers pay approximately 500 baht/month for the accommodation and the two meals a day provided by the employer. Some registered workers, because of the poor living conditions in the dormitories, choose rental accommodation, paying between 50-150 baht/month. Most employers want Burmese workers to live in the factory provided dormitories as monitoring is easy and most workers prefer these places of abode, as they fear arrest.

#### Healthcare

*When we have a health problem, if we have a card, we can receive treatment from public hospitals, but most of us prefer to see doctors in the camps because Burmese students are working there. Those of us that can't speak Thai will go there.* [Registered Burmese worker – male]

Registered workers have the right to medical treatment from a government hospital for 30 baht a visit. However, many workers do not want to visit Thai hospitals as they have difficulty explaining their problem to Thai health officials, preferring medical treatment from the clinics in the refugee camps, where there is no language barrier. Unregistered workers sometimes gain access to basic health care though they have to take responsibility for other forms of treatment.

*We do not receive any compensation when we are injured at the work place. This is in contrast to Thai workers, who receive medical treatment, wages while absent due to the injury and paid 3 months compensation. Not one Burmese worker has received such care from an employer. Some have even been fired.* [Burmese worker – male]

Migrant workers rarely receive compensation if they are injured at work and are not provided with sick pay in contrast to Thai workers who receive sick pay and workers compensation.

#### The Plans of Migrant Workers

*We work as much as we can to send money back to our families in Myanmar. Sometimes we eat nothing the whole day to save money. Tin Tin has saved about 5,000 kyat and if he works overtime he will be able to send home 10,000 kyat to his family.*<sup>67</sup> [Unregistered Burmese migrant worker – male]

Burmese workers are satisfied with their wages and work conditions as they are higher than in Burma, but most of them do not plan to settle in Thailand wanting to return to their families, when they have saved enough money. Some are even saving to invest in a small garment factory upon their return. Others will return home, when the political situation has improved.

*We hope that one day, the Burmese government will improve and then we will go home immediately. But everybody also thinks that regardless of the quality of the Burmese government, if we have better lives or enough money, we will go back.* [Registered Burmese worker – male]

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<sup>67</sup> 10,000 kyat is equivalent to approximately 400 baht

Others are less certain

*She wants to stay in Thailand forever, because she does not have a home in Myanmar and her mother is in a refugee camp. If one day, her mother wants to go back to Myanmar, she will go with her mother. [Registered Burmese worker – female]*

#### Viewpoint of Employers

The costs of transportation and other inputs have increased and many are concerned about competition in the textile and garment industry forcing down the price of output even further. Employers are also concerned about the government's policy governing migrant workers and the export promotion policy of the Thai government. There are also concerns that the present international political situation and the economy of the United States will adversely affect demand for their products. So employers are keen to reduce labour costs to remain competitive.

Thai citizens are advantaged in sense that there are no language barriers and their skill levels are higher, but as the Burmese are willing to accept lower wages and to work harder, so they obtain employment in preference to Thai citizens. Employers are not replacing labour with more productive technology as the costs of capital are too high and the belief that neither Thai nor Burmese workers education levels are sufficient to operate the machinery.

#### Costs and Benefits of Registration

Registration is preferred by most Burmese workers and their employers, but there are a number of factors that prevent workers obtaining work permits. Factors that impact on employee registration include the nature of the industry, the timing of the registration period and the behavior of their employer. There are other problems and one of the big complaints is that though travel is allowed in the province registered migrant workers are still harassed by police. Workers in the district are not particularly interested in the 30 baht health care scheme as they have access to the health care clinics in the refugee camps. Another, serious shortcoming from the perspective of workers is that there is very limited freedom to change employers without again becoming classed as illegally resident in Thailand. Another, limitation of registration in the district is that the wage rates of registered and unregistered workers are the same. One problem for some employees is that their employers hold their registration card giving them only a copy. This creates problems for workers as they are legally required to carry the original. Some Burmese workers are happy to carry only a copy and keep the original with their employer as cards are also easily lost and sometimes taken by the police. There is still the problem that sometimes the police during inspections of factories destroy the originals.

Many employers prefer to register their workforce, as they don't want the police arresting their employees in the factories and this provides some level of certainty with regard to labour 'turnover'. Most employers in the district pay their employee's registration fees in advance and then deduct repayments from their salaries. This creates problems for employers, who are afraid some employees will leave before they have recovered the registration fee. The low wages of Burmese workers means that it can take 6-8 months before the loan is repaid. Some employers, though not successfully, have tried to collude, to prevent workers who have left employment from obtaining new jobs.

## THE PROBLEMS OF MIGRANT WORKERS FROM BURMA

*Nay Min*<sup>68</sup>

Migrant Workers from Burma Representative

About 20 years ago people from Burma, mostly from the ethnic minorities started entering Thailand for work to escape the suffering in their homeland. Most migrant workers would prefer not to live in Thailand, but the torture and suffering in our own country means that there is no choice. There are still many problems for us in Thailand and most of us continue to live in poverty. There are many issues to address, however I will concentrate on the problems faced by registered migrant workers.

### Registration and Corruption

In 2001, the Ministry of Labour registered 568,000 migrant workers and about 430,000 extended their work permits for another 6 months in Feb-March 2002. The next registration six months later, which allowed for new registration only 400,000 workers registered. This means that at least 160,000 migrant workers failed to re-register. My speculation is that many migrant workers failed to re-register as the benefits were not large enough given the high fees charged.

Despite there being laws to protect registered workers, they are still harassed and arrested by the police. The police know most migrant workers don't speak or read Thai, but they make no effort to distinguish between registered and unregistered workers. Regardless of legal status all workers are treated the same by the police, having to pay bribes or be sent to the border for repatriation. Sometimes employers go to the police when they are dissatisfied or have a problem with any of their employees, causing them to be deported even if they are registered. Some workers are even scared of guards as they can not distinguish between uniforms.

Another reason for non-registration is that some employers will not allow their employees to register as it entails the employer paying two types of 'fees'. One set of 'fees' are kickbacks to the police of between 500-1,000 baht per head and the other 'fees' are advances to employees to cover their registration expenses.

There are many problems associated simply with the registration papers themselves. According to the law, migrant workers must carry their registration papers otherwise we will be fined or arrested. It is also illegal to keep the registration papers of migrant workers, though many employers keep their employees registration papers, believing that registered workers can legally obtain employment elsewhere. A relative was accused and arrested in Sukamvit for carrying a fake work permit. The police asked for 10,000 baht threatening her with deportation. Prior to the arrest she believed her work permit was authentic, but after her encounter with the police she was no longer sure.

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<sup>68</sup> Nay Min is a citizen of Burma of Karen nationality who has lived in Bangkok for many years. He registered for a work permit in 2002.

### Wages and Conditions

Many Burmese workers are paid less than the minimum wage. The minimum wage in most provinces is 165 baht, but Burmese in Mae Sot are only paid about 80 baht. In Bangkok, migrant workers are paid 100-120 baht, when the minimum wage is 180 baht. When employers hire Thai workers they have to follow labour protection laws regarding occupational health and safety, an 8 hour day and paid holidays. Migrant workers do not receive any of these benefits.

Employers are sometimes brutal and temperamental with some workers believing that their situation is no better than in Burma and this has even resulted in some workers killing their employers. Also many migrant workers are killed in workplace accidents with their families either receiving no or little compensation. In Nakhon Pathom Province on the 14<sup>th</sup> February, a migrant worker was asked by their employer to go on the roof to fix a broken fan, resulting in the death of the worker. The employer destroyed the workers registration papers, as registered workers are entitled to workers compensation. The employer only offered the wife 30,000 baht compensation, but the lawyer advised us to accept the offer as the employer was influential and the court case would take years to settle.

### Changing Employers

In 2001, the regulations governing migrant workers was altered allow them to change employers. However, the regulation stipulates that migrant workers must find employment in a week of leaving and that the previous employer must inform the Ministry of Labour within 15 days. If these two stipulations are not met the worker can't register with the new employer. However, many employers' are not concerned about the law and many other employers and migrant workers don't know the law. These new regulations have had the effect of lowering the wages of some newly registered workers, because of the increased difficulty of changing employers.

### Access to Healthcare

The registration fee includes a component for health insurance, but most migrant workers don't speak Thai, so it is very difficult to access health care. Migrant workers are sometimes subjected to discrimination in the public hospital system. For example, a non-Thai speaking registered worker regularly visited a hospital in Bangkok and was provided with the good care. However, on a later visit, a new doctor gave him different medication causing his condition to deteriorate. I acted as an interpreter and we told the doctor that the previous medication had improved his condition. We were told that the medication was only for Thais citizens. Even Thai speakers are subject to discrimination. I was made to wait for more than 6 hours at a public hospital before receiving treatment. A nurse once told an unregistered migrant worker that she could not give birth in a hospital as the child did not have documents. Many Burmese prefer to go to private clinics and pay more because of discrimination in the public hospital system.

Regardless of the severity of the law and the level of enforcement, people smuggling and illegal entry will not stop. Employers will continue to employ migrant workers as they are willing to accept lower wages and conditions. Migrant workers will continue to accept lower wages as long as the situation in Burma does not improve. Employers are not concerned about people smuggling, illegal entry or national security. Employers are interested in lowering costs to maintain market competitiveness. Migrant workers are interested in a better life.

