

NEAT Working Group on Labour Migration

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The Case of Thailand

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Recent Studies on Labour Migration in Thailand

- Studies of labour migration in Thailand can be divided into two major categories: regular migration of skilled labour and professionals; and irregular migration of unskilled and semi-skilled labour.
- Those on regular migration of skilled labour and professionals have recently shifted from the pros and cons of free mobility towards
 - o a comparative study of legislative and regulatory regimes governing the flow so as to identify appropriate policy measures for a win-win situation in the knowledge-based economy of international competitiveness
 - o Occupational Competency Standards and mutual recognition arrangements at the regional and sub-regional
- Those on irregular migration of unskilled and semi-skilled labour have recently shifted from the pattern, magnitude, migration management from the perspective of management shortcomings and appropriate policies on labour migration towards more focused one, particularly the inter-linkage of the following issues:
 - o Trafficking into sexual exploitation
 - o Forced labour
 - o Child migrant workers
 - o HIV vulnerabilities and appropriate IEC materials/modules
 - o Rights to healthcare
 - o Human security and human development approach towards labour migration
 - o Regional and sub-regional consultative processes

Recruitment of Migrant Workers: The Case of Thailand

- Thailand is assuming the position of both the source and the host country. Factors explaining labour migration were more complex than just the disparities in demographic, economic and social development between Thailand and other countries, both nearby and far away.
- **As a source country**, massive labour emigration from Thailand can be traced back to the mid-1970s when the Thai labour adopted a contract, temporary, and circular nature of migration to the Middle East
- The early 2000s constituted a shift from a sloping I-curve to a sloping E-curve pattern of labour emigration. Despite the continuing domination of low-end migrant labour with primary education, the share started to decline in 2000. This compares to increasing skilled migrants above grade four to work as equipment operators and service workers.
- There is irregular or undocumented emigration, of which the exact size is unknown.
- One may expect the increase in the regular flow as a transfer from the irregular dimension. Explanations include: a) stricter law enforcement and a reduction in job opportunities in major destination countries, particularly those affected by the Asian economic crisis; b) A recent progress in a crack down on crime syndicates in labour recruitment through closer state supervision; and c) A new Thai policy to proactively promote labour emigration via bilateral cooperation with host countries throughout the world.
- Since 2004, Thailand has encouraged good governance in migration management and mutual recognition arrangements to establish free trade areas with various countries. The 2000s trend suggests that labour emigration from Thailand can be under control if it is part of the national agenda with proactive and bilateral cooperation approaches.
- **As a host country**, Thailand is a host to both regular and irregular workers. The magnitude of the latter has increased more than ten times from below 10,000 persons in 1990.
- The regular flow is mostly business and high-end migrant workers from East Asia, followed by the West, and belongs to three categories.
- First, the promoted establishment category: foreign nationals permitted to work in an enterprise promoted by the Board of Investment under the laws on Investment Promotion or other related laws, such as the law on Petroleum and the Law on Industrial Settlement. This was part of the government policies to induce foreign investment to upgrade the national economy.

- Second, the non-promoted category: most migrants engaging in economic activities in Thailand. It also includes a small proportion of the migrants holding a permanent resident status and thereby granted with a lifetime work permit.
- Third, those under Section 12 of the Immigration Act: a) Foreign nationals subject to orders under the law on deportation but with permission to work in a specified location in lieu of deportation, or whose deportation status is still pending; b) Foreign nationals having entered the territory in violation of the immigration law and who were in the process of being deported from the Kingdom; c) Persons born in Thailand but denied Thai nationality by virtue of National Executive Council Announcement No. 337 dated 13 December 1972 or any other laws; or d) Persons whose Thai nationality was revoked by virtue of the National Executive Council Announcement No. 337 dated 13 December 1972 or by any other laws. Migrants in this category were mainly skilled and semi-skilled. They are mostly ethnic minorities from the western and northern neighboring countries working in the agricultural and fishery sectors and small shops.
- **Recruitment of Irregular Migrant Workers:** Recent cabinet resolutions have adopted seven strategies: a more integrative management system with recruitment quota; recruitment standards; strengthened prevention and border control against irregular migration; strengthened suppression of irregular migrant labour, and those who transported, harboured, and hired them without authorization; crackdown and deportation of unauthorized migrant labour; public relations; and a monitoring-evaluation system.
- The recent labour migration management system requires employers to firstly register and to file their demand with the labour ministry to form a basis for the employment quota. On the supply side, the government allows migrant workers from three sources - - Laos, Cambodia, and Myanmar - - to register for a temporary identity card and a one-year work pass, which allows the pass holder to work or to look for jobs for a year. Qualified migrants would have their information sent to the relevant embassy in Bangkok for review before receiving an official work permit. A fee is required during the process, including health checks.
- Each registered migrant with work permit is allowed to change a registered employer, and to report relevant authorities for movement beyond designated areas. Meanwhile, a registered employer is entitled to recruit labour all year round.
- The recent migration management system is with shortcomings: complicated procedures and high fees. They are said to open the door for job brokers and other actors to extort money or to reap benefits from irregular migrant labour both directly and indirectly.
- Thailand is phasing out the registration of migrant workers from Lao PDR and Cambodia who illegally enter and work in Thailand. Meanwhile, Thailand has signed a bilateral Memorandum of Understanding on

cooperation in labor recruitment from Lao PDR, Cambodia, and Myanmar to establish a formal channel of recruitment and to support a recent initiative to strengthen economic cooperation with the three neighboring countries.

