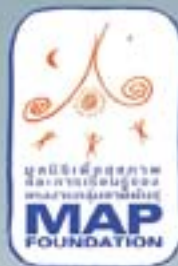


Updated! 2007 - 2010

# Migrant Movements

## 1996 - 2010



MAP FOUNDATION

มูลนิธิเพื่อสุขภาพ

และการเรียนรู้ของแรงงานกลุ่มชาติพันธุ์



I have learnt what it means  
to win. It is not about the  
outcome but to win is to  
dare to start the fight for your rights.

*Ma Wai, migrant labour activist*

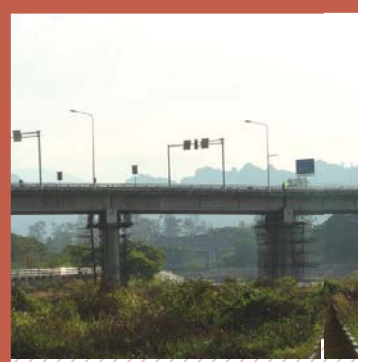
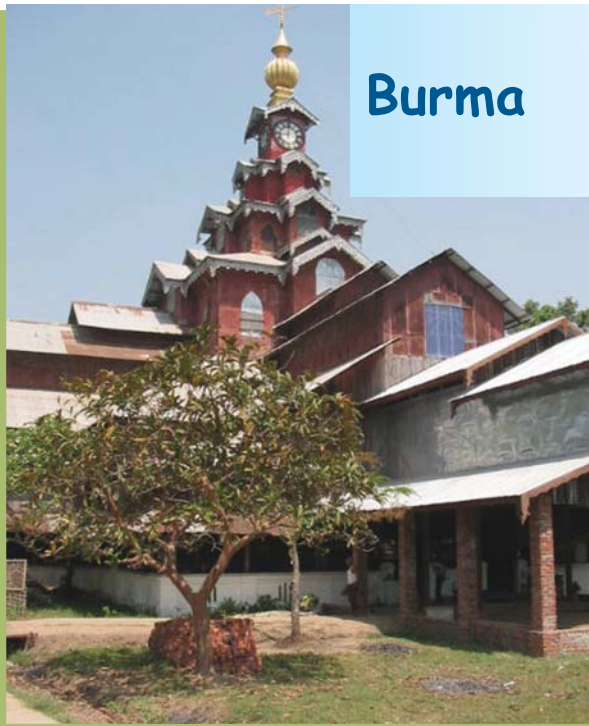
### **Acknowledgements:**

**Migrant Movements** is the updated version of “No Human Being Is Illegal” 1996 - 2006 “No Migrant Worker is Illegal”. It has been a busy and exciting three years made possible by the enthusiasm and commitment of our volunteers, our staff, our networks, our donors and of course all migrant workers.

Special thanks to all the volunteers who ten years ago came together to respond to migrants needs. The spirit of adventure and solidarity which brought us all together then continues to inspire the work of MAP today and take us on ever more challenging paths! We thank too the migrants of ten years ago who put their trust in us, the motley crew that we were, and guided us along those paths...we are constantly in awe of the resilience of the communities with which we have the privilege to work.

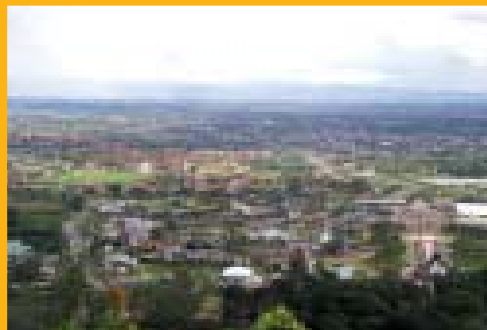
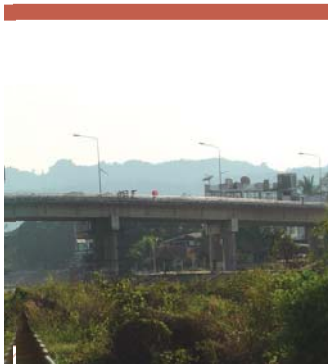


# Burma





# Thailand







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### 1996 - Migrant Assistance Programme - 2006 - MAP Foundation

#### มูลนิธิเพื่อสุขภาพและการเรียนรู้ของแรงงานกลุ่มชาติพันธุ์

*"MAP is an acknowledged leader among organisations working on migrant issues in Thailand. The programme is impressive and innovative, the staff is dedicated and committed, and the organisation is well-grounded with the target group."* (external evaluation report of MAP, 2005)

Families migrate from Burma to Thailand. Single women and single men migrate from Burma. The people are from different areas of Burma, belong to different ethnicities, have different backgrounds and different aspirations. But when they arrive in Thailand, their individual identities and experiences are merged into one official categorisation, that of "illegal alien workers". MAP's ten years of experience however defies this categorisation. MAP works with people. People who have migrated, people who are working, people who are fighting for their rights, people who get sick, people who have fun, people who have lives. We are an organisation, an extended family, a social safety net, a channel for migrants to express themselves.

*Now our working conditions are much better than before, we get paid much better wages and with registration we can move about more freely. We are not afraid of the police. We are a part of MAP and Yaung Chi Oo, so we feel more confident to exercise our rights. It is possible to save some money now, because we do not have to pay the police and also we can rent our own room outside the factory, and we can go to the hospital for cheap treatment. Although the wages are better than before, we still have some health problems from our work, we sometimes have breathing problems and our bodies ache because we have to stand or sit for long periods of time.*

#### **Four men and women working in factories in Mae Sot**

*I lost my father, mother, elder sister and younger sister in the tsunami. Only my younger brother and I survived. We had nothing left here so we went back to Burma, but we couldn't find any work there and had nothing in Burma either. This is why we decided to come back to Thailand again. I am happy to know MAP here because we felt so alone after the tsunami, now we feel that we have support.*

#### **Tavoy man working at construction site in Phang-Nga**

*Most of us work in construction. At the last outreach session with MAP we learned about bird flu. We want to know more about health issues, Thai law and policy, and work safety. Perhaps MAP could broadcast about safe use of chemicals – that would help domestic workers. We enjoy the audio magazines and we were very moved by the tsunami publications. We want to learn Thai – also how to read it. Labour registration has improved our situation in some ways; we're no longer afraid to speak Shan in public, and all our children are enrolled in Thai schools. The downside to registration is that it keeps us in Thailand longer and makes it difficult for new people to come, so contact with home is deteriorating.*

#### **Shan women and men working on construction sites in Chiang Mai**

*I still remember the first Women Exchange meetings. It was a great experience for migrant and refugee women to come together to share and support each other. Now I have got refugee status in the UK and have worked with the Refugee Council to help settle the refugees from the Thai-Burma border in Sheffield and guess what! The UK government is going to support us to hold a Women Exchange here too. We are starting with just the women refugees from Burma but hope that next year we can also invite refugee immigrants from other nationalities too! Wish I could be with you all for the 10 year celebrations!*

**LL, UK**

*We're casual construction and agriculture workers employed by the day. Not all our children are in school. The problems we face include;*



MAP joins activities at Shan festival

domestic violence (mental and physical), this has got worse in Thailand because of alcohol and stress; poor living conditions; health problems, especially for the older people; education costs; non-payment of wages –sometimes we go in a group to complain, some of us have tried to use the labour protection system. Before MAP came, no organization had ever come to work with us before. We'd heard of HIV/AIDS but we didn't have the details about how to protect ourselves. At least some of us are not shy to admit in this group that we've started using condoms to protect ourselves against STIs and for family planning. We need more information on health issues and labour rights.

#### **Lahu men and women outside Chiang Mai city**

Our former employer gave us rotten food and beat us. He kept our work permits and owes each of us back pay of Bt100,000. Before we came to Thailand we knew that we might face problems with an employer, but we didn't know our rights under the law. Now we've received information and advice about our labour rights and we've already made a complaint at the Labour Protection Office. We have new jobs and our situation is better now. It feels great to know that we are not alone and that there are organizations that care and will try to help us. We'll tell other women about this experience.

#### **Kachin women working as domestic workers in Chiang Mai**

I am staying with my grandchild who is now around 1 year old. His parents disappeared with the big wave, so I have to look after the child but now I have nothing. No food and no milk. I am very thankful to TAG for providing me with food and basic necessities. Otherwise it is very difficult for me to survive.

#### **Grand mother at a construction site in Ban Khuk Khak. The father of the baby returned after one week. He had been deported to Burma.**

We're construction workers at this housing development. We've been here for a year. Sometimes we're taken to work in other places. Our employer isn't bad. We only joined MAP's outreach activities 2 months ago. We've had workshops on HIV/AIDS and reproductive health. We'd never had information about this before. We'd like to have more activities on health. Some new people have arrived



HIV/AIDS activities with Shan men

at the site. We wouldn't feel shy to talk to them about HIV/AIDS. We can't listen to Shan radio broadcasts because of our work schedule.

#### **Shan workers on a construction site in Chiang Mai**

MAP staff working with TAG helped me go to the local offices to get my temporary ID card re-issued after it was lost in the tsunami. While we were going through all the boxes to find my original form, I came across the form of my husband who had died in the tsunami. It was very hard to carry on, but MAP staff encouraged me and we eventually found my form and now at least I don't have to worry about being deported to Burma. I really wanted to take the picture of my husband from the form with me, but the authorities said I couldn't because they were official documents. I have nothing left of him, everything was swept away by the sea.

#### **Burmese woman who worked in the area of the tsunami.**

Hi, I'm phoning from my new job in Bangkok. I still remember staying at your emergency house recovering from the burns to my body. Me and three friends had been making our own way from Burma to Thailand when one of my friends stepped on a land-mine. The three of them were all killed, I was badly burnt and unconscious. Thai soldiers brought me across the border to a hospital and then they moved me to Chiang Mai. The hospital in Chiang Mai contacted MAP so that I had somewhere to stay while I healed. Unfortunately I can't travel to come to the 10<sup>th</sup> anniversary but as usual will phone you when I can to say hello and let you know how I am doing! Thanks a lot for helping me through the trauma.

#### **18 year old Pa-o boy**



*I was working for this rich man who treated me very badly. He never let me go anywhere and never paid me a salary, just a few baht now and then to eat. Every time visitors came to the house he would proudly show them a plaque on the wall. I had no idea what it said, but I copied the letters down on a piece of paper and kept it with me. One day I managed to escape from his house. Some Shan women brought me to MAP and I showed them the piece of paper. They got very excited! Then they explained to me that the plaque was an award to him and it had his name and company on it, and he was a “well-respected” business-man! MAP took me to the Labour Protection office and I made a complaint against him. But he didn’t pay so we had to go to the Labour Court, eventually after a year and a half I got compensation of 100,000 baht. Now I know my rights I can tell other domestic workers not to accept such conditions.*

**Shan woman working as a domestic worker in Chiang Mai**

**At the beginning of the journey...**

The pioneer of service provision for migrant workers in Thailand was an extraordinary health centre set up in Mae Sot by Dr Cynthia Maung in 1989 which now serves many hundreds of thousands of migrants annually. In Chiang Mai, a branch of empower, set up in 1990 opened its drop-in centre for all sex workers and was immediately adopted as the educational and empowerment centre for both Thai and migrant sex workers. In 1995 large numbers of migrants, mostly from Shan State were employed in Chiang Mai to work on the booming construction in the city, including the building of the South East Asian Games Sports Stadium. On the completion of the stadium, the migrants were arrested. Suddenly there were many migrants in police holding cells who could not communicate with the police. When

in some cases migrants had been separated from their children and did not know where they were, or migrants were sick, translators and medics had to be found. Since there was no one organisation working directly with migrant workers, several organisations with related skills came together to assist. Burma Relief Centre, Images Asia and WEAVE had contact with Shan, Karen and Burmese translators, empower had contact with the social services, MSF had medical doctors. These organisations, together with concerned individuals from the Thai, Burmese and foreign community started to meet regularly to discuss the situation and were joined by Swiss Aid, National health and education Council (Burma), Union of Civil Liberties. Each organisation made a small monthly contribution and organised translation services for migrants at hospitals and police stations. In 1996, Diakonia offered a small six month grant to employ a Thai nurse and an outreach worker, to survey the situation, provide basic primary health care and health education and MAP (Migrant Assistance Programme) was born. More volunteers joined the MAP team from the migrant community and together formulated a set of Do’s and Don’ts for outreach work and the vision of MAP. The vision that these 40 migrants, refugees, Burmese, Thai and foreign activists formulated in 1996 continues to guide the work of MAP today:

**MAP works towards a vision of the future where people from Burma will have the right to stay and the right to migrate safely, and where all migrants are treated with respect and have their human rights and freedoms observed.**

**Overall Objectives of MAP**

1. for policies on migrant workers to be formulated and implemented from a human rights perspective
2. to facilitate local migrant worker communities to collectively improve their working and living conditions
3. to increase understanding of migrant workers situation in the host country and to reduce discrimination



First health outreach activities, Chiangmai

At the end of the six month health assessment MAP noted that while the incidence of serious illness among migrants was less than anticipated, nearly all migrants had general poor health and experienced very bad living and working conditions. Most serious illnesses were among migrants who had just arrived due to the lack of health services in Burma. The pilot project highlighted the need for health education, information on rights and laws and facilitation for the voices of migrant to be heard. Advocacy for improvement in the working conditions and general rights of migrant was desperately needed.



Outreach on site at night

**Findings from MAP's first six month activity report**

Migrant construction workers in Chang Mai

- Are fleeing (state violence, forced labour or relocations, violence)
- Have no information in their home country about Thailand's laws and regulations
- Have no experience of rights
- Have no access to legal migration

**Once in Thailand they are exploited and voiceless as migrant workers because there is a:**

- lack of access to information
- lack of access to services
- gender violence and discrimination
- lack of protection through laws
- lack of choices
- discrimination

activities and networking – to reach and give a voice to the Burmese migrant community. In 2006 these activities take place in Chiang Mai, Mae Sot and Phang nga. MAP's activities on access to information and services work on the premise that empowered communities can organise themselves to increase their access to information and services, and improve their rights.

**Access to information**

In order to facilitate greater access to information for migrants, in 1997 a team of Shan migrants at MAP started broadcasting daily health education programs on the National Broadcasting Station of Thailand. When the programs proved to be popular the National Broadcasting Station of Thailand invited MAP to also broadcast daily shows in Karen language on both health and culture. In 2000, the Karen radio team wrote a 16 part soap opera series called "Love Never Dies" about living as a young migrant and HIV.

In July 1997 NOVIB and Terre des Hommes agreed to support MAP to address some of these issues, initially for one year. Oxfam NOVIB continues to be one of the major funders of MAP and Terre des Hommes continued supporting MAP until 2005.