## THE FAILURE OF THE THAI LEGAL SYSTEM: THE CASE OF MA SUU

*Preeda Tongchumnun*  
Law Project Coordinator  
Forum Asia

*Surapong Kongchantuk*  
Law Society of Thailand  
Human Rights of Stateless Persons and Ethnic Minorities Subcommittee

*"I would like to make merit, so in the next life I don't have to face this kind of life."<sup>69</sup>*

Ma Suu was a 17 year old Burmese citizen of Mon nationality. In Burma she lived in Kyaikhto Mon State, with her 69 year-old maternal grandmother and her two younger siblings as her parents were deceased. Due to economic difficulties, Ma Suu came to Thailand looking for employment to support her family in Burma. She was trafficked to Mae Sot in Thailand, where she worked for 7 months. She then obtained employment through an agent with her another employer, where she worked without a work permit as a domestic and child-care worker for a large family. The family owns a furniture manufacturing business in Suratthani, Lopburi.

### The Report of the Witness<sup>70</sup>

Near the end of June 2002 at about 7:00pm, about 3 months after beginning her employment, Ma Suu was accused of stealing a gun, a necklace, mobile phone, a watch, a ring and more than 30,000 baht from her employer's bedroom.<sup>71</sup> While the wife of Ma Suu's employer was showering, Ma Suu was engaged in cleaning the house, where upon finishing her duties she returned to her room. When her employer's wife returned to the main bedroom from the bathroom, she found the possessions missing and called her husband. They went to Ma Suu's room where they found Ma Suu folding her clothes. They accused Ma Suu of the theft and of preparing to flee. Ma Suu stated that she did not steal their belongings and that she folded her clothes this time everyday. Her denial angered her employer, who proceeded to punch her in the face and kick her body. She asked her employer to call her five Burmese male co-workers, to verify her story. The other Burmese workers were then lined up and Ma Suu was then told to point out any others who had participated in the stealing. She replied that neither she nor any of her co-workers had stolen their possessions. The employer ordered the men to return to their room. Ma Suu requested assistance of a translator only for her employer to state that nobody was going to provide her with any help.

<sup>69</sup> Ma Suu during her interview in hospital

<sup>70</sup> Most of the following information came from an interview with a witness to the alleged murder, which was given after the seminar was held. It was decided that it was appropriate to include this information. [Ed]

<sup>71</sup> Originally it was thought that Ma Suu had been accused of stealing a pair of shoes. During the interview by NGO workers at her bedside, Ma Suu had stated that she had been accused of stealing "panat", which is shoe in Burmese. After, the interview with the witness it was realized that she was trying to say "thanat", which is gun in Burmese but was unable to form the *th* sound because she had lost all her teeth from the beatings. [Ed]

One of her Burmese co-workers, Kyae Non then returned observed to the scene of the interrogation. He saw his employer interrogating and severely beating Ma Suu with his fists and legs. After this beating she was locked in her room and one of the Thai workers was ordered to stand guard.

The following day beginning at about 10:00 p.m., Ma Suu was tortured and questioned for about 3-4 hours by two Thai soldiers also in the employ of her boss.<sup>72</sup> The soldiers were ordered to find out who stole their employer's belongings. Ma Suu told Kyae Non (the witness and a Burmese co-worker) about the interrogation by the soldiers, when he was ordered to give her food and water. On the 3<sup>rd</sup> day of the interrogation both Ma Suu and Kyae Non were held at gunpoint. Kyae Non was at the interrogation to translate, during which Ma Suu continued to state that she did not steal any items in the house. At one point her employer kicked her in the face causing her to collapse and fall down on Kyae Non. The soldiers then locked Ma Suu in her room and waited outside. On the 4<sup>th</sup> day, the employer's father told his son to use P.V.C pipe rather than wood for the beatings. The P.V.C pipe eventually broke into two pieces as a result of the beatings

On the 5<sup>th</sup> day early in the morning at about 6:00 a.m., Ma Suu climbed through a hole in her toilet roof and fled to a field behind the factory. There she asked help from a woman working in the field, upon which the woman took Ma Suu to her house provided her with a change of clothes and looked after her for two days. The woman then took her to the Khaw Thont Police Station, where upon an officer at the station informed the father of the employer of Ma Suu's whereabouts. The next day the father came and took her back to his son's house. Some police officers from the station also came with Ma Suu and the employer's father. The police inspected the room from which the belongings were allegedly stolen. During the inspection the wife and the household's cook, continually accused her of the theft. The police officers took Ma Suu back to the station, where she was detained without charge for another night.

The next morning the employer ordered the two Thai soldiers who had previously beaten her, to go to the police station and tell the police officers that her employer would send Ma Suu to Mae Sot. However, she was taken back to her employer's house, where she was again tortured, chained at the legs and imprisoned in her room. The following day, Ma Suu was taken upstairs to her employers and wife's bedroom. In the room was a *medium* who claimed that he could obtain the truth about the theft by speaking to a spirit. The *medium* stated that Ma Suu was definitely the thief. She was then taken downstairs in front of her room where her employer poured petrol on her hands and then set fire to Ma Suu. The fire spread to most of the front of her body. The employer then poured acid over her body, below her head. She was then taken back to her room.

The day after the immolation the employer's wife ordered Kyae Non to feed Ma Suu and to put traditional Chinese medicine on her wounds. However, Ma Suu could not eat anything and was resistant to having the lotion applied to her body because of the pain. Kyae Non stated that she was in so much pain that she could not even bear her hair to be touched. The employer knowing that Ma Suu would die in 2 or 3 days ordered the two Thai soldiers to dispose of her body. Ma Suu was dumped in the jungle and was left for dead. However, she spent the night crawling to the roadside where a passerby found her and took her to the hospital in Uthai Thani. The next day, the employer sacked all the Burmese workers employed at his house.

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<sup>72</sup> Ma Suu's employer is believed to be a former high-ranking Thai army officer.

### Response of the Thai Authorities

The Nation reported the case of Ma Suu on the 8<sup>th</sup> July. Upon reading the article a number of NGO representatives, went to the hospital to visit Ma Suu in the intensive care unit on the 10 July. The doctors stated that 50% of her body was badly burnt, her brain was swollen probably from the beatings, and her teeth were broken, along with a number of other wounds. On the following day Ma Suu was moved to Nakhon Sawan Hospital, where she died five days later on the 16<sup>th</sup> July from infections arising from the burns, after lapsing into a coma.

The Thai Law Society upon learning of Ma Suu's death requested that a forensic investigation be performed at the hospital. This, however, did not happen. The NGO representatives who visited Ma Suu had informed the hospital that they would take charge of the religious rites. However, the arrival of representatives from the Burmese Embassy meant that everyone was ostracized and the forensic examination not performed. The Embassy of Burma surprisingly, acknowledged that the deceased was from Burma and even, took responsibility for the funeral, but this occurred during a particularly bad period in Thai-Burmese governmental relations. Now that the relationship between the two governments has improved the Burmese Embassy has returned to its usual policy of not acknowledging, let alone providing support, to any of their citizens in distress in Thailand.

During the last 6 days of Ma Suu's life, Forum-Asia, FACE and the Thai Law Society tried to improve the chances of the police properly investigating the case. FACE upon the death of Ma Suu, tried to unsuccessfully contact the family in Burma. FACE eventually managed to contact Ma Suu's broker who refused to testify. They have also been following the case up with the police.

The Law Society also requested the medical records from the two hospitals, where Ma Suu, received treatment, only to be told that records could only be accessed by the patient or relatives of the patient. The Human Rights Commission and FACE also attempted to access the records, but were also told that only relatives could access the records. Even the hospital authorities have been reluctant to cooperate with the investigation.

Representatives from several NGOs have contacted the police on numerous occasions who have stated that they would investigate the employer. However, the police investigation has apparently not found any information or evidence, regarding the murder of Ma Suu. Senior police officials informed the Law Society, that the house of Ma Suu's alleged employer, who is apparently very influential, was searched. The police stated that the couple had denied that Ma Suu or any other Burmese had been employed. The police commented that Ma Suu entered the country illegally. The police continue to state that there is no information or evidence, to charge anyone with Ma Suu's death. On the 20<sup>th</sup> February, the police were still insisting that they were investigating the case, but at this stage there had been no progress. The government in Thailand should recognize that there is a problem with the judicial system in Thailand and should intervene to protect those who are vulnerable so that crimes similar to those perpetrated, against Ma Suu do not go unpunished.

## MIGRANT WORKERS FROM BURMA THE THAI GOVERNMENT'S POLICY CONFUSION

*Bandit Thanachaisettawut*  
NGO Researcher  
Arom Pongpa-Ngun Foundation

### Increase in Migrant Workers

The vast majority, about 80-90%, of the migrant workers in Thailand are from Burma, with most having arrived since the late 1980s. There are two main reasons for the large increase in the number of migrant workers entering Thailand in the last 20 years.

The rapid period of economic growth from 1987 onwards occurred without any attention to the development of the agricultural sector. Thai people left the agricultural sector to work in the manufacturing sector, resulting in a shortage of labour, which was filled by migrant workers. The growth in migrant workers itself created a demand for cheap labour, particularly in the border and coastal provinces, though now many Burmese workers are in Bangkok. This is a normal phenomenon as employers seek cheap labour.

The year 1988 brought important political changes in Burma when the military dictatorship cracked down on the pro-democracy movement and increasingly tightened its military control over ethnic minority areas. The long border between Thailand and Burma means that political problems in Burma, will lead to people entering Thailand. Initially, people who fled the military dictatorship did not seek employment, but the longer people remained in Thailand they came to believe that return to their homeland was not possible. The military regime in Burma is an important factor in the exploitation of Burmese workers.