- The Thai government has acknowledged the need for 500,000 migrant laborers to fill gaps in the country's work force.
- Of this number, Thailand will cooperate with the countries of Lao PDR and Cambodia to recruit 200,000 laborers through official channels established by the MOU on Migrant Labor. The term of employment is two years and extendable to two more years.
- The remainder of the required work force - 300,000 migrant laborers, will be recruited from those migrants who are already present in the country but currently do not have a work permit:
 - o For those who are registered with a non-Thai ID card from the 2004 registration but do not have a work permit, the employer will be obligated to pay a 10,000 Baht (\$250 US) bail bond per migrant laborer;
 - o For those who have no ID permitting them to live or work in Thailand, there will be a bail bond of 50,000 Baht (\$1,280 US) per migrant laborer required from the employer.

Safety & Welfare of Migrant Workers in Thailand

- Regular migrant workers and irregular workers who have registered with work permit are protected under the Constitution and subject to the same labour protection as Thai workers under the Labour Protection Act of 1998: minimum wage rate protection, women and child workers, worker welfare, industrial relations, occupational safety and health at work.
- Unregistered workers are also protected by various provisions of the Labour Relations Act.
- The work permit also grants migrant workers access to the Thai public healthcare system, subject to an initial medical check and health insurance.
- Since 2005, the government has adopted a policy to allow children without citizenship to get free public education the same way Thai children do. A Cabinet resolution guarantees the so-called undocumented right to public education, and the government has the duty to allocate a budget for each foreign student, just as it does for Thai students. The resolution says schools cannot deny admission to a student on the basis of his or her undocumented status, or treat such students fundamentally different from those with citizenship.

- Unfortunately, there is a divide between policy and enforcement of the above mentioned protections for migrant workers at the low-end level.
- As a source country, Thailand has established a fund to help Thai workers in a foreign country. The fund has three functions:
 - o To assist Thai workers who find themselves unable to return to Thailand
 - o To assist Thai workers in trouble overseas
 - o To select and test the skills of Thai workers to work overseas.
- Thailand has signed bilateral agreement with selected host countries: to establish complaint centers with translators in large cities; job placement services; health care arrangement

Undocumented Workers in Thailand

- Undocumented workers in Thailand are mainly unskilled and semi-skilled. They belong to three categories, of which the exact information is unavailable: daily commuters, seasonal, and yearly migrants. Some stay along the borders; others are mobile or move into other parts of the territory.
- Thailand is also a destination and transit country of an unknown size of trafficked women and child workers from bordering countries and South Asia.
- Thailand relies on cabinet resolutions approving registration and regulations allowing irregular migrant workers to be employed with work permit in specified sectors and provinces in a limited period of time.
- The measures started in 1992 with those from Myanmar in nine border provinces, as shown in the Cabinet Order BE 2535 (AD1992) to Solve the Problem of Undocumented Migrant Labor from Myanmar. A subsequent cabinet resolution expanded the scope of coverage to cover irregular migrants from Myanmar, Lao PDR, and Cambodia in other areas.
- Recent cabinet resolutions have adopted seven strategies: a more integrative management system with recruitment quota; recruitment standards; strengthened prevention and border control against irregular migration; strengthened suppression of irregular migrant labour, and those who transported, harboured, and hired them without authorization; crackdown and deportation of unauthorized migrant labour; public relations; and a monitoring-evaluation system.

Repatriation of Migrant Workers

- Thai law defines an illegal migrant as a person without Thai citizenship who has entered the Kingdom in violation of section 12 of the Immigration Act. According to the Act, migrants found to be in the country illegally are subject to repatriation to their country of origin. Yet, the amnesty program provides that they may get permission to work in a specified location in lieu of deportation, or if their deportation status is still pending.
- In the past, Thai officials had to verify the names and citizenship status of undocumented workers from Myanmar with the SPDC before deportation. The Thai government was often required to hold deportees in detention centers for a long period of time while the SPDC determined whether to allow the return of its nationals. Since the implementation of the Thai-Myanmar MOU, formal deportation take place on the first and third Monday of every month from Mae Sot directly to the SPDC holding center in Myawaddy. Thai authorities are subject to submit personal data on deportees to SPDC officials at the time of repatriation. The officials cross-check the information provided with their own files and through queries for each deportee.
- Nevertheless, there are at times reports of forced deportation in violation of the Thai laws. Appropriate investigation by authorities of what is going on with the migrant workers needs enforcement.