Over the years MAP has developed various intervention strategies – outreach, community health volunteers, community labour focal points, resource centres, women's groups, phone-line, radio, print and audio publications, public



Recording radio dramas in MAP studio



*“even though we do not have our own radio, every evening we go to our friends who has a radio and listen to the program. After listening it makes us feel nice. The information, the music are so nice, we have a good time every time we listen to your program and we could sleep well after that.” (Karen listeners on the border)*

Although the radio programs reached all over Thailand and in some areas across the border, the timing of the programs was not always suitable for the life-style of migrants.

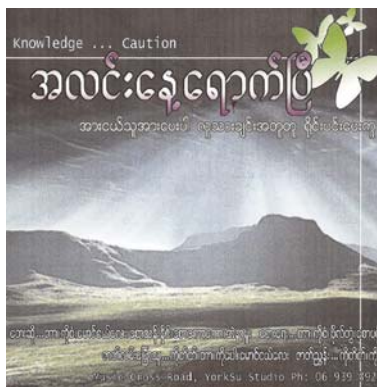
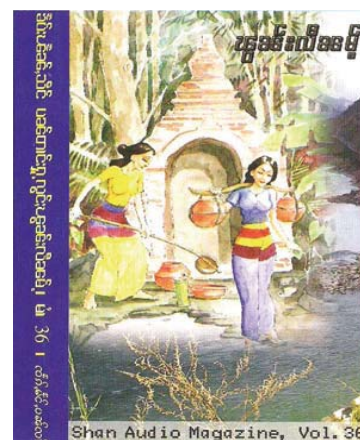
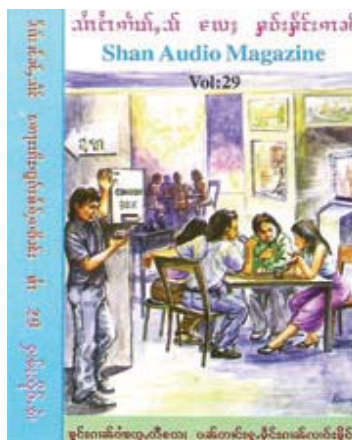
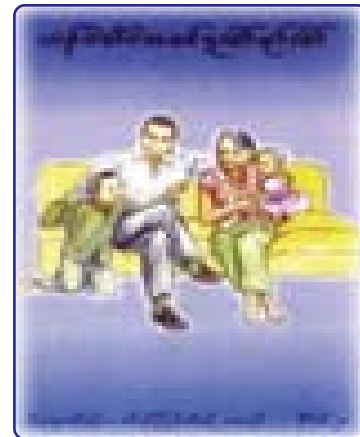
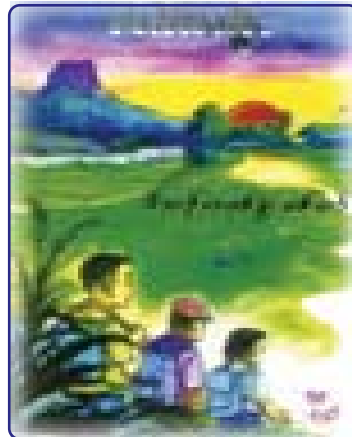
*Some of us have enjoyed MAP’s Shan radio dramas, but broadcasts aren’t scheduled at suitable times for construction workers to listen – we go to bed early!*

So MAP also used the information collected for the radio broadcasts and added interviews, and documentary pieces to produce quarterly audio magazines originally in Shan and Karen, but more recently also in Burmese. Originally produced on tapes, the migrants later informed MAP that many of the young migrants had CD players not tape players and MAP should get more up to date! We then started producing the audio magazines on CDs. In 2004 a group of migrants in Mae Sot composed and recorded a CD of songs giving messages about HIV/AIDS. With the popularity of these CDs, migrants asked for karaoke. Today MAP has produced karaoke VCDs with songs giving messages about gender relations and HIV in Burmese, Shan, Karen and Lahu.

*“after people receive the materials, they seem so happy. If you could hear yourself what they are saying about you, you would be very proud..” (Karen camp-based refugees)*

MAP’s radio broadcasts and audio magazines in Shan are also broadcast on other radio stations in

### Audio tape and CD covers



Distribution of materials at festivals



the North of Thailand to reach the Shan migrant communities in Fang and Mae Ai. After joining the Thai People's Media Network to promote Article 40 of the Constitution ensuring media time for the people, MAP started bilingual broadcasts on community radio stations in Chiang Mai and later in Phang Nga. The community radio stations, while having a much smaller range, have the advantage of being live so that migrants can phone-in, can be broadcast at times more suitable to migrants life-style and also increase the ownership of the migrants, who can participate in the programs and direct the issues discussed. Domestic workers in particular participate actively in the community radio programmes, as listeners, phoning in, interviewers and interviewees.

As well as audio materials MAP produces a wide range of written materials for migrants, including regular inter-active magazines in Shan and Karen on a variety of issues (environment, violence against women, reproductive health, communicable diseases, labour rights etc), brochures on topical issues (registration policies, dengue fever, education policy, bird flu etc). Sometimes MAP is also requested by hospital departments to translate materials on different health issues.

In 2006 MAP opened its website in English and Thai at [www.mapfoundationcm.org](http://www.mapfoundationcm.org). Mainly aimed at disseminating information about migration and migrants in Thailand to the general public, migrant support groups in other countries, researchers, international agencies, policy makers, MAP will also now check whether many migrants access internet and if they do, then we need to get up to date again and include other languages!

### Covers of Interactive magazines





## Access to Information and Services: Health and Social Rights

The small program of 2 outreach workers in 1996 visiting construction sites in Chiang Mai has grown to a program of 90 community health volunteers from the migrant communities providing health education and referrals to migrants on site, at construction sites, in factories, agricultural and fishing communities in Chiang Mai, Mae Sot and Phang gna. The need for outreach workers and translators in hospitals is now recognised by the Ministry of Public Health and through PHAMIT (Prevention of HIV/AIDS Among Migrants In Thailand) the MoPH and NGOs are working together to create teams of migrant health workers and to advocate for their right to register to work legally in this capacity.

In Mae Sot MAP set up a community resource centre in 2004 in an area surrounded by factories to give a space for migrants to come together for trainings on health issues and for relaxation. The migrants started a library in the resource center and today there are over 1,500 members of the library borrowing club.

Through the original translation services at hospital, MAP received requests from the hospitals to temporarily take care of migrants between hospital visits and set up a small emergency house to provide care for migrants who were recuperating, waiting for operations or traumatized. On average 200 people



MAP Library in the Community Resource centre, Mae Sot

stay for periods of up to two months at the house each year. People are recovering from malaria, respiratory illnesses, skin diseases, HIV related illnesses, accidents, child birth, heart diseases, cancer, dog bites, mental health problems and other various health conditions. Over the years, one of the most worrying trends has been the increase in serious road accidents and the house has also seen an increase in children being born with birth defects. The number of people passing through the house as a result of occupational accidents is surprisingly low, but this may be due to employers keeping such cases distanced from an NGO.

HIV positive migrants still face stigmatisation in their communities and expressed a need to be able to talk openly about their status to other HIV positive people. In 2005 MAP started to facilitate a Hi-Exchange, providing a space where HIV positive migrants could discuss together and also meet and learn from Thai HIV positive individuals and groups. Today 12 people meet regularly and hope to be able to reach out to more. Although migrants can access state health services for treatment of opportunistic infections, only a few have been able to access HIV ARV treatment through some of the on-going projects. For other migrants, there is no universal access to ARV treatment as it is not included in the 30 baht health insurance for migrants.



Activities at the Emergency House

In previous years, MAP in association with Studio Xang had organised art activities for children of migrants in Chiang Mai and with migrant children in the areas affected by the tsunami. In 2002 the art work from the migrant children's art classes was exhibited at the National Museum in Chiang Mai. In 2005, Studio Xang developed an independent project to both run art classes for the children of migrants and train community leaders in child development and art teaching. MAP could then focus on issues of access to local services for migrant children. When the Cabinet passed the resolution (July 2005) to implement the education for all non-Thai and non-documented people, MAP made brochures and distributed to migrant communities. Where needed, MAP helped contact local schools to arrange for the migrant children to attend. MAP also held meetings with the migrant schools in Mae Sot to inform them of the policy and discuss their advocacy needs. World Education Consortium continues to work with the migrant schools in Mae Sot to increase access to education for all migrant children in the community.

MAP also provides information to migrant parents on how to register the birth of their children, and again, where needed, assists in contacting the relevant authorities and providing translation and facilitation for the parents. The birth certificates are important for the children to be able to return to Burma in the future.



Art activities with Lahu children, Chiangmai

### Gender Discrimination and Violence to empowerment of migrant women and access to justice

From International Women's day 1999, migrant and refugee women of different ethnicities from Burma and Thailand started meeting once a month to share their experiences and learn new things together, they called these forums: Women Exchange. The monthly meetings facilitated by MAP offered women the opportunity to break the isolation and marginalization, learn from each other and to practice organizing and participating in meetings and advocacy work. The space provided for women by these simple exchanges was hugely popular. Women had often been marginalised not just as migrants but also as women in their own communities and had little opportunity to analyse

their situation or develop strategies to better their condition. Within a year, migrant and refugee women had started the same exchanges in Mae Sot and Mae Hong Son. Today the Women exchange meetings happen at 10 locations along the Thai –Burma border from Mae Hong Son to Ranong. As we celebrate our 10<sup>th</sup> year, the exchange has also started among refugee women from Burma in the UK.

One of the recurring issues emerging from the exchanges was the violence that migrant and refugee women faced while in Burma, on their journey to Thailand



Migrant children having fun!





Women exchange on border

and once in Thailand. Within a few months of the Women Exchange being set up, MAP was contacted by a group of Shan women who had been sexually molested and one woman raped by Thai rangers during the deportation process. Together with a network of Thai Women's NGOs a letter was sent to the Prime Minister (who at the time was also the Minister of Defence) protesting against the treatment of women under the protection of the authorities and demanding justice. The network received a letter of reply to say that the incident had been verified and the rangers were to be punished. Their punishment was to be transferred to another area. The network wrote another letter of protest at the leniency of the punishment and several months later received a reply that further punishment had been meted out: the rangers were to lose their benefits. The lack of access to justice was apparent.

to mass deportations and respect for the dignity of migrant workers. MAP also worked with Asia Pacific Forum for Women, Law and Development to produce a report on the effects of mass deportations on women, called "Dignity Denied".

For the next year the security situation for migrants was extremely volatile and it was difficult to keep activities running smoothly as the constant pressure on migrants for arrest and deportation regularly pushed them into hiding. Nevertheless, it highlighted the need for migrant women to know more about their rights under the law and the Women Exchange groups requested MAP to run "Introduction to Thai Law and Violence Against Women" trainings. From the discussions at these trainings, MAP published a short report in Thai and English 2002 on the situation of violence of migrant

Migrant women's vulnerability accelerated in late 1999 when a policy of mass deportations of migrants was implemented. The Burmese regime closed the borders and the migrants were unable to stay and unable to go. They had to flee from their work places in Thailand and go into hiding, sleeping in fields and living in hiding. During that time, pregnant women gave birth to babies in the fields, and there were more cases of violence against women. MAP joined with other local CBOs in Mae Sot to provide some humanitarian assistance to migrants and advocated for the end

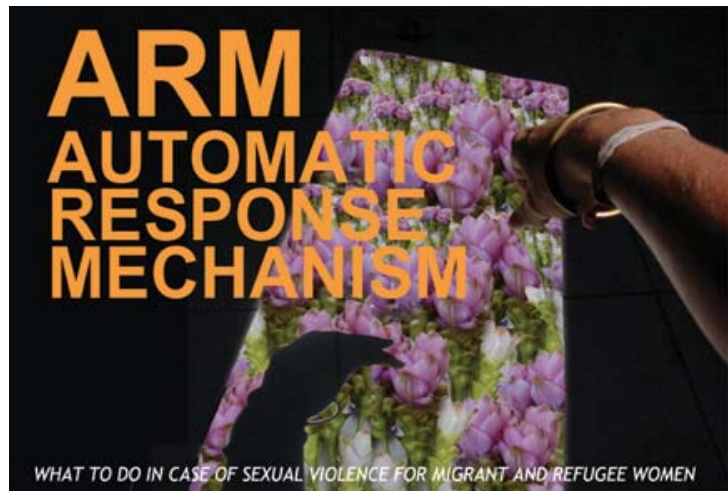


Art activities at women exchange

and refugee women, called: Seeking Safety: Meeting Violence to raise awareness of the issue.

When in 2002 a girl and a woman were raped by Thai soldiers outside a refugee camp in Mae Hong Son, the victims were determined to seek justice. They contacted the local women's organisation to support them in taking action against the soldiers. When the women's organisation could not find an agency to support them in seeking justice, they contacted MAP. It was a major challenge to get support for the women from the protection agencies on the border and also from the community itself. Everyone it seemed preferred to keep such incidents quiet, except for the victims themselves. After many rounds of negotiations with the relevant agencies, the girl and woman were provided a lawyer and the case went to the Military court, where one of the soldiers was sentenced to six years in prison and one to nine years, without parole.

Such cases of migrant and refugee women who had been raped or abused were monitored and responses were discussed in the Women Exchange meetings. ARM (Automatic Response Mechanism, What to do in cases of sexual violence for migrant women) was developed from these discussions and case-studies. ARM outlines 10 steps that women can take in cases of violence. It takes ethnic women's organisations through the counselling process, the medical and forensic check-ups and the legal system. At each step women were asked what might be the possible repercussions, challenges or backlashes. These were included in the steps and suggestions from different groups offered to lessen



the negative impacts. ARM was produced in 2003 in five languages: Burmese, Karen, Shan, English and Thai. Once produced, MAP went back up and down the border running capacity building trainings with the Women Exchange groups on implementing ARM, these trainings included visiting the One Stop Crisis Centres in local hospitals and police stations to develop coordination in the local area.

Women are of course not just victims of violence but are active contributors to their community and are a community themselves. Women Exchange therefore not only focussed on addressing issues of violence but also giving space to migrant and refugee women to express themselves, learn about new issues, organise community events and have fun. From 2002 each year representatives of the Women exchange groups come together at an annual Women Exchange Get-together to meet women from different areas, to meet women from regional women's networks, women from the media, women from the government, women from the UN. Each Get-together takes a particular theme, which over the years have included:

Violence against women, women's movements, forced migration and forced trafficking, right to life-style. Skills building and interest groups are also organised on a wide variety of issues and women can also participate in yoga, aerobics, art activities.

Over the years MAP has tried to reach out to migrant domestic workers, knowing that they are some of the most isolated and vulnerable





migrants. In 2001, after discussions with individual migrant domestic workers MAP produced a report on the situation of migrant domestic workers in collaboration with CARAM-Asia and presented the findings at the CARAM Regional Consultation on Foreign Migrant Domestic Workers in Colombo in 2002. It is particularly difficult to meet domestic workers regularly or to organise activities with domestic workers as they are not covered by the labour laws and rarely get a day off. However, through taking some individual labour cases for domestic workers and through the community radio phone-in programs MAP has been able to start a Domestic worker exchange group where domestic workers can come together to discuss their situation and also give input to the national discussions around employer-worker standard contracts of employment for domestic workers.