### Policy Response to Illegal Migration

The government in Thailand was not prepared for the large inflow of foreigners and was very slow in designing and implementing policy. The cabinet eventually responded in 1992 by granting amnesty, beginning the policy of allowing illegal entrants to register for work permits. In 1992, these people from Burma were referred to as displaced persons not illegal alien workers. There has been a lot of pressure from industry to maintain the registration system. In 1996, there was a boom in construction and real estate, creating a shortage of labour. The cabinet resolved to grant Burmese, Cambodians and Laotians a one year amnesty if they registered to work in these sectors. This policy has meant the involvement of the state in promoting the use of cheap labour, leading investors to establish firms reliant on low-skilled, low-cost labour. The government and industry do not see the importance of developing a skilled labour force capable of competing in a global market. Later cabinet resolutions centred on the enactment of short-term amnesties, expanded or contracted the type of work and provinces in which alien workers could be legally employed. The cabinet resolution in 2001 was the least restrictive allowing for unlimited registration in all provinces.

However, the annual cabinet resolutions have focused on immediate problems giving the appearance that Thailand is not able to implement policy with a long run and that the government does not really know how to effectively deal with the issue. Policy has been

designed by cabinet members without extensive assistance from the various ministries. The Ministries themselves are seemingly unwilling to accept responsibility for policy design and implementation, refusing even to accept the presence of migrant workers in Thailand. There has been a lot of pressure on the government from academics and NGOs to improve policy in the area. The government in response established a committee in 2001 with representatives from all the relevant agencies in the public sector. The Ministry of Labour was also restructured and a number of sections were established to oversee migrant labour. Also at the end of 2002 for the first time an advisor to the minister was involved in designing policy governing migrant workers.

In addition to the cabinet resolutions, many committees and sub-committees have been established since 1992 with their focus on containment and control. There are presently two sub-committees in this area. An advisor to the Ministry of Labour chairs one of these sub-committees, while the Deputy-Director General of the Police Department chairs the other. All the sub-committees focus on the containment, evaluation or the negotiation with the governments of sending countries.

#### Protection

The central concern of the government regardless of the policy changes is not the protection of migrant labour. The government's policy focus in past 10 years has not been to ameliorate the situation of migrant workers, but to prevent their entry into the country. All the policy mechanisms have been directed towards the prevention and containment of illegal entry. The policy has not placed any importance on the migrant workers themselves.

After 1997, migrant workers began to dominate the fishing industry in the southern provinces. In Bangkok, migrant workers are mostly in domestic services. In the border provinces migrant workers dominate the agricultural labour force. Labour protection laws are least enforced in the sectors dominated by migrant workers. Workers in fisheries and domestic services, whether they are Thai or foreigners, are not paid minimum wages and do not enjoy the same conditions as workers in factories. However, Thai workers in these industries have the choice to work elsewhere. If migrant workers can choose their employment employers will be less able to violate labour protection standards. Also migrant workers need to understand their rights and receive some training so they can work in other sectors. Thai workers were once in the same position, but now Thai workers are able to choose between different types of employment.

The solution in dealing with migrant workers who are overwhelmingly from Burma is to understand the problems created by the military, notably the limited economic development and the limited of rights of all people in Burma. Importance needs to be attached to negotiations at the ASEAN level, with each member cooperating to solve the political and economic problems in Burma. Thailand will not be able to solve its internal problems by concentrating on the demand for migrant workers, without considering the oppression in Burma.

## THE PROTECTION OF MIGRANT WORKERS IN THAILAND

*Adisorn Kerdmongkol*

Thai NGO Network on Migrants and their Families in Thailand  
Thai Action Committee for Democracy in Burma

### Government Policies

The following will address some of the problems and implications of the policy governing migrant workers in Thailand. In the late 1980s many people entered Thailand due to the strong economic growth and the many political problems in Burma. This occurred at time of the Chatichai government's policy of '*turning the battlefield into market places*'<sup>73</sup> and involved a shift in economic focus from '*production for home consumption to export*', Many Thai workers moved into the industrial sector creating employment opportunities for workers from Laos, Cambodia and Burma in the agricultural and fisheries sector.

Migrant workers in Thailand did not begin to attract political attention until 1992. The Thai government told the people of Thailand that the influx of migrant workers would end quickly with intervention by the state and when the situation improved in their own country. However, the government for the last 10 years has continued to institute a series of highly unsuccessful policies in an attempt to stem the influx of migrant workers. Government policies to manage migrant labour have been designed for only 2 concerns; the national security of Thailand and to satisfy the demand for cheap labour, particularly in export industries, such as fishing and textiles. This policy has emphasized controls over the migrant worker population, without any emphasis on the protection of their fundamental rights.

### Violations of Wages and Conditions

Migrant workers in Thailand are entitled to protection, under the Labour Protection Act, though their wages and conditions are well below those mandated in the legislation.<sup>74</sup> In the border provinces many workers only receive between 40-60 baht per day with the highest wages between 120-150 baht per day. Even the highest wage received by migrant workers is lower, than the minimum wage. Female workers usually receive lower wages than their male counterparts. There are also problems with workers actually being paid as sometimes workers are paid less than the agreed wage, payments are delayed or irregular and sometimes workers are not paid for work completed. Migrant workers also work longer hours than the mandated 8 hours in the legislation, with the average workday, between 10-14 hours. These long work hours are encouraging the use of drugs, particularly amphetamines amongst migrant workers.

### Violence, Sexual Abuse and Extortion

The illegal status and the view of many employers that migrant workers are inferior, means that dissatisfaction with employees can result in dismissal and/or physical abuse.

<sup>73</sup> The Chatichai government (1988-1991) presided over a very rapid period of economic growth. The policy of "*turn battlefields into market places*" represented a change in policy focus, where certain countries would no longer be viewed as the enemy, but as places of economic opportunity. Part of this was the Chatichai government's policy of "*constructive engagement*" with SLORC. [Ed]

<sup>74</sup> Labour Protection Act 1998

Violence is a common method of workplace control and is often employed to quell complaints or protests arising from poor wages and conditions. Women, especially those working in domestic services are subject to additional violations with the prevalence of sexual harassment and assault. Very few violations receive redress in the Thai legal system. Some employers have had their employees arrested for immigration violations, when complaints or dissent are voiced.

Government policies ensure migrant workers do not have the power to negotiate with their employers. In Nakhon Sawan and Mae Sot a groups of workers demanded that their employers agree to their registration. The response of the Deputy Prime Minister was to state that these workers should be deported and one newspaper even erroneously reported their demands as a riot. This incident illustrates that the government lack of interest in the protection of migrant workers. The restriction on migrant workers changing employers only increases the power of the employer. Migrant workers should have the right to registration independent of their employers to assist in limiting abuses.

#### Corruption in State Institutions

Another serious problem faced by migrant labour is the endemic corruption in the police force and the state agencies. Police officers and other officials demand kickbacks from both employees and employers even when migrant workers are registered. Migrant workers bear the burden of this corruption as employers simply deduct the bribes from their employees' wages. The state has not even been able to adequately implement its own mechanisms of protection so migrant workers regardless of status are not protected. The state's inability to ensure the integrity of registration limits the number of workers, who are willing to register. This in turn hinders the state's ability to monitor and control migrant labour, creating problems for national security, one of the central concerns of the state.

#### Limited Protection Mechanisms

The government has emphasized the containment and control of migrant workers. Containment and control has been justified on the basis that migrant workers prevent a threat to national security and a danger to Thai society. The demand for cheap labour has also encouraged the development of control and containment policies as it creates a downward pressure on wages and conditions. Immigration law and a range of other regulations have been utilized by the government to institute its policy of control that de-emphasizes legislation designed to protect all workers.

Despite the state's emphasis on control policies, the policies have not worked because the restrictions imposed can not be properly enforced. Instead the policy of control is creating an underclass in Thailand, exacerbating the many difficulties associated with a large inflow of people. The focus on control, rather than protection will itself lead to national security problems, forcing illegal workers underground, fostering crime, social and health problems. Policy should be refocused to ensure greater protection. However, even the existing legislation designed to protect all workers in Thailand can not be enforced as there are not enough labour inspectors to monitor conditions. Mechanisms need to be developed to provide incentives for state officials to enforce labour protection laws. One of these mechanisms should be the monitoring and evaluation of officials, involved in the enforcement process.

### Growth in Prejudice

Another, serious problem is the growth of prejudice towards migrant workers, particularly those from Burma. This prejudice means that foreign workers are increasingly subject to violence, discrimination and harassment. The historical problem between Burma and Thailand is only one of the roots of this prejudice. Other factors contributing to prejudice include language barriers and the perpetuation of the stereotype of migrant workers as dangerous and carriers of infectious diseases. If prejudice develops in Thai society, like it appears to have developed in Cambodia, we may regularly see incidents similar to those that occurred in Cambodia at the beginning of 2003.

# **MIGRANT WORKERS FROM THAILAND**

**PROBLEMS**

**POLICIES**

**PROTECTION**

## OVERVIEW THAI MIGRANT WORKERS

*Dr. Supang Chantavanich*  
Director of the Institute of Asian Studies  
Chulalongkorn University

The Institute of Asian Studies has been conducting research on Thai citizens, working overseas for the last 7-8 years. The following is an overview the pattern of Thai citizens going abroad for employment and the government's policy response.