*The network of inter-ethnic Women Exchange (WE) groups helps women take their first steps towards empowerment. MAP has contributed to the struggle against sexual and gender-based violence (SGBV) through supporting legal casework; through participative development of the Automatic Response Mechanism (ARM) publication, and provision of associated legal training; and by involvement in the Thai women's networks to develop appropriate services to victims of sexual violence and including migrant women. Work on reproductive health issues, sexuality, and HIV/AIDS have given women more information, encouragement and confidence to discuss related problems. The labour rights program has made efforts to support female leadership in worker organising. (from the MAP external evaluation report 2005)*

## Access to information and services: Labour rights

During the first years of MAP it was difficult for migrants to tackle issues of labour conditions. The frequent crackdowns, arrests and deportations of migrants resulted in migrant communities constantly going into hiding, disbanding and living in fear. To complain about working conditions meant immediate dismissal and arrest and loss of livelihood.

When the registration policy changed in 2001 to include more migrants and for a limited period to distance the legal status of migrants from their employer, migrants could start to think about their labour conditions. When MAP was able to facilitate 30,000 baht compensation for a migrant domestic worker the possibility of working on labour rights became more of a reality.

In 2002, migrant factory workers at the Nut Knitting factory in Mae Sot went on strike in protest against the employer duping their work colleagues into believing he was registering them and then allowing them to be deported. When the employer used violence to threaten the workers into submission they determined to complain not only about these abuses but also about the low wages they had received for all the years that they had worked. The workers asked Yaung Chi Oo Workers Association and MAP to send a representative to the Labour Protection Office in Tak on their behalf. When the employer did not pay the compensation of 4.6 million baht as ordered by the Labour Protection Office, MAP sought legal aid from the Lawyers Council of Thailand and took the employer to the Labour Tribunal Court. One and a half years later, on Aug 24<sup>th</sup> 2003 a settlement was reached with 18 migrant workers who were awarded a total of 1,170,000 baht through the Labour Court. The migrants who took the case had been black-listed from all factories in Mae Sot, been threatened, deported and humiliated in court, but nonetheless the final outcome was a victory in being a legal settlement in court for migrants, in motivating some changes to the mechanisms for migrants to seek justice, for highlighting the lack of enforcement of labour laws for migrants and most importantly for inspiring other migrant workers to resist such abusive conditions.



Filing a complaint at the Labour Protection Office

**Box 1****Action Network for Migrants(Thailand)**

Information Release August 25th 2004

**Migrant workers receive compensation**

**Eighteen Burmese migrant workers** have been awarded 1,170,000baht (29,250US\$) in compensation for the severe exploitation they endured for over two years at the Nut Knitting Factory in Mae Sot, Tak province, Thailand.

**The labour case** which began back in October 2002 has been a landmark case in Thailand, where it is not uncommon for Thai workers' leaders to face threats, harassment and even in some cases to disappear. Many felt that migrant workers would not stand a chance of getting justice in the Labour court of Thailand. However, the migrant workers of the Nut knitting factory stuck together, called on MAP Foundation and Yaung Chi Oo Workers Association for advice and with legal counsel provided by The Law Society of Thailand and personal security by the National Human Rights Commission they managed to achieve some form of justice.

**When the workers** initially took their case to the Labour Protection Office, a warrant was issued for the employer to reimburse the 34 workers 4.6 million baht (115,000US\$). When the employer refused to comply to the order of the Labour office, the case was taken to the Labour Tribunal Court. The workers have attended many sessions of negotiations at the court, been ridiculed, humiliated and threatened but they stood humble but firm throughout all the proceedings. These Burmese workers were determined to pave the way for all migrant workers to receive protection under the Labour laws of Thailand.

**The 18 workers** who will each receive 1,500US\$ or 1,750US\$ initially walked out of the Labour court jubilant. Two hours later, the mood was more sombre as they realised that the employer had only in total paid out one third of the original Labour protection order, 29,250US\$ in court and a previous 10,000US\$ in out of court settlements with 15 of the workers. However, not even this miscarriage of justice could completely dull the spirits of the courageous workers. They shared the stories of their experiences with the Labour court system, the convenient illnesses which plagued the members of the court, causing frequent cancellations, the judge in the second court hearing telling them they should take whatever was offered to them, after all Thai workers usually accepted only 20% of what was due to them. As the workers talked, they realised the magnitude of what they had achieved. In the words of one of the workers: "I have learnt what it means to win. It is not about the outcome but to win is to dare to start to fight for your rights." And the workers of the Nut knitting factory certainly did that.

For More Information contact MAP Foundation and Yaung Chi Oo Workers Association



On June 3<sup>rd</sup> 2003 The Ministry of Labour agreed to set up a special Committee to Solve the Problems of Human Rights Violations of Migrant Workers. The committee was composed of eleven government members and 9 NGO and independent bodies. MAP, as the representative of the Network of Thai NGOs Working with Migrant Workers and their families, was a member. This committee was separate from the Administrative Committee on Irregular Migration which was a purely government committee with no migrant or civil society representation. Unfortunately with a change of minister in the Ministry of Labour, the Committee On Human Rights Violations became inactive, however it remains on the statutes and can be reactivated if the present government sees fit.

Following the exposure of exploitation and corruption in Mae Sot, Tak CEO governor ordered the establishment of a Labour One Stop Centre under the Ministry of Labour in Mae Sot so that migrants would have easier access, having previously had to travel an hour passed three army and police check-points. The first office to be set up was situated in the room next to the Tak Industrial Federation where migrants were unlikely to dare to venture. It was later moved to a separate office. After meetings with the National Human Rights Commission in Mae Sot where migrants presented their cases, an interpreter was employed in the office.

As more migrants considered seeking justice for their exploitation, MAP started workshops on the labour mechanisms in Thai law, and the rights and responsibilities of workers and employers. MAP also organised Labour Exchanges between migrant workers of different factories, and between migrant and Thai workers. MAP translates all government policies on migrant labour and distributes to the migrant workers. We provide translators at the labour department during registration and a migrant enquiry

line so that migrants know how and where to register. We also produce materials on labour rights and the law, and organise activities with workers on negotiation skills, legal processes and rights. It was important for migrants to know the process of negotiation otherwise it was likely that they would immediately strike, be victims of violence and be arrested and deported. Once migrants knew that they were first expected to enter negotiations with their employers they could organise themselves to set out their demands. In many cases these demands were very basic. An extra baht a day (still leaving the wage much below the minimum wage); keeping the guard dog quiet at night, clean water for washing, less watery curry for lunch. But even then, in most cases the employer refused to respond to the workers demands and the Labour Protection officers had to be called in for tri-partite negotiations. There was however an increase of settlements at this level which avoided taking the cases through a lengthy court case. Within three months of the Nut Knitting factory case, 500,000 baht had been recompensated to workers in a number of smaller cases in Mae Sot.

What was seen as a success for the migrants, being able to organise and advocate for their rights, was not well received by the employers of Mae Sot. Several tactics of intimidation were employed, including posting photos of MAP and Yuang Chi Oo staff in factories and forbidding workers to associate with them. It was even rumoured that they could be targets of violence and indeed in 2004 a foreign labour activist visiting Mae Sot was stabbed at night by a gang of motorcyclists after discussing with factory workers. In 2004, a young bi-lingual volunteer, holding a Thai pink ID card was arrested for allegedly working illegally as a lawyer. A year later, he was found not guilty and the judge said there had been no substantial evidence to bring this case. The arrest was seen by many as an attempt

## Box 2

### TRADE UNIONS in Thailand

Only 2% of the overall work force in Thailand is unionized, 11% of industrial workers are unionized.

1,369 unions

400,000 registered companies

15 confederations (professionals)

3 employers councils

In June 2006 the first trade union up-country was started in Lampoon for gems and jewelry workers.

There are two types of unions which migrants can join:

In-house unions: with the same employer

Industrial union - same work

The Labour Relations Act 1975 Section 101 states that the board of unions must be Thai nationals born in Thailand

to stop the flow of labour complaints, since without an interpreter migrants had great difficulty understanding the complaints forms which are only in Thai, the process and the Labour Protection officers.

Nevertheless, migrants who are being exploited continue to fight for their rights. MAP is now not only contacted by workers in the areas where it runs activities but also from other provinces. When in 2004 migrants were allowed to register for work in a different



Queuing for service at Labour One Stop Centre, Mae Sot

province, the migrants took the contact details with them. During 2004 and 2005 MAP was contacted by migrants in Haad Yai in the deep south, Khon Kaen (in the north east) and Mahachai (eastern seaboard) for assistance in cases of exploitation.

Unfortunately, migrants working conditions are not only below standard in their payment, but also in the occupational health and safety standards. This issue had been highlighted as far back as the economic crisis in 1997 when Thais refused to do the work of migrants, not just because of the low pay but also because of the conditions. The Prime Minister of the time, Chuan Lekpai had said that standards should be improved. The media focussed on the 100 kg sacks of rice that workers had to carry, but of course the issues were much more widespread and diverse than this. Doctors had often told MAP that the migrants were in general poor health because their bodies were being overused without any rest periods. Little personal protective equipment is provided, whether it be hard hats and shoes for construction workers, masks for pesticide sprayers or goggles for welders. In addition some of the machinery in factories lacks protective guards, chemicals are not labelled in the language of the



Too heavy by half!

migrants and the migrants are not trained on safety procedures at their work places. The Action Network for Migrants had drawn attention to some of these issues in a small report called “Passport to health” in 2004. To raise the awareness and increase understanding of occupational health and safety among migrant workers, MAP started an action research program in 2006, learning from migrants about their occupational health and safety risks, sharing information about OHS with migrants and advocating for better mechanisms to address OHS standards in migrant workers work-places.

*MAP has supported victims of abuse through precedent-setting legal processes. Inspired by successful casework, more migrants are daring to make complaints about labour rights abuse. Under pressure from – and inspired by - MAP and partners, UNHCR and border INGOs began to address the issue of sexual and gender-based violence. (MAP external evaluation report, 2005)*

### Box 3

#### MAP Refuses to be complicit with situations of forced Labour

In November 2005 MAP was asked by TOTAL Oil and Gas Company to help administer an Individual Cases fund of US\$2.7 million to the “150 – 200 cases of forced labour/human rights abuses allegedly linked by some individuals directly or indirectly to the building of the Yadana gas pipeline between 1995 – 1997”. TOTAL stated that “these situations were not carried out with the knowledge and acceptance of TOTAL, rather were abuses organised by the Burmese authorities for their own purposes”. MAP publicly refused the request, refusing to accept money from a company that continued to work with a regime which it knew to be using forced labour. Our offer to work with independent lawyers to find victims was refused. According to the information provided to MAP, the regulations of the Fund stated that individuals must receive the compensation. There has as far as we know been no information about how many of the 200 victims have so far received their compensation. In addition, TOTAL was also setting up a US\$2.5 million fund for Collective Action, presumably meant to redress the loss of livelihood to people in the area of the pipeline. In 2006 MAP was contacted by migrants who had been offered money from this fund to support activities in areas affected by the tsunami, an area far distant from the Yadana pipeline.



## BOX 4

### Details of legal aid cases facilitated by MAP Foundation 2003 - 2006

*Cases include compensation for non-payment or under payment of wages, unfair dismissal and insurance compensation for victims of traffic accidents. Many of the cases in Mae Sot have been jointly facilitated with **Yaung Chi Oo Workers Association**.*

**Total number of workers assisted: 1,587**

**Total amount of money received by workers: 7,100,449.15 baht**

Settled Cases Mae Sot District, Tak Province				
Year	Occupation	Number		Amount of Money received by Workers
		Male	Female	
2004	Factory workers	51	82	2,323,100.00
	Construction workers	71	-	215,000.00
	Domestic workers	-	2	23,445.00
	<b>Total: 206 workers</b>	<b>122</b>	<b>84</b>	<b>2,561,545.00 Baht</b>
2005	Factory workers	368	614	2,334,695.15
	Agricultural workers	5	2	44,500.00
	Construction workers	44	-	138,000.00
	Domestic workers	3	8	11,000.00
	<b>Total: 1,044 workers</b>	<b>420</b>	<b>624</b>	<b>2,528,195.15 Baht</b>
2006	Factory workers	110	166	1,162,138.00
	Construction workers	22	-	79,900.00
	<b>Total: 298 workers</b>	<b>132</b>	<b>166</b>	<b>1,242,038.00</b>
<b>Grand Total: 1,548 workers</b>		<b>674</b>	<b>874</b>	<b>6,331,778.15 Baht</b>

Chiang Mai Province				
Year	Occupation / Type of cases	Number		Amount of Money received by Workers
		Male	Female	
2003 - 2006 Until November	Construction workers	14	10	87,545.00
	Domestic workers	-	8	215,710.00
	Traffic accidents	-	3	221,126.00
	Agricultural workers	1	1	33,290.00
	Unjust arrest	1	1	211,000.00
	<b>Total: 39 workers</b>	<b>16</b>	<b>23</b>	<b>768,671.00 Baht</b>

### Cases which are still in the legal process

Chiang Mai Province				
Year	Occupation / Type of cases	Number		Amount of Money received by Workers
		Male	Female	
<b>Until November 2006</b>	Construction workers	9	8	71,342.00
	Domestic workers	-	2	65,550.00
	Traffic accidents	2	-	200,000.00
	<b>Total: 21 workers</b>	<b>11</b>	<b>10</b>	<b>336,892.00 Baht</b>

Mae Sot Area				
Case pending in process of labour protection office and labour court, Mae Sot 2005 - 2006				
The order number of Labour protection office	Date of the order	The order company / factory and workers	Amount of compensation requested by workers	Amount of labour protection office ordered
20/2548	29/12/2005	Between 13 workers and Chonburi Knitting Co.,Ltd	282,376	282,376
5/2549	7/6/2006	Between 45 workers B.B.Top Co.Ltd	175,569	282,376
8/2549	4/8/2006	Between 45 workers and Asia Co.Ltd	8,773,044	8,773,044
9/2549	7/8/2006	Between 9 workers	1,327,325	100,719.68
14/2549	27/8/2006	Between 118 workers and Deeta Garment Co.Ltd	14,563,603	Ordered employer not to pay workers
15/2549	4/8/2006	Between 45 workers and Asia Co.Ltd	8,773,044	489,499.75
1/2550	24/10/2006	Between 1 worker and Ceramic progress factory	134,047	33,940

***In Supreme labour court ;***

*The Supreme Court judgement will make judgment on Export garment Co, Ltd on December 12th 2006, 1 women worker suing for unfair dismissal and unjust payment for 120,000 baht.*

\* In 5 of the above cases migrants received free legal Aid from The Human Rights Sub-Committee on Ethnic Minorities, Stateless, Migrant Workers and Displaced Persons of The Lawyer Council of Thailand



**BOX 4 Update of Labour Cases 2007-2010  
(not including on-going cases)**

1996 MAP 2006

Labour Case						
Year	Place of work	Workers	M	F	Amount Demanded	Received
<b>Mae Sot</b>						
2006	Factory Workers - Wage Case	28	17	11	1,747,673	313,916
2007	Factory Workers - Wage Case	236	65	171	39,351,419	3,388,547
2008	Factory Workers - Wage Case.	5	3	2	12,500	12,500
	Construction Workers - Wage Case.	3	3	-	6,000	6,000
2009	Factory workers - Wage Case	55	26	29	14,610,689	377,972
2010	Factory workers - Wage Case	136	67	69	11,534,006	400,000
	Factory Workers - OHS Case	3	3	-	-	92,000

Year	Place of work	Workers	M	F	Amount Demanded	Received
<b>Chiang Mai &amp; Northern Thailand</b>						
2007	Domestic workers - Wage Case	3	-	3	183,000	120,710
	Construction workers - Wage Case	61	35	26	322,571	297,746
	Construction workers - OHS Case	2	2	-	22,500	78,740
	Other workers - Wage Case	2	2	-	15,000	9,000
2008	Construction workers - Wage Case	6	3	3	18,383	18,383
	Construction workers - OHS Case	4	4	-	350,000	443,400

## Migrant Movements 2007 - 2010

Year	Place of work	Workers	M	F	Amount Demanded	Received
<b>Chiang Mai &amp; Northern Thailand</b>						
2009	Agricultural workers - Wage Case	10	4	5	343,142	207,000
	Construction workers - Wage Case	6	5	1	210,930	74,895
	Construction workers - OHS Case	1	1	-	-	31,000
	Other workers - Wage Case	2	1	1	25,136	10,500
2010	Construction workers - Wage Case	15	12	3	78,857	14,920
	Other workers - Wage Case	2	2	-	7,026	5,750
	Domestic workers - Wage Case	2	-	2	-	50,000

Year	Place of work	Workers	M	F	Amount Demanded	Received
<b>Bangkok</b>						
2007	Factory workers - OHS Case	1	1	-	20,000	18,100

Year	Place of work	Workers	M	F	Amount Demanded	Received
<b>All areas</b>						
2007 - 2010	Insurances from - Traffic accidents	19	12	7	-	1,090,000

Year	Place of work	Workers	M	F	Amount Demanded	Received
<b>All areas</b>						
November 2006 - October 2010						
<b>Grand Total:</b>		<b>612</b>	<b>275</b>	<b>336</b>	<b>69,227,215</b>	<b>7,522,862</b>



## Bridging communities

MAP's roots as a project started by Thais, Burmese, Shan, Karen and foreigners lends it well to bridging communities. During 1997 and 1998 Thai students visited MAP to learn more about the situation in Burma and of migrants in Thailand. In 1998, The Student Union of Chiang Mai University and MAP organised a three day event to commemorate the 10<sup>th</sup> anniversary of the democracy uprising in Burma on 8888. Events have been held every year since with the Thai and migrant community.



MAP also participates and organises a booth at religious festivals at Shan temples in Chiang Mai during the ordination of young novices, and the end of lent. In 2006, the Department of Public Health and NGOs in Chiang Mai are jointly organising activities for World Aids Day in one of the Shan temples to reach out to the migrant community.

Migrant women in Chiang Mai help organise and participate in public events to celebrate International Women's Day each year. On the border, there are no events organised by Thai communities,

so the migrant and refugee women organise their own events. Women also organise activities together with Thai friends to celebrate the birthday of Daw Aung San Suu Kyi each year.

In Phang Nga in the South of Thailand, MAP and the network of NGOs working with migrants participate in the Thai and Moken community events remembering the people who died in the tsunami. They have also organized special events for International Migrants Day on December 18<sup>th</sup>, opened by local officials celebrating the first ever such event in the area.



Poy Sarng Loung ordination ceremony



International Women's Day...silence for peace



Mini concert on work site, International Migrant's Day

Media coverage of migrant workers plays an important role in defining the public attitude towards migrants. In the early years, most media coverage of migrants was extremely negative, portraying them as disease-carriers and trouble makers. However in more recent years, both newspapers and television have produced more in-depth articles exploring the situation of migrants. In particular, in July and August 2003, the Bangkok Post published a series of articles entitled Shattered Dreams portraying the lives of migrants in Thailand.

*province it is loathed by abusive employers; international companies are seeking its advice on corporate social responsibility; migrant communities see MAP as the first port of call for information, advice and where needed assistance. It is variously seen as a women's organisation, a labour organisation, a health organisation, a media operation. This should be regarded as an achievement and creates many opportunities (from MAP external evaluation report, 2005)*

*Feedback suggests that MAP is well-respected by the target group and by allies. MAP has multiple faces: officials interviewed in Chiang Mai see it as a model of NGO cooperation; in Tak*

## Networking



Migrant Lounge at Global village, World Aids Conference, Bangkok 2004

### National

#### **Action Network for Migrants (Thailand)**

The Action Network for Migrants (Thailand) previously known as The Thai NGO Network working with Migrant workers and their families meets regularly to monitor the situation of Burmese, Cambodian and Laotian migrants and to share experiences and make recommendations to the government. MAP has represented the network on the Sub-Committee for Migrants and Stateless People of the Law Society for Thailand and on the Committee to Solve the Problems of Human Rights Violations of Migrants under the Ministry of Labour.



At the World Aids Conference in Bangkok in 2004, the Action Network for Migrants (Thailand) hosted a lounge for migrant support groups in the Global Village and together with CARAM-Asia organised community activities for migrants attending the conference. The Action Network also jointly published and distributed “A Passport to Health” briefly documenting the working conditions, health problems and intervention strategies of migrants in different sectors.

Since 2003, the Action Network for Migrants (Thailand) has liaised with the Thai Labour Solidarity Committee and this has been consolidated in 2006 with the Thai labour activists including the issues of migrants in their mandate.

### **TAG (Tsunami Action Group)**

On December 26<sup>th</sup> 2004 a tsunami hit the south of Thailand causing destruction to fishing villages, tourist sites and areas under construction mainly in Phuket and Khao Lak.

MAP was immediately alert to the possibility of Burmese migrants having lost their lives or families in the tsunami and together with HREIB (Human rights education Institute of Burma), Grassroots Human Rights Education and Thai Action Committee for Democracy in Burma, formed a support group called TAG to deliver humanitarian aid to migrants affected by the tsunami, assist in holding religious ceremonies for the deceased, provide counseling and support and facilitate



Devastation caused by tsunami



Re-issuing documents lost in tsunami



Religious ceremony for loved ones lost in tsunami

migrants getting their legal documents which had been swept away in the tsunami re-issued. TAG's initial support came from Burmese migrant workers in Mae Sot who collected 40,000 baht for their compatriots within several days of the tsunami, other support also came from individual Thai donations, Burmese diaspora communities and international agencies. TAG disbanded eight months after the tsunami, but each organization continued in its own capacity on development issues. MAP set up community radio programs, outreach programs on labour rights, women's rights and HIV. TACDB continued to try to assist migrants in identifying the bodies of their deceased family members as had been done for Thai and tourists. Finally on December 6th 2006, 410 unidentified bodies were buried, most thought to be Burmese migrants.

#### ***The PHAMIT Project***

The Prevention of HIV/AIDS Among Migrant Workers in Thailand Project (PHAMIT) is funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria. Raksthai Foundation, the Principal Recipient, in partnership with Centre for AIDS Rights (CAR), Empower (Chiang Mai), MAP Foundation, Stella Marie Centre, World Vision and the Ministry of Public Health are the primary implementers of PHAMIT.

## **Regional**

### ***Mekong Migration network***

In 2002 a group of organisations working on migration in the Mekong region were supported by The Rockefeller Foundation to produce a report on "Migration: Needs, issues and responses in the Greater Mekong Sub-Region." These organisations then formed themselves into the Mekong Migration Network and have produced a second resource book focussing on the Quality of Life of Migrants. In 2004, MAP co-hosted a symposium in Chiang Mai with the Mekong Migration Network on "Exit procedures, Arrest, Detention, Deportation, Return and Reintegration". The network members then collected information from their respective communities and the information is being collated into a third resource book to be published in March 2007.

### ***CARAM-Asia***

In 2000, MAP became a member of Coordinating Action Research on AIDS and Mobility (CARAM- Asia) and has helped organise and contributed to The Regional Summits on Pre-departure, Post-Arrival and Reintegration Programs, and on Foreign Migrant Domestic Workers. MAP has also contributed to CARAM's publications: *Forgotten Spaces* and the Foreign Migrant Domestic worker campaign kit. CARAM Asia organises events and advocacy at regional and international AIDS conferences and participates in annual consultations with the UN Special Rapporteur on the Human Rights of Migrants.

### ***APWLD (Asia Pacific Forum on Women, Law and Development)***

MAP is a member of the Labour and Migration task force of APWLD, participating in annual consultations with the UN Special Rapporteur on Violence against women and the UN Secretary Representative on Human Rights Defenders.

### ***GAATW (Global Alliance Against Trafficking in Women)***

MAP participates in meetings and advocacy of GAATW on issues relating to access to justice for people forced to work and working under severe forms of exploitation, and in clarifying the nexus between trafficking and migration.

### ***Asian Alliance on Migration, Development and Human Rights***

Prior to the United Nations High Level Dialogue on Migration in September 2006, Asia-Pacific Regional networks on women and law, HIV/AIDS and migration, development, human rights and migration came together to discuss a common position from Asia to the issue of migration. The position paper was taken by representatives of the Alliance to the UN High Level Dialogue and one member of the alliance participated in the High Level Dialogue while several others, including MAP, participated in the parallel Community forum.



**STATEMENT of Network of Migrant and  
Refugee Women from Burma  
MARCH 8<sup>TH</sup> 2005  
THAI-BURMA BORDER  
FORCED LABOUR, FORCED MIGRATION AND TRAFFICKING**

We, one hundred migrant and refugee women from Burma currently taking refuge and seeking livelihood in Thailand have discussed and explored the issues of forced labour, forced migration and trafficking in relation to women from Burma. We are women of different ethnicities with multiple experiences of forced migration. Some of us have also experienced forced labour and others trafficking. We are all committed to assisting our sisters who experience these human rights abuses.

We estimate that there are 2 million internally displaced persons living in desperate conditions in Burma, 120,000 refugees living on the Thai-Burma border housed in refugee camps, and well over one million migrants and their families living and working in Thailand.

We are particularly concerned that the majority of these people are currently forced to migrate both internally and externally due to the following reasons:

- Systematic rape of ethnic women by the military
- The displacement from the building of dams on the Salween
- The building of gas pipe-lines and other development projects
- Large-scale business agricultural projects
- Armed conflict
- Severe economic hardships, lack of livelihood
- fear of persecution

We understand that forced migration is one unacceptable sector of migration which is caused by the deliberate policies of the State Peace and Development Council (SPDC) to force people off their land. The mismanagement of the economy and the natural resources restricts the self-determination of the people of Burma who then cannot choose to stay on their own land. The regime-inflicted poverty, and severe economic hardship makes migration not

a choice but a necessity for survival. It is a sector of migration which with political will and commitment could be abolished. It is not a necessary factor of migration.

Women, men and children are also forced to migrate to flee from forced labour. During our exchanges among Akka, Arakine, Burman, Chin, Kachin, Karen, Karenni, Kaya, Kayaw, Lahu, Mon, Pa-O, Palong, Shan, and Tavoy women, we heard that our sisters and brothers are still forced to work for the military to build roads, bridges, and for portering. Children are abducted into the army to be child soldiers. The International Labour Organisation (ILO) has condemned the military regime for the use of forced labour but the regime continues to use forced labour as a means of suppressing the people.

We understand that forced labour is one unacceptable sector of labour which is caused by the deliberate policies of the SPDC to suppress the people and feed the corruption of the regime. It is a part of labour which with political will and commitment could be abolished. It is not a necessary factor in labour.

We have heard from our brothers and sisters of a wide range of labour conditions that migrants from Burma experience in Thailand. We were encouraged that migrants from Burma could register for a temporary ID card in Thailand independent of an employer. This is particularly important for female migrants who if bound to an employer are often bound to sexual abuse and physical violence. Migrants who were able to apply for a work permit were optimistic when the Ministry of Labour clearly outlined the conditions of work to employers. Unfortunately, the workers find that many of the labour laws are still broken in their employment. Migrants in factories are working long hours for less than the minimum wage, migrants in orange orchards are spraying without being given any training on the use of pesticides, migrants on construction sites are working on tall buildings without hard hats and boots, fishermen and miners are working in

conditions that local workers shun due to the high risk of death. Sex workers and domestic workers are not protected by the labour laws. These conditions are not forced labour but they are unacceptable. And we believe the tolerance for such conditions and the lack of enforcement of the labour laws creates an environment where exploitative labour conditions flourish, and where traffickers can move in and reap the benefits.

We know that some of our brothers and sisters migrate into situations of forced labour, that some of our brothers and sisters have been trafficked. We are bemused by the stance the SPDC is taking on anti-trafficking and are not convinced they are genuine. While rape and forced labour are still systematically enforced by the SPDC, any steps taken against trafficking must be seen to be purely cosmetic and in pursuit of the large amounts of funding made available on this issue. The regime has also clearly tried to enhance its credibility by hosting UN and ministerial meetings on trafficking. We believe that a regime that rapes women and forces children to be soldiers, that is the main cause of forced migration and forced labour has no credibility and has no intention of changing the root causes which allow trafficking to happen.

We heard from our sisters of the suffering of our compatriots from the tsunami in the South of Thailand. Over 2,500 migrants from Burma went missing in the tsunami, many of them feared dead. No Burmese officials visited the area or offered any assistance whatsoever to those who lost their families and those who suffered trauma during the tsunami. The migrants had to rely on the good will of the Royal Thai Government and assistance by local NGOs.

We, migrant and refugee women from Burma who have been forced to migrate out of our country call on the international community to recognize the root causes of our migration, to strongly denounce the policies of the SPDC which deliberately cause forced migration.

We, migrant and refugee women from Burma call on the ILO to make public the situation of forced labour in Burma and sanction the SPDC for its systematic use of forced labour.

We, migrant and refugee women from Burma call on the international community to stop collaborating with the SPDC on anti-trafficking projects while the regime still contributes to forced migration and forced labour.

We, migrant women from Burma, ask for our rights as workers to be respected and for the Royal Thai government to ensure that the labour laws are properly enforced to protect us in our work places.

We, refugee women from Burma, ask for our rights as refugees to be respected and for the Royal Thai Government to grant us permission to work and travel with documents in Thailand.