### Pattern of Migration

Thai citizens started going abroad in 1982, along with many workers from the Philippines, to the Middle East where the demand for unskilled labour was high, particularly in the construction sector. In 1982, about 100,000 Thai citizens went overseas for employment.<sup>75</sup> When the demand for unskilled labour in the Middle East started to decline many workers returned to the ASEAN region, searching for new employment destinations.

The destinations for Thai workers after the decline in the Middle East became Singapore, Taiwan and South Korea. The estimated number of workers going to work in these destinations was about 200,000 a year, but the economic crisis in 1997 caused an overall contraction in the labour market in the region. However, the responses of governments in Singapore and Taiwan meant that the decline in the demand for Thai migrant workers was minimal. In Singapore, Thai's were mainly employed on government construction projects, such as housing and underground trains. As the government did not cut back on expenditure in this area, the demand for migrant workers was relatively unaltered. In Taiwan, most Thai workers were employed in the private sector, but the economy was not badly affected by the crisis. The labour market in Japan is effectively closed for unskilled workers, except for those working illegally. In spite of the crisis the average number of Thai workers going overseas was still about 200,000 per year. The maintenance in the number is partly explained by the decline in foreign investment in Thailand and the subsequent increase in unemployment. The trend, however, is a contraction in the demand for migrant workers in Singapore, Taiwan and South Korea. Though, the new destinations for Thai workers are Malaysia and Israel.

### Government Policy

There was no government policy to promote Thai citizens going overseas for employment until about 10 years after the outflow of workers began, with the 5<sup>th</sup> National Economic and Social Development Plan. The promotion did not appear to impact on the numbers seeking overseas employment. In 1983 legislation, governing employment agencies involved in placing Thais in employment overseas was introduced. However,

<sup>75</sup> From 1990-1995, the share of Thai workers going to the Middle East and Africa decreased from 43.5% to 9.9% but the share going to East Asia increased from 19.4% to 66.5%. By 1999, the share of Thai workers going to East Asia had increased to 88.5%. Taiwan was the preferred destination, employing 64% of Thai workers going to East Asia [Srawooth Paitoonpong (2002) "The Labour Markets: An Overview" Thai Development Research Institute Quarterly Review, 17(1), 6-16]

because of the large amount of corruption, fraud and misrepresentation perpetrated by the employment agencies, there was no mention of any policy to promote Thais to go overseas for employment in the 6<sup>th</sup> National Economic and Social Development Plan. The government did not want to be so openly associated with the widespread corruption in the industry, preferring to just let the market operate.

There is now another change in policy with the 9<sup>th</sup> National Economic and Social Development Plan initiated in 2002, to encourage Thai's workers to seek employment overseas. The policy aims to increase the number of Thai's going overseas, by 100,000 each year. The new policy differs from the old in that it also promotes the protection of these workers. There are many protection issues, such as access to health care and workplace conditions that require attention from the government. So if we increase the numbers going overseas by 100,000 per year, then the policy of promotion will be deemed successful. However, why is the government promoting Thai workers to go abroad to become sacrificial lambs, when our own country has problems with labour shortages?

The government has also decided to develop the skills of Thai workers to meet the market abroad.<sup>76</sup> However, we need to examine the competition that is workers from the Philippines, China and Vietnam. Since, these countries also want to send their workers abroad our workers need to have superior skills, to be able to compete successfully. The competitiveness of our skilled labour will determine the success of the government's promotion policy. One of the strategies for skill development is in the area of Thai massage, but the development of human resources should be focused on supply and demand. If we don't take this into account when we design policy, then it will not be successful. In addition, policy negotiation at the diplomatic level is also very important.

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<sup>76</sup> [National Economic and Social Development Council (2002) 9<sup>th</sup> National Economic and Social Development Plan, Ch.3 p.9, English version]

## INEQUALITY IN THAILAND: THE CAUSE OF LABOUR MIGRATION

*Dr. Yongyuth Chalamwong*

Research Director for Human Resources and Social Development Program  
Thai Development Research Institute (TDRI)

Most commentators, when addressing the issue of alien workers, concentrate on the costs to the receiving country and the alien worker. However, the following will address the problems in Thailand that cause people to either internally migrate or go to another country for employment. The causes of internal and inter-country migration are income inequality, and disparities in employment and education opportunities. There are about 8-9 m Thai citizens living below the poverty line. The standard of education in Thailand is poor with only 62-64% of the labour force having completed primary school. There is also a large disparity in education levels, coupled with differences in employment opportunities, between the regions in Thailand. There is a strong relationship between low education and unemployment. It is people with low education that migrate overseas or come to Bangkok where they drive taxis. Many families have to send their children away from the village for higher education. Despite, the large problems associated with shortcomings in the Thai education system, the government has paid little attention to this problem. Another, root cause of labour migration is the increase in greed in Thailand - *“our neighbours have this, we want to have it.”* Many problems are created because people are willing to leave their provinces and families, in order to obtain material goods. There are even some people, who are willing to sell their children and relatives to be able to obtain an easy income. In the rural areas some people are taking short cuts to increase their social status and wealth.

### Social Problems

Limited access to education results in some people having to work in massage parlours. When girls have no education, and if they are attractive, they come to Bangkok and work in massage parlours. Others work in traditional massage, but this is not common, as there are very few traditional massage parlours. Many people working in traditional massage have not even been trained for the 3 months, necessary for basic training. Disparities in education are also an important problem for the many poorly educated Thai workers who go abroad in search of employment. Domestic workers from Thailand and Indonesia working in Hong Kong are the lowest paid migrant workers.

Many of Thailand's social problems are the result of labour migration. When young people move to Bangkok they live in dormitories and because of distance, living without parents, relying on friends, and contact with the opposite sex, loneliness and poor judgement they lose their dignity and pride. Innocent children, who have migrated to Bangkok, lose their virginity and then turn to professions, where they can earn money quickly. Migration means that people become accustomed to not seeing family members, increasing divorce rates and other social problems such as drug addiction. Divorce rates have increased, particularly in the Northeast, because people marry when they are only 16 or 17. Poverty in Thailand must be addressed, otherwise migration will continue, along with the resulting social problems.

## Policy Solutions

The need to improve protection mechanisms for alien workers, notably in agriculture receives a lot of attention. However, we have problems ensuring that Thai citizens are covered by the Labour Protection Act, so how can we dream of protecting alien workers in the agricultural sector. Our own people in the agricultural sector don't have income security, they are not paid the minimum wage and the work conditions are poor. Thai workers are reluctant to work in sectors such as agriculture and fishing, as wages and conditions in other sectors are better. The solution has been to hire alien workers as they will work for low wages and there is limited pressure to enforce labour protection standards. However, the problem should we should be resolved, by improving the wages and conditions in the agricultural and fisheries sector. Our first priority is to protect Thai workers and only then deal with the conditions for alien workers. Though, if we employ alien workers, we also have to provide protection.

The cause of migration is the disparities in Thailand and these must be solved, if the problems associated with labour migration are to be ameliorated. Moreover, the problems in Thailand must receive priority, before we solve the problem of the disparity with neighbouring countries. Alien workers are the victims of economic disparity, but the disparities in Thailand must have priority. The National Economic and Social Development Board should create policies to diminish the inequalities in Thailand and when these are resolved, Thailand can tackle the problem of alien workers.

## THE PROBLEMS AND SOLUTIONS FOR THAI WORKERS IN JAPAN

*H.E. Mr. Kasit Piromya*  
Ambassador of Thailand to Japan

Japan's economic growth during the 1970s and 1980s brought the country wealth and prosperity. This created a demand for cheap labour in construction, factories and in dirty and dangerous jobs. Japan does not have a policy of allowing unskilled foreign labour, but many foreign workers have entered Japan illegally in search of employment and higher wages than they can obtain in their home country. The Japanese authorities began to clamp down on illegal migrant labour in 1991. This is reflected in the number of Thais workers entering Japan, peaking in 1991 and declining thereafter.<sup>77</sup>

Poverty and increasing income disparities combined with materialism spurred some low income rural families to dream of "easy money" in a foreign land. While male labourers entered Japan willingly to work in factories and labour intensive industries, female labourers mainly worked in prostitution. While many of these women came to Japan with the knowledge that they would enter prostitution, most did not understand the suffering they would endure. They were enticed to Japan by the promise of quick and easy money to improve the status of their families. They did not realize the inhumane conditions they would endure, due to the transnational cartels or criminal elements that had lured them to Japan. Hence, these women are not just illegal workers or migrants in Japan, but are victims of human trafficking.

For most of the women who come to Japan to work as prostitutes the process started in their home villages and towns in Thailand. Many villages receive visits from people claiming that there are tremendous job opportunities in Japan. Often, the claim is that they can earn a good steady income by working in restaurants and snack bars and "entertaining" guests on the side. For a certain fee, the agents claim that they will take care of all the arrangements to send the women to work in Japan. The factor that sways families is usually examples, including neighbours, who are sending home a steady income stream, allowing them to buy new household goods, electronic equipment, perhaps even a pick-up truck. The family is enticed into encouraging, supporting or pressuring the daughter to take up the offer.

Human trafficking in Japan is controlled by transnational criminal elements – "snake head" gangs –, which have contacts and collaborators in the region. These groups have developed various methods to overcome or circumvent the strict enforcement procedures of the Japanese immigration authorities. Prior to 1991, the usual method of entry was to enter with a tourist visa and then overstay. This became more difficult as the Japanese authorities increased the scrutiny surrounding tourist visas, particularly for young women. This has created an increase in the use of false documentation including false passports, false identities by the use of legitimate passports with valid visas or residency permits and the use of passports of other countries. For those who have

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<sup>77</sup> The number of illegal workers in Japan began to decline in 1993, due to a tight labour market. South Korea, China, the Philippines and Thailand, respectively export the largest numbers of illegal workers to Japan. However, Thais are disproportionately arrested attempting to enter Japan, because of problems with documentation. [Ed]

entered Japan previously, another method is to legally change one's identity at the local district office in Thailand and then apply for a new passport.