Forced migration, forced labour and trafficking are inter-connected and we therefore call on the UNCHR to take the lead in firmly addressing these human rights violations as a package and in a holistic manner for the survival and dignity of the people of Burma.

Released by the Network of Migrant and Refugee Women from Burma  
For further information please contact  
MAP Foundation, Chiang Mai, Thailand





### MAP Ten Year Event

To celebrate MAP's 10 year anniversary and launch the first edition of this book, on December 18<sup>th</sup> 2006 MAP organized a community event with 400 migrants and supporters in the gardens of the art museum in Chiang Mai university. A whole evening of cultural dances and songs were performed by different ethnic migrant groups from in and around Chiang Mai. Everyone is looking forward to the 20 year anniversary!



### POSH (Promoting Occupational Safety and Health)

MAP created an innovative animated cartoon to stimulate discussion about safety conditions at work. The cartoon characters experience injuries and diseases in their workplace, get sacked when they try to make individual complaints and learn the power behind joining together to negotiate. It's a little scary to watch, but then so are many of the conditions that migrants work in but it's also fun.

In order for migrant communities to be able to use the cartoon effectively as an educational tool, MAP has also created a manual of workshop activities to be used with the cartoon.

### MAP On Air!

Migrant workers now have two community radio stations to call their own. MAP Radio FM99 Chiang Mai and MAP Radio FM102.5 Mae Sot. In Chiang Mai, MAP broadcasts in Shan and Thai languages, while in Mae Sot we broadcast in Burmese and Thai. Both stations have programs on health issues, women's rights, children's education, occupational health and safety and of course, music and fun! Other organizations also broadcast on our radio station giving it a truly community feel, including empower foundation, The Samaritans, Shan culture & Education, SWAN, the Mekong Youth network to name just a few! Radio is a great way to reach out to migrants who are otherwise isolated. Within a week of opening in Mae Sot, the phone lines were jammed every time we went on air! We trust that our listeners will continue to listen and enjoy!



### MAP in Phang Nga

After four and a half years working in the area hit by the tsunami in Southern Thailand, MAP closed the office in July 2009. Nevertheless, MAP continues to support activities with migrant workers in the area. Together with TACDB, MAP supports migrants to run two libraries at Ban Nafak and Ban Tong Lark. These libraries are resource centres for the migrants to find information, relax and share. Each library also has a computer with internet access so that migrants can keep in touch and can also listen to our radio stations online.

The migrants in the area continue to hold labour and women exchanges which give them a chance to share experiences with other migrants and to monitor the situation and to keep up to date with current policy changes.

The migrants have organized themselves into membership groupings with the aim to provide assistance to their colleagues in difficult times and to be able to negotiate for better working conditions.

### Illegal, Temporary and Precarious States of Being - Migration: An Art Exhibition

MAP, together with Studio Xang, Asian Institute of Technology (AIT) and University of Leeds (UK) organized an art exhibition at the Pridi Banomyong Institute in Bangkok from February 14<sup>th</sup> – February 28<sup>th</sup> 2010. The exhibition was timed to correspond with the change of migrant policy in which some 2 million migrants from Burma, Cambodia and Laos



were threatened with deportation on February 28<sup>th</sup> 2010. A seminar on the opening day explored the government policies and their impacts on migrants, while the art exhibition was opened with an art performance by Padungsak Kochasamrong, who created, and bulldozed through, a miniature border of rubber gloves and toy soldiers. The conditions faced by migrants once in Thailand were powerfully represented by two series of black and white photographs by John Hulmes and Nic Dunlop. The photographs captured both the strength and resilience, and the exploitation and exhaustion, of migrants.



Unconventional and precarious forms of transportation were a recurrent exhibition theme. On a pond in the center of the institute, a collaborative work used migrant figures floating on rubber tires. *“Thailurma Bound,”* a video by Estelle Cohenny, explored borders as a person crosses back and forth between countries, but never arrives anywhere. At the *“Your Room”* installation, inspired by the TWC2 project in Singapore, a viewer sat in the comfortable home of an employer while haunting portraits of migrant men and women stare out. At another display, Liu Lifan, a Chinese artist, used her experience of moving from the countryside to Kunming, China, to create a performance video exploring how one carries their past wherever they go. In *Reflecting on Today...imagining Tomorrow* Liz Hilton combined digitally manipulated images of migration scenes: a group of migrants falling in pace with a jogger as he enjoys his morning exercise and they run away from police; a panda and tourists welcomed through immigration while migrant workers scaled a wall to get in.

### Labour Migration Management Training Courses

In 2008 and 2009 MAP as a member of the Mekong Migration Network trained government officials from the Mekong countries at the Mekong Institute, Khon Kaen University in a three week “Labour Migration Management Training Course”. The course curriculum had been developed by MAP Director, Jackie Pollock with lots of exciting contributions from the team of trainers. Each of the courses received excellent evaluations from the participants from the Ministries of Labour, Immigration, Foreign Affairs, Women and Social Welfare. The participants continue to keep in contact and work to improve the management and rights of migrants in the Greater Mekong Sub region. MMN is now planning national level trainings on Labour Migration.

### Domestic Workers Campaign

The Domestic Workers Exchange group in Chiang Mai joined with a regional campaign, United for Foreign Domestic Workers Rights, to call for a policy protecting their labour rights and guaranteeing all domestic workers one day paid leave a week. They asked people to show their support for domestic workers by signing and posting this postcard.



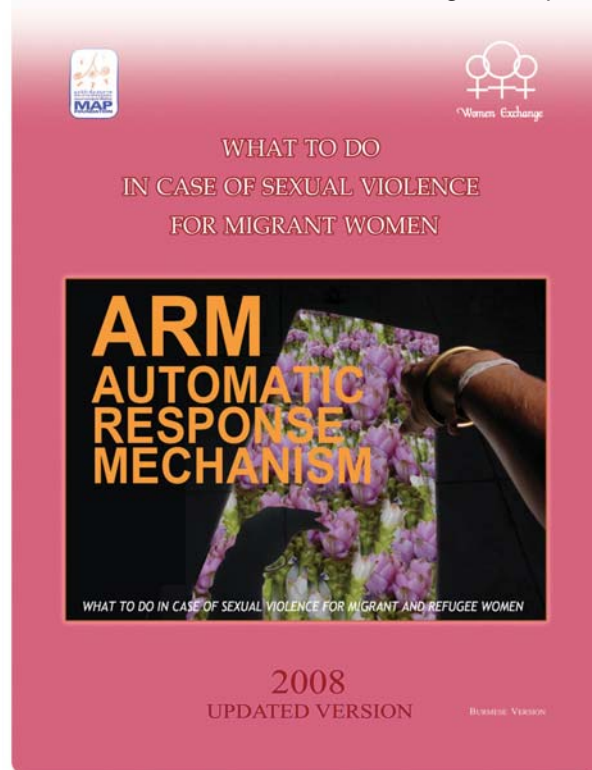


On August 28<sup>th</sup> 2009, the International Day of Solidarity with Domestic Workers, Thai and migrant domestic workers presented over 6,000 signed postcards to the Parliamentary Committee on Labour, Thailand. In June 2010 at the ILO annual conference, the Thai government voted to support the development of a Convention protecting domestic workers labour rights. On August 22<sup>nd</sup>, 2010, Pongsak Plengsaeng, an adviser to Labour Minister Paitoon Kaewthong, at a meeting of domestic workers in Bangkok said the draft of the ministerial regulation on the protection of domestic workers was expected to be completed on Sept 23, the ministry's anniversary. The minimum wage, days leave, access to medical treatment and education and other requirements would be specified in the ministerial regulations. He said it would be sent to the cabinet for consideration and approval this year. Domestic workers might at last be recognized as workers!



## ARM (Automatic Response Mechanism)

In 2008, ARM was updated to include the revisions in the law, including revisions regarding the definition of rape, a new domestic violence act and extended sections on providing support and counseling. This new version of ARM focuses on migrant women and refugee women outside of camp but does not address the situation of camp based refugee women. MAP is currently working with the Karen Women's Organisation (KWO), the American Refugee Committee (ARC) and UNHCR to adapt ARM for each refugee camp, taking into account the camp justice systems, the difficulties of accessing Thai medical and justice systems and the isolated and closed nature of refugee camps.



## Workers Solidarity Association

On July 22<sup>nd</sup> 2007, Shan migrants in Chiang Mai who had been active in the Labour Exchange meetings, formed their independent membership-based association, the Workers Solidarity Association (WSA). The Association has 200 members and is committed to improving the conditions of workers and providing support to workers in difficult circumstances. The Association has close contacts with Thai unions especially locally. As a member of the Thai Labour Solidarity Committee, MAP also keeps the Workers Solidarity Association in contact with the Thai workers movement.



### Welcome Mahachai!

Together with partner CBOs, MAP is supporting monthly forums of Women Exchange and Labour Exchange in Mahachai area after many requests from migrants who have contacted MAP for information about policies and for assistance in cases of labour exploitation.

### DVD Documentaries

As well as MAP's usual array of brochures, booklets, flyers, posters on a wide range of issues (health, policy, labour rights, children, education, traffic rules and regulations) in Burmese, Shan, Karen and sometimes Lahu. In the last four years MAP has also developed its documentary capacity, and produced documentaries on different issues e.g. how to use the labour mechanisms to access justice in cases of exploitation, living with HIV. MAP is currently working on a DVD on Being Safe on the Roads! which includes drama, interviews and workshop ideas for teaching road safety.



### Publications

- ◆ Critical Times: Migrants and the Economy in Chiang Mai and Mae Sot, Khun Aung and Soe Lin Aung, August 2009, MAP
- ◆ Critical Times: Gendered Implications of the Economic Crisis for Migrant Workers from Burma/Myanmar in Thailand, Jackie Pollock and Soe Lin Aung, July 2010, The Oxfam Gender and Development Journal Vol 18.2

### Together with the Mekong Migration Network (MMN)

- Protecting Migrants' Rights When They Leave the Host Country, Mekong Symposium on Migration, 2007.
- Resource Book: Arrest, Detention and Deportation, 2008.
- Migration and Development in the GMS, Proceedings of Workshop, July 2008.
- Annotated Bibliography: Migration in the GMS, 2009.

### Together with CARAM Asia

- ◆ Foreign Domestic Workers Campaign Toolkit, May 2007.

### Together with GAATW

- Collateral Damage, The Impact of Anti-trafficking Measures on Human Rights Around the World, 2007

### Together with Human Rights Watch

- ◆ From the Tiger to the Crocodile, Feb, 2010

### Together with ILO

- Domestic Workers Smart Guide (Burmese and Shan)



## Upcoming Publications

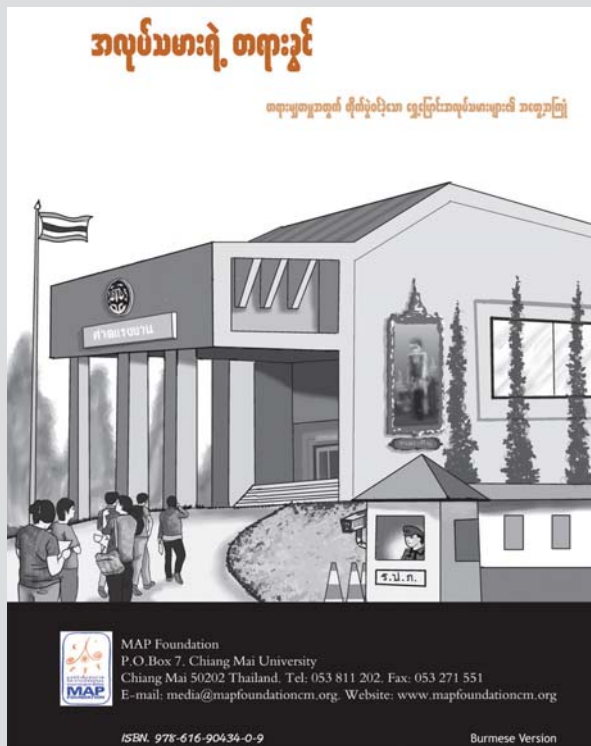
On 5<sup>th</sup> December 2008, the CEDAW Committee adopted General Recommendation 26 on Women Migrant Workers. MAP with our extensive network of migrant and refugee women is preparing a report on the situation of migrant women workers in Thailand.

MAP has also received a small grant from the Global Consortium on Security Transformation to develop a paper on “Situating (In) security: Transforming Security Paradigms vis-à-vis Migrant Communities on the Thai-Burma Border”

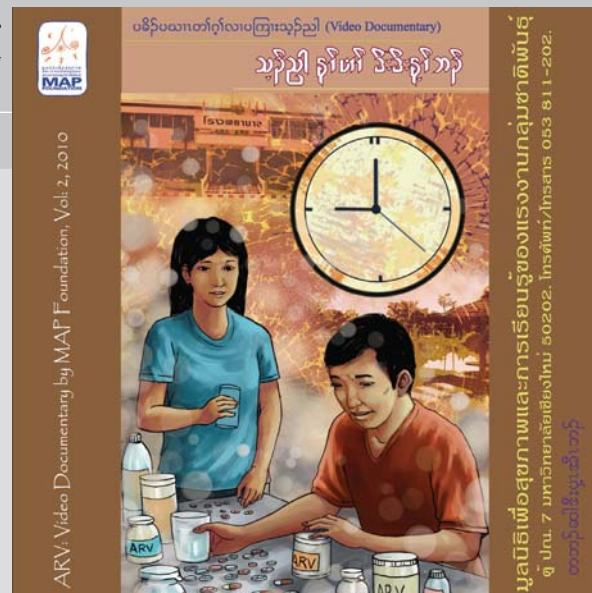
MAP is currently working on:

- The Right to Unite: A Handbook on Domestic Worker Rights across Asia, APWLD and United for Foreign Domestic Workers Rights.
- Economic Zones in the Mekong: Mekong Migration Network.
- Migration, Health and Globalisation: Remittances, the Impact on Migrant Workers' Quality of Life, CARAM Asia.
- Women Migrant Workers in Cambodia, China, Malaysia and Thailand, War on Want, Asian Migrant Centre on Migrant Workers' Quality of Life with CARAM Asia, to be published shortly. □

*DVD documentary in Karen, Shan and Burmese looking at access to ARV treatment for people living with HIV/AIDS.*



*A Piece of Justice,  
(Burmese, Shan, English and Thai language)  
Migrant workers tell their experiences of using the labour justice system in Thailand. They hope to inspire other workers to dare to fight for their rights.*



*Poem, Shanlanguage  
Poems written by  
migrant workers from  
various work sectors.  
There are over 50  
poems written about  
life in their homeland,  
in Thailand, about  
their culture and  
literature.*

## Chapter Two

# Living and working conditions for migrants in Thailand

## Wages

A study by Macquarie University, Australia which conducted 1,500 in-depth interviews with Burmese migrant workers in a wide range of jobs the length of Thailand found, not surprisingly, that nominal incomes for all Burmese workers had increased during the last 20 years. The results showed that the nominal median income per month for migrant workers in their first job increased from about 1,000 baht prior to 1985 to about 2,500 baht for the 2001-2003 period. However when the real income for workers from Burma was calculated it was found that the real income had remained relatively constant in the last 20 years, in contrast to their Thai counterparts. It was found that women have consistently earned lower wages than men in the last twenty years and that income varied on the basis of region of employment and basis of industry of employment.