As direct flights from Thailand came under heavier scrutiny there developed alternative routes and methods for entering Japan. The combination of false documents with entry from a third country such as South Korea or Singapore became popular. Another method is to use false documents showing that a couple is married, particularly when the 'husband' can legitimately enter Japan.

The majority of women entering Japan illegally are knowingly seeking employment in prostitution. However, most do not realize the actual living and working conditions until they arrive. Many women came on the promise of work in restaurants and 'snack bars' but are then forced to provide sexual services to repay their travel expenses. Others end up in brothels, where they have to 'service' no less than 10 customers per day.

The greater vigilance of the Japanese government has made illegal entry increasingly difficult, but the demand for cheap labour and prostitutes continues. This provides a lure for men and women from developing countries, desperate to earn higher incomes to improve the living standard of themselves and their families. This has created the opportunity for criminal organizations to charge exorbitant fees, by assisting people to enter Japan illegally. The cost of entry into Japan for men is between 500,000 – 900,000 Yen. Payment comprises an initial deposit with the remainder incurring interest to be paid in installments from their earnings in Japan. For women, who are expected to work in prostitution for which there is a much higher return, the fee is much higher, between 4,800,000 – 5,000,000 Yen.

Male labourers work 10+ hours per day in the construction and manufacturing industries, earning on average 800-900 Yen per hour. Their working and living conditions are hard and their illegal status makes it difficult to obtain insurance and housing benefits. The "snake head" gangs and other criminal elements often scheme to prevent the labourers from clearing their debt, including getting them fired, then asking for additional fees to help them secure a new job. This creates the situation where the labourer has debt to both the initial agent and a new agent.

For women in prostitution, the working conditions are often hell. Most prostitutes have additional expenses apart from the cost of entry. For 'snack bar' prostitutes, there are housing and food expenses charged by the snack bar owner of up to 100,000 Yen per month. The 'snack bar' prostitutes are usually forced to receive 3-5 guests per day. The women earn at least 20,000 Yen per guest, while the 'snack bar' owner pockets 10,000 Yen per guest.

For women working in brothels, the room rental rate is 45,000 Yen per day, along with food and bath charges of 1,000 Yen and 300 Yen, respectively. There is also a protection fee of 35,000 Yen per month. A woman earns 10,000 Yen per guest receiving a maximum of 12-15 guests per day. A failure to earn enough each day to pay expenses results in a fine of 10,000 Yen.

There should be extensive efforts to halt the trafficking of women to Japan. Prospective workers should be provided with enough information so that they have a realistic picture of the living and working conditions in Japan. Most women, probably 80% are aware that prostitution will be their source of income. However, most women do not realize the

degree of difficulty that they will face, including exploitation by their agents, the enormous debt and interest repayments, the limits on personal freedom, the lack of health insurance and the sheer workload, they have to endure to pay off their debts. The family and daughter, when making the decision to go to Japan only consider the resulting income, ignoring the unknown physical and psychological costs, and loss of human dignity. People should have more information regarding the costs and benefits of their choice.

Even though, the Japanese have increased their efforts to prevent illegal entry, many people from Thailand still have little difficulty in entering Japan. This illustrates that simply erecting barriers will not solve the problem of human trafficking. The problem is transnational and hence requires cooperation and coordination at the local, national, regional and multilateral levels. Cooperation has also been sought at the multilateral level. The Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, sought to strengthen cooperation between the UNHCR, the International Organization for Migration and 36 countries including Japan and Thailand.<sup>78</sup> At the national level, there are ongoing exchanges between the law enforcement authorities of Japan and other countries including Thailand. At the local level, the Thai Embassy and Consulate in Japan are in constant contact with local law enforcement, immigration, health and social welfare authorities to deal with the victims of trafficking. The Embassy has conferred with the Japanese government on possible approaches to minimize trafficking as well as the facilitation of the safe return of trafficking victims to Thailand. These channels are somewhat effective, but there needs to be tighter coordination, collaboration and exchange of information, across all three levels.

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<sup>78</sup> February 2002

## HUMAN SECURITY ISSUES FOR THAI MIGRANT WORKERS

*Salika Sorapipatana and Taksa Aura-ek*  
Asian Research Centre for Migration  
Institute of Asian Studies  
Chulalongkorn University

The problems for Thai citizens who wish to find work overseas starts before they even leave the country. These workers also experience a range of problems in the countries of employment and then when they finally return to Thailand. The following will outline the problems experienced in the employment cycle of Thai citizens, who leave their own country in search of work overseas.

### Problems Prior to Leaving

There are a number of shortcomings in the structures that govern Thai citizens wanting to work overseas. One of the failures in the governance structure is the inadequate regulation and improper practices within the employment placement industry. Poor regulations have created the following problems in the industry

- ❑ There are a large number of employment placement agencies, without licenses or have had their license revoked. Also these agencies can easily reopen even after their licenses have been revoked.
- ❑ Many employment placement agencies accept fees without having any overseas positions on their books
- ❑ Charges levied by employment placement agencies are significantly larger than the actual costs of relocating workers overseas

Another governance failure is the designed to prevent people smuggling is outdated and ineffective opening many loopholes for those involved in people smuggling. The legislation has resulted in the following

- ❑ It is almost impossible to lay charges against those really benefiting from people smuggling
- ❑ On the rare occasions that someone is successfully prosecuted the punishment is inadequate
- ❑ When compensation is paid to the victims is less than any loss incurred.

Another problem is the poor bureaucratic practices of the government, the ministries and governmental agencies. This includes the following

- ❑ The state has not developed a coherent strategy for Thai citizens going overseas for employment
- ❑ The Labour Fund has been inadequately utilized<sup>79</sup>
- ❑ Poor governance has provided opportunities for people smuggling groups, as the state has been unable to provide adequate services
- ❑ Corruption in state agencies

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<sup>79</sup> The Labour Fund was established to assist Thais working overseas. Thais going overseas legally have to contribute 500 baht to the fund. At the beginning of 2002, the fund held about 600 million baht. However, there have been allegations of corruption and mismanagement by high ranking officials in the Labour Ministry (Bangkok Post "Ministry's spending under panel scrutiny – Complaints centre on misuse of funds" 28 March 2002.) [Ed]

### Employment Problems Overseas

The problems for Thai citizens working overseas centre on poor working conditions, the difficulty of enforcing the conditions of work contracts and their limited access to social welfare.

- ❑ Human trafficking occurs when people are treated as commodities. For example, in Taiwan the construction companies 'sell' their surplus workers. The Thai workers are generally paid 1,500 baht per day, but when they are sold they are only paid about 500 baht per day. This selling of Thai workers by transnational human trafficking agencies is a form of modern slavery.
- ❑ Many Thai women are tricked into prostitution.
- ❑ Violations of the conditions of the employment contract including nonpayment of wages and additional benefits. Frequently Thai citizens working abroad do not receive holidays; overtime rates are less than that required by law, long work hours and dangerous work conditions. Occupational health and safety conditions are poor. Women face particular problems including sexual harassment and abuse.
- ❑ There is no government agency or worker's representative to provide advice and protection in countries where Thai citizens work. Thai workers have limited understanding of their legal rights abroad. The difficulties Thais face in accessing legal advice and protection provides business opportunities for brokers, but results in higher fees for Thai workers.

### Problems upon Return to Thailand

After returning to Thailand with their savings, workers have to readjust to Thailand, including finding suitable employment. These returned migrant workers often have the same problems they had prior to leaving for work overseas.

Returned migrant workers do not have security of income and employment and in particular people from the rural areas are unable to make the most of their work experience overseas.

- ❑ The state and the businesses do not recognize the work experience and skills of returned workers, forcing these workers to return to low skilled and low income employment.
- ❑ The low skilled, low income jobs available to returned workers encourages them to return overseas
- ❑ Some workers upon returning to Thailand may have savings of between 300,000-500,000 baht. However, limited money management skills and poor investment knowledge usually means that the savings are squandered on consumption goods. This then encourages them to return to work overseas.

The separation resulting from employment overseas is increasing the divorce rate. When the women returns home, the husband has a new wife or when the husband works

abroad he may find a new spouse.<sup>80</sup> This has implications for the children as they are brought up poorly without a secure family life. This can produce aggression and personality disturbances and increase the risk of involvement in drugs and other temptations.

### Policy Suggestions

The state must have coherent policies and strategies that can be publicly evaluated. At present the government has no policies for unskilled workers when they return from work abroad, accepting the outcome of the market. Information about human trafficking is not disseminated, so people don't understand the potential dangers involved in working illegally overseas. People seeking work overseas do not know the legal status of employment placement agencies. The penalties for fraud and misrepresentation in this area are minor and the inability to find the people responsible contributes to the problem. The law in Thailand is outdated allowing many companies, even when prosecuted to easily reopen. Investigations by police lack transparency and sometimes government officials and politicians are involved. The central problem is that the government is not protecting the human rights of workers.

We have four major policy suggestions to alleviate the problems for Thai workers going overseas.

1. In order for Thailand to be competitive, the government must implement policies to improve and certify the skills of people.
  - The state has failed to enable Thai's to find decent employment opportunities overseas as there are no basic skills programs available. Other countries have a demand for skilled labour, but Thais lack the skills and training. For example in Japan, when there was a demand for skilled workers, we were only able to send about 1,000 workers. We need information regarding the demand for labour in each country and to develop skills to meet this demand. The Ministry of Health in collaboration with the Ministry of Labour have a program to train people who want to go into the Thai massage profession. The state should be assertive in developing the skills of Thais who want work in areas such as traditional massage and assistant nurses so they can work overseas.
  - Workers should be prepared before they leave and the present half-day orientation is inadequate. We are developing a manual to help people and have emphasized the need to learn the language and understand the culture. We have also included information about their rights as workers and who to contact and petition when they have problems.
  - Returning Thai workers should be provided with a certificate by the state or undergo a skills evaluation process, so they can find better employment in Thailand. The government could also become involved in assisting returning workers to establish their own small business, as most workers would like to have their own small business. The state needs to create more employment opportunities for skilled workers returning to Thailand by investing in public works programs.

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<sup>80</sup> No data or analysis was presented to support the argument that migrant workers have higher divorce rates and delinquent children than similar groups in Thailand. [Ed.]

2. The legislation governing employment placement agencies needs to be overhauled. There have been minor revisions in the law, but the situation has changed so much in the past two decades that more is needed. Legislative revisions should be undertaken to improve the situation for people attempting to work overseas.
  - An independent organization should be established to monitor the problems in the employment placement industry and find employment overseas for workers.
  - The government should monitor private employment agencies more closely and control the fees these agencies charge. Severer penalties need to be introduced and improved opportunities for people who have been conned to be able recover their money.
3. The governance and efficiency of existing state structures and mechanisms to assist Thai citizens bypass private employment placement agencies needs to radically improved
  - The state should disseminate information to the general public, including the legal nature of employment placement agencies.
  - The governance of the Labour Fund should be improved and this requires the Ministry of Labour and the Ministry of Foreign Affairs to cooperate. At present the Ministry of Foreign Affairs is the only ministry involved in assisting Thai workers when they face problems overseas.
4. There needs to be improvements in the mechanisms between countries governing the flow of workers. Governments in sending countries should impose a quota and controls on the wages and conditions that their citizens will receive when they work overseas. The receiving country should provide advice, monitor the quota and enforce wages and conditions. The Philippines is already implementing some of these measures. We also need to explore ways that governments and the United Nations can collaborate.
5. The government should establish an agency to support returning workers to ensure they receive a salary that enables them to support their family. The government should also provide special assistance to those who return to their home provinces. The government could provide investment advice for these people, in such areas as the use of technology and encourage them to organize collectively.

## CLOSING SPEECH

*Somchai Homlaor*  
FORUM – Asia

This book addressed for the first time brings together Thai labour in foreign countries and migrant labour in Thailand. Many of the articles in the book show that both Thai and foreign/alien workers have been exploited and physically abused, including the loss of life in some cases. It appears migrant workers in every country have not been covered by labour protection rights or had their human rights respected.

When we look back at migrant worker policy in various Southeast Asian countries, it is noticeable that policy has focused on national security and the economic interest of business. In this era of globalization, boundary-less investment has created the motivation for workers to migrant where there are jobs with a higher income. Notwithstanding, that working overseas has been promoted as a source of foreign currency in some countries, no government has cared enough to promote open discussion of the issues around workers being deceived, exploited and abused in order to find workable solutions to these problems.

Each country must have a strategy that includes:

- ❑ Overseeing the well-being of its people working in foreign countries;
- ❑ Negotiating and working for the enforcement of labour protection standards in the respective country;
- ❑ A basic standard of legal protection for migrant workers present in each country;

The process governing the entry of migrant workers should be determined between states. Each state should have a law and policy that encourages protection, support and appreciation of migrant workers as:

- ❑ Contributors to the economic development of their nation;
- ❑ Valuable and meaningful resources;

The majority of the policies governing migrant workers in ASEAN countries do not support or provide protection to migrant workers. Competition and mistrust still exist; the act of barring migrant workers from job opportunities and taking advantage of their skills and labour widely practiced. This has hindered the development of:

- ❑ Joint policies between countries that have relatively similar standards that recognizing and assure the rights of migrant workers;
- ❑ Transforming ASEAN into a territory where migration of workers can occur freely and smoothly.

However, migrant worker policy in Thailand shows that attempts have been made to solve the problems relating to illegal migrant workers by offering them the chance to attain legal status, by allowing them to register for work on a temporary but renewable basis. Nevertheless, a clear and long-term policy has yet to be developed.

Temporary registration represents progress in solving the problems of illegal migrant workers. Yet the policy was far from flawless.

- ❑ pregnant women were not allowed to register;
- ❑ family members of migrant workers were denied access to various rights;

- ❑ change of employers was not permitted;

However, improved measures have been adopted in the 2002 registration when the Thai government allowed:

- ❑ pregnant women to register for work;
- ❑ migrant workers to change employers;

The adoption of such policies has added a new dimension, providing more protection and enhancing development. Just visualize the reputation of Thailand as the country that has the most advanced migrant worker policy in this region and the possibility of becoming the leader in pressuring the implementation of this new dimensional migrant worker policy in Southeast Asia. This could come true if more dimensions are added to the policy including:

- ❑ more respect for migrant worker rights;
- ❑ a better attitude towards migrant workers;
- ❑ recognition that Thailand's economy has to rely on migrant workers;

It is sincerely hoped that this book acts as an important avenue for academics, non-government agencies and government agencies to exchange creative viewpoints and opinions in developing policy that proves truly beneficial to both migrant workers as well as the nation.



# APPENDIX 1

## WORKERS' DEMANDS TEXTILE AND GARMENT FACTORY MAE SOT

Young Chi Oo Workers' Association  
Information Release 24 June 2003

The textile and garment factory, King Body Concept in Mae Sot, Tak Province, employed 420 Burmese migrant workers, of which 400 were women. The company also employs about 100 Thai workers. The factory produces clothing that is exported to the United States, Malaysia and Hong Kong and is owned by a family from Taiwan.

- ❑ The Thai workers at the factory were paid the minimum wage of 133 baht / day and 25 baht / hour for overtime, whereas the Burmese received only 55 baht / day and 5 baht / hour for overtime.
- ❑ Normal working hours in the factory are between 8.00 a.m. and 10.00 p.m., but during peak production periods the migrant workers are forced to work until approximately 3.00 a.m.
- ❑ The monthly salaries of migrant workers are cut by 300 baht for housing and rice supplied by the employer. There is also a 3% 'tax' on the worker's salaries.
- ❑ At the beginning of June 2003, the problems at the factory were exacerbated by water shortages for drinking and washing. The water shortages caused the already unhygienic toilets to emit a foul stench.

All 420 of the Burmese migrant workers at factory signed the following list of demands that was posted on the notice board at the factory.

1. The payment rate for every 12 garments (piece rate) must be announced 7 days after a new design has been introduced. If employees are unhappy with the rate, then there should be some discussion with the employer.
2. The payment rate for ever 12 garments (piece rate) must be announced within 3 days of workers beginning a new order.
3. The introduction of more machines, so employees are not left waiting for work because of the lack of machinery. Additional cotton must be delivered to the workers when they are ready. There must always be someone at the factory who has been assigned to distribute the cotton to the workers.
4. Workers must be paid for all garments completed that result from incorrect instructions issued by the management. The workers must also be paid for reweaving the cotton retrieved from the incorrectly sewn garments.
5. When the employer does not have any orders to fill the workers should still be paid a daily wage, in lieu of payment by piece rates.
6. When the employee delivers the garments they have completed, the employee must be immediately provided with material so they can continue to work.
7. If the records detailing the amount of garments completed by each employee are lost, then the employer must compensate each employee for the maximum output that could have completed.
8. When an employee who acts as the workers representative is sacked for this role, then the sacked employee must be paid 5,000 baht compensation.
9. All others workers who are sacked from the factory, not having destroyed any of the factory's property should be compensated.

10. The employer should not sack employees who just want to discuss problems. If they are sacked then they should be paid compensation.
11. Any supervisor who abuses the employees should be removed from their position.
12. Supervisors must only give instructions to employees in their own sections.
13. The dog in the factory compound should be removed as it often bites the employees. If the dog is kept in the compound then employees should be paid 1,000 baht compensation, when they are bitten.
14. The employer must supply a suitable area where the employees can cook and eat their meals.
15. Fans must be installed.
16. The factory should be closed 2 Sunday's every month.
17. In the case of personal emergencies, workers must be allowed to take leave and given an advance on their wages.
18. Normal hours should be between 8.00 a.m. – 9.00 p.m. Employees who work between 9.00 p.m. – 12.00 a.m. must be paid for overtime.
19. Registered workers should not have to pay "fees" to the police, if they earn less than 1,000 baht.
20. Unregistered workers who pay protection fees to the employer must be paid a daily wage when they are forced to flee the workplace, because of the police.
21. Employees must be paid within 10 days after the completion of an order or design.
22. Employees must be paid before 5.00 p.m.
23. The employer must announce the workers total payment, one day before the payment.
24. The employer must apologize to employees who have been beaten at the workplace.