About 50% of workers in fishing, aquaculture, trade, hotels, restaurants, domestic service and subsistence production earned less than 3,500 baht a month in 2004.



Migrants sorting fish in Kuraburi

Six Shan workers on a construction site in Chiang Mai had not been paid between 2 – 5 months. With the support of MAP, the workers filed a complaint with the Labour protection office on April 1<sup>st</sup>. The employer agreed to pay 20,000 baht per worker, but requested to deduct money for food and work permit fees, thus offering only 800 – 2,500 baht per migrant. With further negotiations, four workers received 5,324 baht, the other two workers had in the meantime left Chiang Mai and their compensation remains at the Labour Protection office. (MAP, 2005)

The study also found that a massive 70% of workers in agriculture and forestry, and manufacturing, earned less than 3,500 baht per month.



Working in orange orchards, Fang

On October 15<sup>th</sup> 2004 65 Burmese workers approached the Labour Protection Office in Mae Sot, Tak province with a list of complaints about their employer at Por Thai Sun (2)Co. Ltd, a factory making garments for export. The complaints included:

- ❖ Being paid 50–80 baht a day (1.2 – 2US\$) (minimum wage as protected in the Labour laws was 135 baht (3.3US\$) a day in Mae Sot)
- ❖ Being dismissed from work without due reason or notice on October 10<sup>th</sup> 2004
- ❖ Being forced to leave their work-place and accommodation on October 15<sup>th</sup>



According to the study, only 30% of workers in the quarrying industry earned less than the minimum monthly income. However the study warned that this should be balanced by the larger number of serious workplace accidents in this industry (including death)

It was also found that the monthly disposable income of migrant workers was also related to the industry of employment. In 3 industries – agriculture and forestry, fishing and aquaculture, and manufacturing – about 5% of workers earned a ‘negative’ income in the month surveyed. These negative incomes were due to debts owed to their employers. In the manufacturing industry, negative incomes arise because of debts owed to employers for work permits, food and accommodation, and workplace ‘fines’. In the agriculture and forestry industry, the negative income usually occurs because their employer has paid for their work permit. Agricultural workers in this situation usually live on their employer’s land and are ‘bonded’ to this employer<sup>1</sup>

On 29 July 2005, the MAP Foundation was contacted by a migrant worker employed in the Chotiwat Manufacturing Company in Haatyai, a city in the southern Songkla province, to say that he and 72 other registered Burmese had changed their employer and province from Mae Sot to Songkla in June. A broker had made the arrangements for the transfer, following the legal procedures set out in the migrant policy of contacting the Department of Employment in both provinces. However, the broker charged each worker 8500 Thai baht (USD200) to be transferred. the equivalent of several months wages.

When they arrived in Songkla, the workers found that the conditions in the factory were worse than expected. They were required to work from 7am to 7pm and were only allowed one break from 12pm to 1pm. They were paid 140 Thai baht (USD3) per day, with some overtime, but uniform fees were deducted from this, at approximately 4,500 Thai baht (USD125) for each worker. Workers were also required to pay for electricity, water and cooking utensils, and to have the brokers fees deducted.

<sup>1</sup>Preliminary Survey Results about Burmese Migrant Workers in Thailand: State/division of origin, year of entry, Minimum wages and work permits Wylie Bradfordwradfor@ efs.mq.edu.au & Alison Vicary avicary@efs.mq.edu.au

## Occupational Health and Safety

Over ten years ago, on May 10<sup>th</sup> 1993, the poor occupational health and safety (OHS) standards in factories in Thailand were exposed when the **Kader** toy factory caught fire and the fire spread rapidly through the building due to inadequate fire safety systems, trapping the workers inside.

174 women and 14 men were officially recorded as having died in this fire with a further 469 workers injured. The **Kader** fire shocked the nation and for a while attention was focused on the fire safety regulations for factories and a campaign for health and safety was galvanized which produced some results. An important law was introduced providing for workplace safety committees and trained worker safety representatives.

Labour campaigners and government and industry representatives created a (quasi) independent and representative National OHS Institute. Contentious issues were whether the Institute would gain control of the *Workers Compensation Fund* and whether, as part of a holistic approach to safety, it would be given an enforcement as well as an educational and preventative remit. Campaigners argued to integrate all these OHS issues within one Institute would assist improvement in worker’s safety, but others claimed the compensation fund should be managed by bureaucrats. Recent regulations governing domestic and agricultural workers brought in new prescriptive rules for their safety, and existing safety laws were widened to cover smaller workplaces. A national safety week raising awareness on OHS has annually been undertaken, and more qualified safety representatives complete accredited OHS training than before.



Exposed wiring on tin roof of migrants living quarters

On the 10<sup>th</sup> anniversary of *Kader* in 2003, an opportune moment was provided to ask what really were the results of these post *Kader* changes in terms of improved workplace health and safety? For despite new and updated laws, model factories, and beyond the contents of internationally commissioned reports that attest to the efforts the Thai bureaucracy have supported on workplace safety, many OHS hazards have seemingly remained the same for too many workers on the ground.

Thailand still does not have a universally applicable OHS Act, and OHS law is still a mix of prescriptive regulations, applying to some workers and workplaces. Official statistics report around 900 deaths and 200,000 injuries and diseases at work each year in Thailand, yet an ILO report in 2001 estimated about 7,000 and 5.5 million respectively. In relation to migrant workplaces in particular, factories still contain numerous potentially fatal and usually uncontrolled hazards, in particular relating to fire, chemicals and machinery. Rarely is a fire safety system operational and tested, whilst machines remain unguarded and ventilation poor or non-existent. Construction sites are the scene of frequent injuries, some fatal, from falls, electrocutions and unsafe use of building materials. Agriculture sites are a mix of ergonomic hazards and overused toxic chemicals, with most workers reporting frequent muscle aches and pains, as well as skin irritations. The long-term effects of chemicals and work place hazards on the reproductive health of women is unknown and there are no statistics relating to infertility rates among migrant women or the incidence of birth defects. Indeed any long-term effects of current working conditions is likely to go unreported as migrants will return to their homes and any connection with the work place will be lost.



OHS Activity - Body mapping

Migrant workers, from countries like Burma, are shockingly unprepared for the industrial hazards in the workplaces in Thailand. Without OHS educational awareness programmes, workplace committees, regulatory enforcement, and supportive and knowledgeable employers, all as required under existing Thai law, migrant workplaces will continue to be full of hazards. Work related deaths, injuries and diseases of migrant workers will remain unrecorded and invisible, and compensation will rarely be provided.

## Living Conditions

Migrants right to be in Thailand has been exclusively linked to their work place and consequently to their employer, apart from a six month period in 2001 and a 12 month period in 2004. Thus migrants working in factories are housed in barracks within the factory compound, migrants on construction sites live in shanty dwellings on site, domestic workers live in the houses of their employers, agricultural workers build small bamboo huts in the orchards or tin huts in the rubber plantations. Only a small minority of workers live independently of their employer.



Reading Migrant's Diary at temporary home

Living on site can be extremely stressful for migrants. They have no personal space, no control over the conditions in which they live. Domestic workers are particularly vulnerable to losing complete control over their lives as they can be on call 24 hours a day. Many domestic workers are not provided with a room, let alone a lock on the door.

Many of the factories in Mae Sot provide inadequate sanitary facilities for the number of people sleeping and living there. Men and women have to shower in public areas on construction sites, the water is not clean and there is often not enough water for all the workers. Workers in many areas

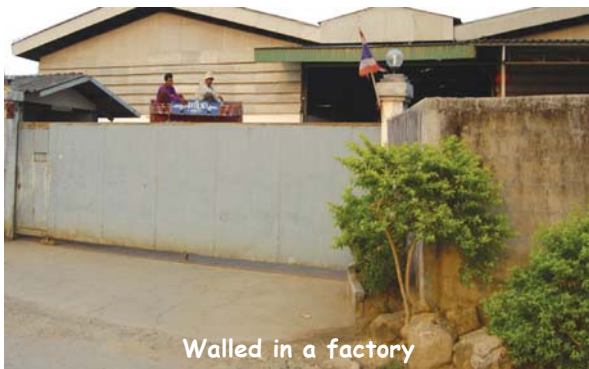




**Home ?**

complain that there are not enough toilets and not enough water to keep the toilets clean. In the aftermath of the tsunami, TAG assisted migrants to build toilets at their living quarters.

In some factories, up to 100 workers may be sleeping in a crowded room separated only by their few belongings, with little ventilation. Women factory workers sleeping in such barracks are distant from any local community, behind the closed gates of the factory compound. On several occasions, after workers have complained about their working conditions, employers have used thugs to enter the women's sleeping quarters to threaten them, on other occasions policemen have threatened the women in these quarters.



**Walled in a factory**

Workers in factories have money deducted from their salary for food provided by the employer, but they have little say about the type of food and have difficulty maintaining a balanced diet. Some domestic workers are only allowed to eat the left-overs from the family meals. Although registered workers can move about to go to the market, time is limited and as construction sites are isolated, the transport to the market costs money. Trucks laden with food stuffs go round the workers sites in the evenings and workers can buy food directly from the trucks, though of course the price may be higher than in the market and the choice is much more limited.

On some workers living sites there is some space for sports activities, usually either *takraw*<sup>2</sup> or football and it is invariably men who play as the sun sets and the women cook the food for the evening.



**Men exercise - women cook !**

If migrants have a health problem and cannot work, or have a labour problem, they immediately become homeless and even when they can keep their legal status for seven days to find a new employer they have nowhere to stay. After the tsunami in the South of Thailand, hundreds of Burmese migrants lost their belongings and their rooms. While in the immediate aftermath, they joined Thais in the camps, they did not stay for long. Thai soldiers offered to take the Burmese migrants home, but with no system in place to "help" migrants home, they soon became involved in a deportation process being kept in a holding cell in Ranong. So instead of using the emergency camps, migrants moved to areas where there were other migrant communities and shared their small living spaces. Migrant communities in Kuraburi opened their doors to many of the migrants affected by the tsunami. Others went up into the hills to hide out, and others camped down in plantations where the foremen were sympathetic to their plight. In Mae Sot, if a factory has a labour problem it often affects large numbers of migrants at the same time. These migrants then have nowhere to stay. The local temples will often agree to house the migrants for one or two evenings but are then under pressure to turn them out on the streets.



**camping out!**

<sup>2</sup> a volley ball like game played with a rattan ball

## HIV/AIDS

Health issues are a major concern for migrants from Burma. Due to the situation in Burma, people have had very little health education and even less health care. People from Burma make long journeys to cross the border just to receive health care. The major health issues at clinics on the Thai border are malaria, TB, malnourishment of children and the reproductive health of women. Among migrants who have lived in Thailand for some time, the health issues are occupational health problems, TB, social and emotional well-being, and HIV/AIDS.



Thailand has extensive programmes on HIV/AIDS, ranging from prevention campaigns to community care. There is a strong network of people living with HIV, especially in the North of Thailand where there are over 200 groups of HIV+ people. However, all the services are only provided in Thai and with an assumption now, that people have been exposed to many years of health messages. Unfortunately, newly arrived migrants have had no previous exposure to HIV education, cannot understand Thai and are afraid to ask. The few messages they have heard have created fear and stigmatisation, and HIV positive migrants are very afraid to disclose their HIV status within the community.

While Thailand does not have a policy of mandatory testing of HIV, people who present at hospital for TB or other diseases which may be opportunistic infections, are automatically tested for HIV and most often results are handed over without any counselling. It is therefore very important that migrants have a good understanding of HIV, and this information needs to reach all migrants all the time, as it is not possible to determine when migrants will be tested or to ensure pre-test counselling.

Over the last few years, the attitudes and understanding of HIV among the longer-term migrant and refugee communities has developed and there are now substantial groups of people who do not discriminate or stigmatise people living with HIV. Activities now focus on facilitating these networks to have counselling and cultural mediator skills, so that they can provide counselling on the ground and can translate at government services. HIV/AIDS focal points also reach out to their communities to train new members.



**MAP's Information on ARV**

Major programs on access to ARVs in Thailand started following the International Aids Conference in Bangkok in 2004 when the Health Minister promised universal access (for Thais only). A few HIV positive migrants have been able to access ARVs through special projects at the state hospitals, or in border areas where the hospitals have spare quotas, but as yet there is no comprehensive coverage for migrants.

All pregnant women are tested for HIV in Thailand and receive AZT to prevent mother-to-child transmission. Migrant pregnant women who go to Thai hospitals are also receiving the same treatment, and the projects administering AZT have their materials translated into the languages of the migrants.



**Assessing our risks - closer to home?**



Migrants with AIDS have very few options available to them. If they stay in Thailand, they cannot work and therefore usually cannot stay within their community, since the communities are based on work-places. As soon as they stop working, they lose their legal status and become illegal, thus making it difficult to find accomodation and help. Many migrants with AIDS wish to return to their families to die; but going home is not always possible when there is fighting in the ethnic areas or their villages have been burnt down or forcibly transferred and cannot be found. There are also increasing numbers of orphans, including a large number of children whose parents died of AIDS. These children are stateless and abandoned. Some projects on the border provide accomodation and schooling to some of these children, the state services help when they can.

## Dedicated to the first house-mother of MAP's emergency House

*Pi Noi could communicate in such a variety of languages that the mind dizzied. She had no written language but why would you, when you can chat away in so many ethnic languages! Her life had not been easy but she was not bitter or resentful. Quite the opposite, she channeled all her energy into taking care of other people. She took on being housemother of an emergency home for migrants, when no-one was quite sure whether the local community would accept it or how it would be viewed by immigration. But she was not deterred, her only aim was to make the house a comfortable space for migrants recovering from illness or trauma. Her biggest challenge she used to say was cooking for the variety of ethnic nationalities that stayed at the house Pi Noi was HIV positive, she worked caring for others right through to the end of her life, allowing others to care for her for only the last few days of her life. We hope she would still be proud of the emergency house today!*



Men can make a difference



World Aids Day 2006, Migrants in Phang-nga perform a play to educate their community on HIV/AIDS

## THE CIRCULATION OF PEOPLE BETWEEN BURMA AND THAILAND

People from Burma move and are moved from Burma to Thailand and from Thailand to Burma. They cannot participate in the policy decisions in their country of origin which affect their well-being, survival and livelihood and there are only limited opportunities to contribute their experience and input into the policies made in Thailand which affect them. While there are official numbers of camp based refugees available, nobody knows how many people circulate between Burma and Thailand. Even the numbers of migrants who register tell only a small part of the story. Are any of the 800,000 migrants registered in 2006 the same people who registered in 1996? What happened to migrants who registered in one policy and then did not re-register in the next policy? Did they go back to Burma? Did they stay in Thailand? Did they disappear? Although these questions cannot be answered, nobody is any doubt that a large percentage of migrants who are deported, return. Some return immediately, sometimes even faster than the immigration officers who left them at the border, and some go back to their village for a while, until lack of livelihood sends them back to Thailand. Others go home voluntarily when someone is sick or dying in the family, or for special festivals, much as Thai migrants do. It is for this reason that we call this chapter the circulation of people. This chapter focuses on the registration policies and the deportation policies and is at risk of losing sight of the people and their lives. We hope that they can still be found on these pages, their fears of registration policies which link back to the Burmese regime, their hopes in policies which seem to offer something more, and their frustration and humiliation in being herded on cattle trucks and deported when they were only working.