The employer did not respond even after being personally presented with the list of demands, so a complaint letter was sent to the Tak office of the Department of Labour Protection and Welfare.<sup>81</sup> On the 23 June, representatives from the Migrant Assistance Program (MAP), a translator from the Interpretation and Translation Service (ITS), officers from the Ministry of Labour and factory management met with representatives of the workers. During the negotiations, the migrant workers not involved in the negotiations were rounded up by the immigration police and border patrol soldiers and held under guard in the factory compound. The employer refused to acquiesce to any of the demands, sacked all the workers and gave them their last month's salary. The workers were sent to the Immigration Detention Centre, from where they were deported to Burma.

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<sup>81</sup> This is one of the departments in the Ministry of Labour. [Ed.]

**APPENDIX 2**  
**CASE SUMMARIES: MIGRANT WORKERS FROM BURMA**  
Interpretation and Translation Service (ITS)

**REGISTERED WORKERS – Difficulties Transferring Employment**

**Case 1**

Status: Registered

Location: Sara-Buri Province

Business/Job: Ice Making Factory

Gender: 2 males

Wages: 80 baht per day

Conditions/Problems: Hours of Work 4.00 a.m. – 7 p.m. with only short break for lunch

Assistance: Assisting in finding new employment with better conditions and to undertake the administrative procedures to transfer employment.

**Case 2**

Status: Registered

Location: Phet Kasem District, Bangkok

Business/Job: Restaurant and Wool Fibre Factory

Gender: Female

Wages: Unknown

Conditions/Problems: At her previous workplace she was subject to sexual harassment and irregular payment of wages. She found a new job at a wool factory, but after a police raid herself and the employer were unhappy about her illegal status.

Assistance: The restaurant owner refused to meet to discuss the legal transfer of employment, so the case was reported to the Ministry of Labour. The Ministry of Labour ordered the restaurant owner to let her legally resign. She was assisted in the administrative processes necessary to legally change employment.

**Case 3**

Status: Registered

Location: Phet Kasem District, Bangkok

Business/Job: Domestic Worker, Cleaner and Labourer at Factory

Gender: 22 Female

Wages: Unknown

Conditions/Problems: Long hours of work. Between 4.00 a.m. – 8.00 a.m., she did the cooking and cleaning at the home. Then between 8.00 a.m. – 4.00 p.m. she went to the factory with employer and performed cleaning and labouring work. Then from 4.00 p.m. – 11.00 p.m. returned to the house where she continued with her home cleaning duties. She left the employer but they tore up her work permit and kept the 2 bath of gold she was saving for her parents.

Assistance: Went to the Ministry of Labour, where they provided her with a replacement work permit and issued her with a letter stating that she had not been dismissed by her employer.

#### Case 4

Status: Registered

Location: Minburi, Bangkok

Business/Job: Plastic Rubbish Bin Factory

Gender: Male

Wages: 170 baht per day

Conditions/Problems: The worker wanted to move to a new job at a wool factory, because he was suffering health problems due to chemicals used in his factory. He had been sick 10 times in 3 months.

Assistance: Helped him legally change employers.

#### Case 5

Status: Registered

Location: Phet Kasem District, Bangkok

Business/Job: Wool Fibre Factory

Gender: 23 female

Wages: 2,000 baht per month

Conditions/Problems: The employer had reduced the salary from 200 baht per day to 2,000 baht per month, due to declining profitability of the business. This was not enough to cover living and accommodation costs. The employer had also forced employees to 'save' money from their monthly wages, but refused to hand over their 'savings.'

Assistance: Assisted in legally changing employers. At her new job she was to be paid 200 baht per day.

#### Case 6

Status: Registered

Location: Phet Kasem District, Bangkok

Business/Job: Wool Fibre Factory

Gender: 26 year old male; 25 year old female

Wages: Unknown

Conditions/Problems: Left employment at the wool fibre factory as wages had decreased to the extent that not enough to cover accommodation and food. The pair found new employment.

Assistance: Contacted the Ministry of Labour so that these workers could legally change employers, but the Ministry refused because they had been at the new job for about a month.

#### Case 7

Status: Registered

Location: Phet Kasem District, Bangkok

Business/Job: Unknown

Gender: Female

Wages: Unknown

Conditions/Problems: Her employer only allowed her to carry a copy of her work permit, with the original kept by the employer. This meant she had been harassed and 'fined' by the police on several occasions.

Assistance: Helped her change employers legally.

#### Case 8

Status: 22 Registered Workers

Location: Bangkok

Business/Job: Garment Factory

Gender: 11 women and 11 men

Wages: Paid piece rates but approximately 7,000 baht / month

Conditions/Problems: The employer had sacked all 22 employees when he became bankrupt. The employees had all found new employment, but the original employer refused to allow them to transfer to another employer.

Assistance: With assistance from the Ministry of Labour the employer was convinced that he should allow his sacked employees to transfer to other employers.

#### Case 9

Status: Registered

Location: Rama-2, Bangkok

Business/Job: Petrol Station

Gender: 2 Males

Wages: 4,000 baht / month

Conditions/Problems: Both men had been working at a petrol station for about 2 years. They were paid 4,000 baht per month until the employer began making irregular payments along with expecting them to work longer hours. A migrant worker couple also working at the petrol were arrested by the police on orders from the employer, even though, they both held work permits. The two men not long after this event left their employment for fear of arrest and decline in work conditions.

Assistance: Assistance was sought to find new employment and for the administrative procedures necessary to change employers.

#### Case 10

Status: Registered

Location: Bang Bua Thong District, Bangkok

Business/Job: Unknown

Gender: 27 year old male

Wages: 200 baht per day

Conditions/Problems: The previous employer was refusing to allow him to formally resign from his old job. The new employer had gone to the old employer and to the Ministry of Labour, to try to get a legal transfer of employment. However, not only did the old employer refuse to budge, but the officer at the Ministry of Labour refused to act on the case.

#### Case 11

Status: Registered

Location: Rama-3, Bangkok

Business/Job: Unknown

Gender: Male

Wages: Unknown

Conditions/Problems: The worker did not understand the regulations governing changes in employers, so had changed employers without going through the required administrative procedures. He had been at his place of employment when he realized that he was now working illegally.

Assistance: Went to previous employer and got them to sign the appropriate documents that he had resigned and then assisted with the documentation required from the new employer.

#### Case 12

Status: Registered  
Location: Bang Bon, Bangkok  
Business/Job: Unknown  
Gender: 22 Female  
Wages: Unknown

Conditions/Problems: She had changed employers and had attempted to do so legally. Her original employer, in accordance with the regulations had reported to the Ministry of Labour that she had been allowed to resign. She also went to the Ministry of Labour to report the change of employer. She believed someone at the Ministry of Labour told her that she should return in 15 days. She returned within 15 days to be told that the 7 days period to report changes of employment had lapsed.

Assistance: Tried to negotiate with the Ministry of Labour, but because she could not prove that she had visited the office and the 7 day period had lapsed, they stated that her work permit was no longer valid.

### REGISTERED WORKERS – Occupational Health and Safety Problems

#### Case 13

Status: Registered  
Location: Saraburi Province  
Business/Job: Wool Fibre Factory  
Gender: Male & Female  
Wages: Unknown

Conditions/Problems: Both lost 2 fingers at the workplace at different times. The only received half their normal wages for the time spent in hospital from the employer. The man was in hospital for one month and the women for 2 months.

Assistance: The case was transferred to a lawyer for additional compensation.

#### Case 14

Status: Registered  
Location: Nakhon Pathom Province  
Business/Job: Animal Food Factory  
Gender: 41 year old male

Wages: 160 baht per day and 20 baht/hour (40 baht for Thais) overtime. All migrant workers must do overtime between 10.00 p.m. – 12.00 a.m.

Conditions/Problems: 2 migrant workers were ordered to climb and repair a motor at the top of a 20 foot high dust exhaust pipe. During the repair, one of the workers fell and died instantly upon hitting the cement floor. After, the ceremony for the burial the employer offered the dead man's wife 30,000 baht compensation. She refused, demanding 150,000 baht compensation. The employer attempted to explain that he could not afford more than 50,000 baht.

Assistance: After consultation with a lawyer, the wife was informed that she would receive more if it went to court, but she would have to wait for a significant period of time. She eventually accepted the offer of 50,000 baht as she wanted to return to Burma to live with their 3 sons and feared retribution from the employer.

## REGISTERED WORKERS – Non-Payment of Wages

### Case 15

Status: Registered

Location: Pachan Bute District, Bangkok

Business/Job: Garment Factory

Gender: 25 year old male and 27 year old woman

Wages: 5,000 baht / month

Conditions/Problems: They were sacked by the employer with wages still owing.

Assistance: The case was presented to the Department of Labour Protection and Welfare in the Ministry of Labour. The case was recorded and they promised to act on the problem.

### Case 16

Status: Both Employees Registered

Location: Nonthaburi Province

Business/Job: Domestic Workers

Gender: Two 20 year old women

Wages: 3,000 baht per month, though unpaid for 2 years

Conditions/Problems: The employer had agreed at the beginning of their employment to pay each 3,000 baht per month, though during 2 years of employment they had never been paid. The broker was contacted through a friend, who agreed to approach their employer and ask for their wages and release them from employment as they wished to return to their parents in Burma. The broker arrived at the house of the employer with 3 other people, but the police were waiting for them. Two of the men managed to escape by running away, but 2 others, who were holding work permits were arrested. The 2 men were released in the morning minus the 4,000 baht they were carrying. The broker eventually accompanied the 2 women to their previous employer, but they had still not received any payment for their 2 years of work. The broker became concerned as he heard the parents had contacted the Democratic Karen Buddhist Association (D.K.B.A.) and blamed the problem on him.

Assistance: Transferred the problem to the Ministry of Labour to see if they could recover the unpaid wages.