A decade ago, incoming migrants from Burma came predominantly from border areas where the Burmese regime was enforcing policies of forced relocation, forced labour and

where there was armed conflict, today migrants come from all over Burma as the economic situation deteriorates and affects all the people of Burma. The human rights abuses which continue in Burma have been documented by UN bodies such as the ILO reports on Forced Labour, by international agencies and by community based groups such as the Licence to Rape report on systematic rape by the military of Shan women. There is no clear divide between a refugee and an economic migrant, voluntary and forced; when the people of Burma are unable to exercise their rights in their home country. We might say that many of the migrants today come as non-voluntary migrants who have made a sound decision to migrate to the neighbouring country which is hungry for their labour. Thailand's economy has boomed since the 1980s requiring ever more workers, both in the business sector and in private households.

Despite the marriage of interests, a people desperately in need of work and a country desperately in need of workers, the nature of the regime in Burma which refused for many years to recognize the migrants who left and the tenuous relations between the two countries meant that no provision was made to allow people from Burma to leave the country legally nor to enter Thailand legally nor to return to Burma legally. Even after an Memorandum of Understanding on the employment of migrant workers was signed between the two countries, three years later, in 2006, only a handful of migrants have been issued with official travel documents and work permits out of the approximate 1.5 million migrants from Burma in Thailand. This lack of legal status in both the country of origin and the country of destination leaves migrants vulnerable at all points of their circulation and overrides all other policies and statuses that are temporarily granted.



**Box 6****REFUGEES**

Burmese offensives against the ethnic states of Burma in the 1980s, sent villagers fleeing into Thailand for refuge. Karenni, Karen and Mon refugees set up settlements in Mae Hong Son, Tak and Kanchanburi provinces respectively and the Ministry of Interior requested relief agencies from the Eastern border to provide limited humanitarian assistance. While Shan refugees also entered Thailand, there was no support from the Thai government for agencies to provide humanitarian assistance.

Despite the Karen, Karenni and Mon being able to make temporary settlements in the camps, they were not entirely safe since the camps were very close to the border and between 1995–1998 the Burmese army shelled the camps on several occasions, setting fire to and destroying 60% of Huay kaloke camp in 1996. In the same year, the Thai government set a deadline for the return of the Mon following a ceasefire agreement in that area. The refugees crossed the border but could not go home and set up camp in Halochanee just across the border. By 1997 for the first time in history, the Burmese army had tenuous access to and control over the entire border region, this brought the Burmese army closer to Thailand and increased fears of more cross-border attacks. Thailand merged several small camps into a few much larger camps. This increased the dependency of the refugees on food agencies and they were completely restricted from leaving the camps and moving. UNHCR was assigned a limited protection role for the camps in 1998.

These temporary camps are still there twenty years later and today house 140,000 refugees. There are many children and teenagers who were born in the camps and have never traveled outside them. While the refugees organize schools and clinics, they are not allowed to work. In 2006 discussions started among the various government agencies regarding allowing refugees some limited rights, including the right to work. At a meeting of various sectors in Mae Sot, in November 2006, the employers opposed the idea on practical issues of transportation difficulties from the camps but they may also be concerned that a set of workers who do not live on premises and have regular contact with international agencies might upset the status quo of exploitation.

The number of refugees in the camps in Thailand, represents only a small proportion of the number of people displaced and suffering from the offensives and the human rights violations of the Burmese army. The majority cannot make the journey to Thailand and are displaced internally with no services, security or safety.

The Shan have never been afforded protection under the Thai definition of displaced person and when on March 20<sup>th</sup> 1996, more than 1,000 Shan refugees fled heavy fighting in the Burmese border town of Tachilek, they were allowed to stay for only three days and then 700 of them were pushed back by the Thai military. By the end of April, the remaining 300 were also forced to return to Burma. As fighting continued in Burma's Shan State, more Shan and Lahu villagers were forced to flee and seek refuge in Thailand, but were denied permission to cross the border. Over 300,000 thousands fled into Thailand after losing their homes in the forced relocation policies of the Burmese army. Makeshift camps have been set up on both sides of the border but they are not recognized and no official system of aid is organized. Most Shan have to survive by finding work in Thailand.

## REGISTRATION OF MIGRANTS FROM BURMA in THAILAND

The first attempt to register Burmese migrants who were already in Thailand was in 1992 when a Cabinet resolution passed on March 17th used Section 17 of the Immigration Act to allow migrant workers to work for two years in selected provinces. Migrants had to apply for a migrant workers card which cost 1,000 baht and had to pay a 5,000 baht deportation deposit. The process was not successful and only 706 migrants registered, most probably because of the high cost of the deposit fee and possibly because few of the migrants would have known about the policy. Between 1992 and 1996, other province specific registrations were carried out following petitions from employers, particularly for the fishing industry. At the time, the Thai Immigration Office estimated that there were approximately 525,480 immigrants without documents in Thailand, the biggest group coming from Burma (334,124)<sup>1</sup>

### REGISTRATION ONE November 1996 – August 1998

The first large scale response to the employment of migrant workers was a Cabinet resolution passed during Banharn Silipa-Achar's premiership on June 25<sup>th</sup> 1996. It allowed migrants from Burma, Laos and Cambodia to be employed as unskilled labourers in 43 of 72 provinces, in 7 types of work in 11 sectors, including agriculture, fishing and its downstream industries, construction and quarries, pottery and brick industries and domestic labour. Migrants had to pass a health check at a local hospital, and those who failed the health check were deported. A fee of 1,000 baht had to be paid to the Immigration office who recorded a detailed personal history of the migrants, the migrants then received a "Temporary Residence permit while awaiting deportation" (Tor Mor 69). Migrants then had to apply for a work permit which also cost 1,000 baht. The employer and migrant had to report to immigration every three months.

**303,088 migrant worker registered for a two year period from**

**November 1996 until August 1998.** The Ministry of Labour estimated that there were 897,417 undocumented migrant workers in Thailand, mainly from Burma at the time.

This was the last time that migrants were allowed to register for a two year period, presumably because when the Asian economic crisis hit Thailand in the middle of this period, the government feared unrest among their own national workers as unemployment rose and sought to employ local workers in jobs that migrants had been doing. The economic crisis hit all workers badly. Thai workers lost their jobs and were reluctant to give up their labour rights by moving into jobs which paid little money and did not enforce health and safety regulations. For migrants, it was an extremely hard time. Many construction sites and factories ground to a halt and migrants found they were tied to an employer who had no work for them and no wages either.

### And Deportations

If 1996 had ushered in the largest scale registration, 1997 and 1998 saw the largest scale deportations. The National Security Council announced that 290,000 undocumented migrant workers had been deported since mid-1997, of whom 212,822 were Burmese. Then, in January 1998 the National Security Council and Labour Ministry announced a policy to deport 300,000 undocumented migrant workers by May 1st and that there would be no renewal of the permits of the 303,088 registered migrants. But the government got little cooperation from the employers and on May 1<sup>st</sup> had to announce that officials would be sent to inspect all places of employment in all sectors for unregistered migrants and action would be taken against employers hiring, harbouring or transporting undocumented workers.



CAGED UP TO GO

<sup>1</sup>followed by China (100,000) and South Asian Countries (81,357).<sup>1</sup> The smallest group was from Laos, Cambodia and Vietnam (1994)



At the same time the government embarked on a public relations campaign to persuade business people of the economic necessity of repatriation of migrant workers. In June the campaign was launched by the Ministry of Labour with posters of migrant workers portrayed as poisonous snakes in the backyard. NGO and public pressure halted the campaign and the business sector managed to persuade the government to extend the date of the deportations and renew the work permit registration policies.

### **REGISTRATION TWO August 1998 – August 1999**

A much restricted policy on migrant labour was enacted in 1998, allowing migrants to register for a period of only one year. The policy included a process by which all jobs first had to be advertised for Thai workers. Only if the jobs were not filled by Thais, could they then be given to migrants. Employers requested 233,346 workers but so few Thais took up the jobs on offer, that the government allocated a quota of 159,902 to migrants but only 90,911 migrants registered. The increased fee of 3,200 baht may have been a deterrent to many migrants, particularly as they had not received regular salaries in the previous year. Many migrants may also have preferred to have the flexibility of finding work as it became available rather than being tied to an employer who in their experience of the last year might not have regular work for them.

In Chiang Mai permission was granted to farm hands on orchards, cement factory workers and rice mill workers. Only 5,000 workers got cards in this period in Chiang Mai, down from 18,000 the previous year and there were also an estimated further 11,000 workers in Chiang Mai who had never registered.

### **And Deportations**

Prime Minister Chuan Leekpai announced that the government would expel more than one million illegal workers by the end of 1999. According to a seven-step deportation plan drawn up by the Labor and Social Welfare Ministry, four detention centers were to be established in Tak, Kanchanaburi, Ranong and Chiang Rai provinces. Mass deportations were to be handled by the Ministry of Foreign Affairs, which would ensure international laws and human rights would not be violated, according to then Minister for Labor and Social Welfare, Mr. Trairong Suwannakhiri. None of the centres materialised but instead workers without

work permits were rounded up and held in overcrowded conditions in existing detention centres and immediately transported to the Burmese border in a one stop deportation process, which by-passed the court system.

### **REGISTRATION THREE August 1999 – August 2000**

A Cabinet Resolution on August 4<sup>th</sup> allowed the employment of migrant workers for a further year. A slightly lower number than had registered in the previous year registered, 86,895 compared to the 300,000 workers requested by employers. Many migrants were afraid to come forward to register because of the constant fear of arrest. The fee for the registration varied from province to province but averaged around 3,700 baht. This policy specifically excluded domestic workers who had been targeted in the public awareness campaign as a national security threat because they had access to private homes of influential individuals.

### **And Deportations**

On August 4<sup>th</sup> the Ministry of Labour and Social Welfare released a policy for the deportation of all undocumented migrant workers in November. The Burmese regime closed the borders for a week in September fearing political unrest around the date of 9999, and then closed the borders again in November when Thailand was trying to deport hundreds of thousands of workers, again fearful that returning migrants might spark unrest. The situation was disastrous. Thailand had rounded up thousands of migrants and sent them to the border, but the Burmese refused to allow them in, at certain points turning them back at gunpoint. Thousands of migrants had to go into hiding, sleep in fields and keep moving. The piece of land in the river between Mae sot and Myawaddy, a no-mans land, became a refugee camp until rumours circulated that the Burmese solidiers were coming to rape the women. Days went by and migrants had no food or drink. Pregnant women gave birth in the fields and the migrants were vulnerable to all forms of abuse. Local Thai and Burmese groups in Mae Sot banded together to provide food and water to the migrants.

**Box 7****Cross Border Thai-Burma Relations**

Cross-border relations between Thailand and the Burmese regime have always been tenuous and sometimes volatile making it difficult to implement any long-term agreements or improvements.

In the late 1980's the government of Chatchai Chutawan promoted a policy of turning the battlefields of the Golden Triangle into a market place, encouraging trade between the three countries, Thailand, Burma and Lao PDR. It was hoped that by opening the borders for open trade, the underground, black market trade in gems, drugs, logs and people would cease. For the first time people crossing the border from Burma to Thailand were issued with a day border pass.

While cross-border trade has increased substantially over the years, it is still a risky venture as the borders are periodically shut down in times of difficult relations between the two countries. In September 1999 the regime shut the borders to any migrants wishing to return for fear of political unrest on the occasion of 9999, and again at the end of the year, possibly in response to Thailand's lenient handling of the Burmese students who stormed the Burmese embassy in Bangkok but with disastrous consequences for the migrants stranded with nowhere to go during the mass deportations from Thailand.

The volatile relations and closure of the borders might have been expected during PM Chuan Lekpai's administration, which took a hardline on Burma including linking the political situation in Burma to the migration issue, at a time when the regime barely recognized the existence of cross-border migration. In an international symposium hosted by Thailand in April 1999 which formulated the "Bangkok Declaration on Irregular Migration" Deputy Foreign Minister Sukhumbhand Paribatr said that Thailand's migration problems could not be solved without a political resolution in neighbouring countries.

Nevertheless, despite Taksin's reversal of the policy towards Burma, cross border relations did not improve. When Taksin Shinawatr came into power he said his government would try to cajole rather than coerce Burma into believing democracy is good and would return to a non-interference policy. "We won't force, but we will convince".

However, after a meeting about drug trafficking in which Taksin pointed the finger for drug production at factories on the Burma side, the SPDC retaliated by saying that Thailand was to blame for the drug problem and instigating an anti-Thailand campaign. Then in February 2001 Mae Sai, a Thai town bordering Tachilek in Shan State was shelled by the Burmese army, causing the town to be evacuated and the borders to be shut for five months. In 2002, Rangoon accused the Thai army of firing artillery into its territory and closed the four main border check points. Inflation soared in Burma and migrants arriving said that they could only afford to eat rice once a day.

The Thai prime minister then embarked on a policy of appeasement in the name of business relations. A branch office of the Thai-Myanmar Cultural and Economic Association was opened in Sangklaburi and the SPDC approved investment by Thai firms in four multi-million baht projects – construction of a hydroelectric dam on the Salween river, a port in Tavoy, a coal mine opposite Prachuap Kiri Khan and a Mae Sot- Rangoon road project, making Thailand one of the biggest investors in Burma.

In 2003 Thailand offered to encourage companies to invest in factories and farms on the Burmese side of the border. Similar special economic zones had been proposed by the Federation of Thai industries in 1997 who suggested creating the zones near the Burmese or Cambodian borders and staffing them with migrant labour at below minimum wage. In the 2003 proposal, Thailand suggested that they would be able to use raw materials from neighbouring countries and that the zones would help create job opportunities and deter foreign workers from migrating



to Bangkok or other major provinces in Thailand. This was in line with the general policy of Thailand to move all migrants back to the border areas. Starting with Bangkok, the overall policy aims to first make Bangkok migrant worker free and then “clear” other provinces so that eventually migrants will only be employed at the border.