## REGISTERED WORKERS – Deportation Problems

### Case 17

Status: Wife and child unregistered; Husband, registered

Location: Samut Prakan Province

Business/Job: Husband – Furniture factory; Wife – not working

Gender: Female and 25 day old baby

Wages: Unknown

Conditions/Problems: The wife had given birth in hospital, but because she was illegal, she and the child had been sent to Kredtrakarn Shelter (official shelter for women and children). They were to be deported back to the reception centre at Myawaddy.

Assistance: To negotiate the deportation of the family at the same time. The husband to be deported, despite being registered, had to be arrested and taken to the Immigration Detention Centre.

## UNREGISTERED WORKERS – Non-Payment of Wages

### Case 18

Status: Unregistered

Location: Sukhumvit Soi 18, Bangkok

Business/Job: Domestic Worker

Gender: 16 Female

Wages: 1,500 baht per month

Conditions/Problems: She had been brought to Bangkok by a broker and had agreed to work for 3 years as a domestic worker. She had not been paid for the last year and wanted to leave her job and return to Burma, but her employer did not want her to leave.

Assistance: Convinced the employer that she should be paid for the previous years work and to let her 'resign' from her employment.

### Case 19

Status: Unregistered workers

Location: Samut Prakan Province

Business/Job: Synthetic (chemical) Textile Factory

Gender: Husband & Wife

Wages: Weekly allowance of 125-150 baht / month. They had been paid for only 1 months work

Conditions/Problems: The factory had employed about 80 workers, but the employer only agreed to registered 5 or 6 of the workers from Cambodia and Burma. There were many problems apart from the non-payment of wages at the factory, including 12 hour days. The employer was in the habit of waving about his gun, when any of the workers asked for their wages. Anytime, anyone attempted to arrange to change employment, the employer would arrange for their arrest. At the time of this case there were only 20 workers, because the employer had arranged the arrest of 60 workers on the day they were about to change jobs. Mobile phones had also been seized from 2 workers that all the workers relied on, especially for emergencies.

Assistance: This case involved the sacking of 2 employees, husband and wife, because of health problems. The husband received 5,400 baht for 8 months work and his wife 1,540 baht for 2 months work.

### Case 20

Status: 11 workers unregistered

Location: Phet Kasem District, Bangkok

Business/Job: Sewing Workshop

Gender: All women

Wages: No-one being paid

Conditions/Problems: The women had been sold to the employer of the sewing workshop and some of the women had received no wages for 2 years.

Assistance: The employer agreed to pay some compensation to the workers when approached as he was afraid of the legal consequences. The women were taken to the government shelter and were to be repatriated.

#### Case 21

Status: Unregistered

Location: Din Daeng, Bangkok

Business/Job: Domestic workers

Gender/Age: 2 young women

Wages: Not paid for 9 months

Conditions/Problems: The 2 women had been brought to Bangkok, by different brokers. One of the women came with 10 other women, who each paid 50,000 baht for the journey and the promise of employment as a domestic worker at 2,500 baht per month. The other women had paid 3,000 baht for the journey from Mon State to Bangkok. The 2 women met at the house where they were both 'employed.' They were barely given enough food during the 9 months of their confinement. One of the brokers turned up at their place of employment and suggested they run away promising to find them new employment. They were taken to the broker's house, where after 2 weeks the broker disappeared. They were left in the house with no money, no food and the owner of the house asking for rent.

Assistance: Assistance in paying rent and new employment.

### UNREGISTERED WORKERS – Immigration Detention Centre

#### Case 22

Status: Unknown

Location: Immigration Detention Centre

Business/Job: N.A.

Gender: 29 Female

Wages: N.A.

Conditions/Problems: At the time she had been imprisoned in the Immigration Detention Centre for 8 months. She had been taken by her employer to the Immigration Detention Centre after she requested permission to return to Burma. The authorities at the Immigration Detention Centre contacted the SPDC authorities to arrange her repatriation to Burma. The SPDC authorities denied any knowledge of her existence. She has a fatherless 6 year old child in Burma under the care of her blind grandmother.

Assistance: Translated between her and Thai authorities

#### Case 23

Status: Unregistered

Location: Samut Prakan Province

Business/Job: Unemployed

Gender: 20 year women

Wages: N.A.

Conditions/Problems: Arrested at the hospital after giving birth, because of her illegal status. Since, her arrival from Burma, she had worked for 7 months in a restaurant and then moved to another restaurant where she had worked for a year. She was not paid during this period, so she eventually ran away. She then married and together, her and husband obtained employment at the Forestry Department. She was paid 100 baht per day, but resigned after 5 months, when she realized she was pregnant.

Assistance: Translated for her at the police station.

#### Case 24

Status: Unregistered

Location: Immigration Detention Centre

Business/Job: Sex Workers

Gender: 11 women from Shan State

Wages: Receive 200 baht per client but often receive tip. Each client pays 1,400 baht with 700 going to the owner of the spa for the premises and 500 to the owner to cover costs of clothing and make-up. During non-peak periods, receive about 4 clients per evening.

Conditions/Problems: All arrested for immigration violation and presently held at Immigration Detention Centre. They came to Bangkok, after paying 7,000 baht for the transportation and 10,000 baht for their jobs as sex workers. Each car carries only 3 illegal workers. They all have to repay this money to the owner of the massage parlour.

#### Case 25

Status: 9 Unregistered Child Workers and 2 Unregistered Adults

Location: Kredtrakan – Official shelter for unregistered women & children

Business/Job: Garment Factory

Gender: All girls or women; Ages: two 13 year olds; three 14 year olds; one 15 & one 16 year old; two 18 year olds; one 19 and one 20 year old;

Hours: 7.00 a.m. – 9.00 p.m. Sometimes they had to work till 11.00 p.m. – 12.00 a.m.

Wages: 140 baht for 2 months work (20 baht for a snack and 120 baht for Chinese New Year)

Conditions/Problems: All the 11 girls and women had been brought to Bangkok by a broker, who took them to the garment factory. The broker upon delivery was paid between 7,000 – 8,000 baht per person. The 11 workers were receiving between 100-400 baht per month, depending upon the length of service. This money was apparently for snacks. The employer apparently gives all employees one gram of gold each, when they have worked for 2 years. The employer told one worker, that they had to work for 2 years, before their debt was paid off. All 11 had been at the shelter at the time of the case for more than a month. They do not know when they will be repatriated. The employer paid wages to all 11 people ranging from 2,000 baht for 15 days work to 27,000 baht and 1 and ½ gram of gold for 2 years and 2 months work.

#### Case 26

Status: Unregistered

Location: Immigration Detention Centre

Business/Job: Masseurs

Gender: 20 & 22 year old women

Wages: 40 baht per person

Conditions/Problems: They were taken to work as masseurs in a shop in Bangkok. They ran away from their job, but were arrested. They were repatriated to Tachilek.

#### Case 27

Status: Unregistered

Location: Bang Bon, Bangkok

Business/Job: Jeans Sewing Factory

Gender/Age: 3 Men & 6 Women, between 16 and 30

Wages: 1,100 – 1,300 baht for 3 months work

Conditions/Problems: The broker charged each of them 20,000 kyat each to be taken to Bangkok. They were told by the broker that the men would earn 3,500 baht/month and the women 2,000 baht/month at a sewing factory. However, they were only paid between 1,100-1,300 baht for 3 months employment. Hours of work were between 8.00 a.m. and 10.00 p.m. with 2 hours for lunch. In addition to work in the factory, the employees also had to clean their employer's house and compound, water the garden and wash the cars.

#### Case 28

Status: Unregistered

Location: Ban Song Kwae Home for Women, Phitsanulok Province

Business/Job: Unemployed/Jail

Gender: 28 year old women

Wages: N.A.

Conditions/Problems: Arrested for illegal entry, not long, after entering Thailand. She doesn't want to return to Burma as she borrowed 10,000 kyat for her travel to Thailand. In addition she has to pay the broker 7,000 baht for the journey to Bangkok, despite being arrested before making it that far.

#### Case 29

Status: Unregistered

Location: Bangkok

Business/Job: Domestic Worker

Gender: 16 year old girl

Wages: 2,000 baht / month; Hours: 5.30 a.m. – 8.00 p.m. every day

Conditions/Problems: It was agreed between the elder brother, sister and the broker that their sister would be brought to Bangkok for 17,000 baht that would repaid from all their salaries. The agreement was that she would be brought to her elder sister, but was instead taken to a house where she looked after an elderly woman. The young girl was eventually able to contact her elder sister about 3 ½ months after she arrived in Bangkok. The broker subsequently agreed to bring the girl to meet the elder siblings, where he would receive the rest of his fees. However, on the day the broker refused and the elder brother and sister, at the time of the case report, had not had contact with their sister for nearly 7 months. The broker had been paid 11,700 baht with 5,300 baht still owing.

#### Case 30

Status: Unregistered

Location: Samut Prakan Province

Business/Job: Alcohol shop (bottle shop)

Gender: 22 year old male

Wages: 5,000 baht / month

Hours: 7.00 a.m. – 10.00 p.m. but often went until 1.00 a.m.

Conditions/Problems: The worker went with his employer to buy alcohol for the shop and on the way back, one of the tyres became flat. The worker went under the car to check that the axle had been properly placed, but the car came off the jack and the worker sustained head injuries that resulted in instantaneous death. The employer refused to pay any compensation to the dead man's relatives and tried to arrange for their arrest, even though they were holding registration cards. The case has been sent to a lawyer.