A public campaign in Thailand tried to fuel public backing for this move. In nightly public announcements on TV, the four threats to National Security which it said would destroy Thailand were named as: gambling, drugs, corruption and alien workers. PM Taksin speaking on the issue of migrants said “They must stay in their places. They must be controlled. They live here and give birth to a lot of children. They shot our students. They bring diseases long gone from our country back to us, including TB and elephantiasis. They sell drugs and rob and kill our people.”

On October 19<sup>th</sup> 2004 the Cabinet endorsed the Mae Sot Border Economic Zone Project. The project covers the areas of Mae Sot, Mae Ramat, and Phop Phra districts in Tak province and Myawaddy in Burma. It was hoped that the economic zone would attract industry and workers. Some of these investment initiatives formed part of the ACMECS strategy (The Ayeyawady-Chao Phraya-Mekong Economic Cooperation), one of the flagship projects with Burma being the production of palm oil, with Burma managing the palm plantations and Thailand managing the production factory and export.

While any cooperation between the two countries, beyond purely business investments, remains unpredictable and precarious, the outbreak of public health scares has brought a new urgency to the relationship. With SARS and avian flu affecting the region, protection of the policy of non-interference would have disastrous consequences. Thailand and the region have already brought Burma to the table on these public health issues which cross borders, this may be the opportunity to address other issues of development and political reform in Burma for the stability of the region.

## **REGISTRATION FOUR**

### **September 2000 – August 2001**

Yet again the complexity of the migration issue came into play. The Security forces were even more concerned that an increasingly large Burmese population posed a national security threat, particularly after a group of displaced people from the border calling themselves Gods Army took over a hospital in the South of Thailand. This incident also turned public opinion against the Burmese en masse and consequently the same restricted policy as the previous year was re-enacted, with the number of registrations fixed at 106,684. Domestic workers were still not allowed to register.

On August 29<sup>th</sup> 1999 the Cabinet had approved a policy to test migrant women for pregnancy and to deport them if found to be pregnant. When the government tried to implement this in the 2000 registration period there was an outcry about the abuse of the rights of women and the testing stopped.

In a separate directive, hospitals in 8 border provinces were instructed to receive and treat all migrants presenting for treatment and to assist as far as possible with the costs. They were also instructed to provide materials in the languages of the migrants

## **And Deportations**

The Police department advocated for deporting all illegal migrants and then importing migrant workers legally from Cambodia and Lao PDR. The new government of Taksin Shinawatra said they would repatriate 300,000 migrants in the coming year and that illegal migrants should be dealt with through legal means. Various strategies were imposed to stop migrants returning again to Thailand. In Ranong migrants were deported to remote Burmese islands, in Mae Sot men’s hair was shaved and women’s long hair was cut making it easier to identify workers if they returned. Rangoon said they would accept illegal workers returning and Defence Minister Chavalit Yongchaiyudh said Rangoon had agreed to provide lodging for Burmese immigrants



in border areas in Burma: Kawthaung, Myawaddy and Tachilek

In frustration at the restrictive government policies, the Federation of Trade Industries in Tak Province developed its own plan to register some of its estimated 500,000 unregistered Burmese workers. Tak's Industrial Council proposed that the ratio of Thai to Burmese workers, at that time 20 to 80, be raised to 60 to 40 by 2003. Under the proposal, Thai employers would pay 100 baht per foreign worker each month to provide worker's compensation insurance for their workers

### **REGISTRATION FIVE A** **September 2001- February 2002**

In 2001 the Royal Thai Government introduced a much more expansive policy which allowed all migrants on Thai soil from Burma, Cambodia and Laos to register for all types of "unskilled labour". Migrants were also allowed to register initially without an employer and then find an employer within six months. During this period, 568,249 (451,335 from Burma) migrants registered to work. and 100,000 of the migrants who registered did not have an employer. Domestic workers were allowed to register in this policy and 80,000 domestic workers registered. The number of migrants who registered was estimated to be one half or by some

estimates one third of the actual migrants in Thailand. The lifting of quotas per province and per sector and the ability to register without an employer attracted many more migrants. Also by 2001, there were several local NGOs working with migrants who also helped disseminate the information about the registration to migrants in their own languages.

Because of the large numbers of migrants expected to register, the health check up was not performed at the time of registration but the migrants had to go for a health check up after six months. The total cost of this registration was 4,250 baht which included a 1,000 baht fee for deportation.

### **REGISTRATION FIVE B** **March 2002 – August 2002**

( the second half of the process of registration from August 2001)

Of the 568,249 migrants who registered in August, 430,037 successfully completed their health check up.



Box 8

**JOINT OPEN LETTER ON THE OCCASION OF  
INTERNATIONAL  
MIGRANTS DAY, DECEMBER 18TH 2001**

We, NGOs and communities working on labour issues and migration wish to express our concern regarding the situation of registered migrant workers on the Thai-Burma border. It has come to our attention that migrant workers are continuing to be exploited and abused despite registering to work legally under the Migrant Labour Policy. Migrant workers in factories in Tak and Ranong have faced reductions in their salaries and in some cases have not been paid for the last two or three months.

The Anand Knitting Factory, in Mae Sot, delayed payment of migrant workers and reduced their salary from 100 baht per dozen items to 80 baht per dozen items without prior warning. The workers had to strike for three days in order to open discussions with the management. We understand that this situation is very common in the factories based in Mae Sot and also Ranong.

Of particular concern are reports of police brutality towards migrant workers in these areas. On December 13th five migrant workers from Burma, who had been calling for the payment of minimum wage and regular payment, as guaranteed in the registration process; were detained by the police and beaten before being deported to Burma. All five workers had copies of their registration cards, but the police tore them up and threw them away.

Without proper access to legal channels of complaint and justice, we are concerned that such situations are going unreported and may escalate.

- We therefore call on the Minister of Labour to monitor the working conditions of factories on the border and to demand that factories fulfill their legal obligations in their contracts with migrant workers. We also call on the Department of Employment to educate migrant workers of their rights and to improve their access to legal complaints procedures.
- We also call on the Ministry of the Interior to guarantee that law enforcement is implemented justly and lawfully and without discrimination; particularly in border areas; and to ensure that migrant workers rights are protected and not violated.

On International Migrants Day, we recognize and celebrate the important contributions that migrant workers have made throughout the world to developing the economies of prospering countries and supporting their communities in less developed countries. We acknowledge the worth of migrant workers in the development of our own country, Thailand and we empathize with their suffering in Burma. We strongly believe that the countries of the Greater Mekong sub-region would be enriched by the exchange of cultures, languages and mutual understanding that respect for migrant workers would bring.

Signed by: The Network of Thai NGOs Working with Migrant Workers and their families (which is now known as Action Network for Migrants (Thailand))

Although the policy was more far reaching than any previous policy, it was still enacted in a spirit of finding and controlling migrants rather than protecting their rights. In February 2002 a Consultation was organized by the Network of Thai NGOs Working with Migrant Workers and their Families. Below is a copy of the statement released from this meeting, which outlines the main concerns with the registration policy, some of which have subsequently been addressed, but many of which still remain a concern in 2006.

### Box 9

#### **Cooperation for finding solutions to problems concerning the 2001 registration of migrant workers 14 - 15 February 2002, Chiang Mai**

The 65 participants of the consultation including 5 representatives of government departments, 6 representatives of Thai labour organizations, 6 migrant workers, 35 participants from 18 NGOs, 2 researchers, 1 employer and 10 faith based organizations expressed the following concerns:

- The prevailing negative attitude towards migrant workers of certain sectors of the general public, some government officials, and some policy makers results in discrimination against migrant workers and the violations of their rights
- The policy formulation and the agreement made with the sending countries have not been made public neither has the public been included in the decision-making or fact finding process despite the fact that the problems are complex, impact on our economy, our society and the security of everyone.
- Deporting migrant workers without surveying the situation of the areas of deportation for safety and without screening for refugees from armed conflict and for people at fear of persecution is contrary to humanitarian principles and international agreements.
- The cabinet resolution of 29<sup>th</sup> August 1999 to deport pregnant women is a gross violation of human rights and may result in women resorting to desperate measures to terminate pregnancies
- Migrant workers who have registered and received work permits can neither fully exercise their labour rights nor their basic human rights
- The State response to migrant labour has not tackled the complex reality of the situation; consequently not all migrants who entered the country illegally could present themselves in the registration period to become legal. There is still no long term sustainable policy on migration to address the difficulties practically and with clarity.
- The effective implementation of the current policy and the protection of the rights of migrant workers is still hindered by the fact that migrants entered the country illegally, even if they have now registered for work permits.

#### **Recommendations:**

##### ***Discrimination:***

The State should develop public campaigns for Thai society, especially government officials who work directly with migrants, which respect the dignity and diversity of all peoples regardless of their nationality or ethnicity and which promotes a peaceful multi-cultural society.

The State should promote and support NGOs in the development and dissemination of media for migrant workers of different ethnic groups to increase understanding between migrants and the host population.



### ***Decision making process***

Include the participation of the public in the decision making process regarding migrant labor. The Administrative Commission on Irregular Immigrant workers and Provincial sub-committees should be multi-sectoral bodies, including equal number of representatives of civil servants, researchers, NGOs, employers associations, and workers associations.

Develop a long-term, sustainable policy plan in collaboration with NGOs, trade unions, academics and employers.

### ***Deportations***

The implementation of deportations should be done with respect for humanitarian principles and with respect for the dignity of people.

Deportations should allow for screening of persons of concern

To cease implementation of Cabinet Resolution 29<sup>th</sup> August 1999 which orders the deportation of pregnant women and families of migrant workers, The Public Health department must immediately stop testing migrant women for pregnancy during the health checks in the re-registration process. Pregnant women who have already been tested should be ensured access to appropriate health care. The Public health department should implement a family planning/birth spacing campaign for migrants with voluntary access to a variety of contraceptive methods.

To research the situation of the border areas of deportation to ensure that it is safe for migrants to return

To openly disclose all agreements made between sending and receiving countries and decisions made by the government regarding migration and especially regarding deportations.

### ***Access to justice***

To facilitate migrants access to the justice system by determining victims of rights abuses (non payment of salaries, etc). Migrant workers whose rights have been violated should not be held in detention but should be allowed to stay safely in Thailand during the legal process and until the case has been brought to justice.

### ***Registration process***

The State should protect and ensure the safety of migrants during the registration process, by issuing specific orders that there will be no arrests of migrants for illegal entry during the registration process.

The Ministry of Interior should allocate the re-registration process to the Division of Registrar instead of a private company. Permission should be granted to hire migrant workers to assist with translation during the registration process.

Should ensure that the finger-prints ink for the registration cards is of an acceptable standard

The State should lift the policy which makes the cost of the registration the same across the whole country and should ensure the cost of the registration is in line with the minimum wage in each province.

### ***Protection of migrants***

The State should allocate the director of Social Welfare and Labour department as a committee member of the committee of the Administrative Office of Irregular Migration and to form a sub-committee responsible for the protection of migrant workers rights.

The State should give permission and support for NGOs to set up centres for migrant victims of exploitation and abuse, to provide counseling and legal assistance, including cases of employers rights being violated by the state.

To abolish legal restrictions prohibiting migrant workers from forming labour unions and being committee members of existing unions.

Should review the restrictions which prohibit migrant workers from changing employers and/or from moving and grant permission to migrants whose employers have violated their rights to change employers.

Should cease the deportation of migrants who registered independently not only because the deportation system is not ready, effective or safe but because it will also mean that migrants who have entered the regular system will return to the irregular system. We propose that independently registered migrant workers should be allowed to continue looking for employment and should report to the Department of Employment every two months to update their situation.

The Administrative Committee on Irregular Migration should disseminate information about the rights of regular migrants through various media forms in the language of the migrants.

The Ministry of Interior should officially give local governors the power to approve migrant workers applications for the right to travel for personal or family problems or with a guarantee from their employer.

The State should monitor the working conditions of both Thai and migrant workers to ensure that they are in accordance with the labour law and implement strict measures to punish employers who withhold the registration cards of workers.

The State should inform all relevant bodies that all children have the right to formal and/or alternative education according to the Convention of the Rights of the Child to which Thailand is signatory. Children should also be able to receive education about their culture and language. NGOs should be granted permission to deliver services to migrant children to improve their quality of life.

### **We should distinguish the difference between legalized migrant labour and liberalized labour**

*(Adisorn Kerdmongkol, Thai Action Committee for Democracy in Burma)*

### **And Deportations**

Thailand tabled options for the Thai Burma Joint Commission on how to send illegal workers back to Burma. Burma requested Thailand to test migrants for HIV during deportation and to give them confidential information about the migrants before deporting them, allegedly in order to verify their nationality so that Burma would accept them back. Thailand refused to do mandatory HIV tests and NGOs protested at the sharing of confidential information with a military regime.

Burma set up a holding/reception centre at Myawaddy and migrants being deported officially were taken to the centre. According to reports from returning migrants they were questioned several times and then had their blood tested. Some people were separated from the rest, told they were HIV positive and sent to a hospital. Although it appeared that the migrants were quickly released from the hospitals and there was a presence of the International Red Cross Committee at the holding centre, migrants and NGOs expressed concern about mandatory HIV testing and the lack of voluntary counseling and confidentiality.

### **REGISTRATION FIVE C August 2002 – July 2003**

Only migrants who had registered the previous year were allowed to register again and only if they had now found an employer. Migrants, who had previously registered with an employer were only





Thanks for the lift!

allowed to re-register with a new employer if they could present papers from both their previous employer and their future employer at the registration desk. During the original time allocated for registration only 181,798 re-registered, less than half the registered migrants from the previous year; therefore the period of registration was extended. Eventually 353,274 migrants registered.

### And Deportations

The holding centre at Myawaddy remained open and in an agreement with Thailand, 400 migrant workers a month were officially deported to the centre. Migrants continued to report being given mandatory HIV tests.

At the beginning of May 2003 the head of police and the head of National Security urged the government to start a wide-spread crackdown on migrants saying that the children of migrants posed a security threat because they would become a new generation of ethnic minority people.

### REGISTRATION FIVE D August 2003 – August 2004

Only migrants who had registered in both the 2001 and 2002 policy could re-register in 2003. The number of migrants registering dropped again

with only 288,780 migrants re-registering, about half of the original number.

In 2003, after several cases of labour and human rights violations of migrant workers were exposed, The Ministry of Labour agreed to set up a Special Committee to Solve the Problems of Human Rights Violations of Migrant workers. The committee was composed of government agencies and civil society representatives. MAP represented the network of migrant organizations.

On July 21 2003 the National Security Council adopted a resolution on new measures to manage the problem of illegal migrant workers. The resolution contained six main approaches to such issues of migration management: 1) accept the use of irregular migrant workers in some sectors, but limit the overall number by considering demand by sector, 2) prepare personal records and identification cards for the migrant workers, 3) employ only the migrant workers, not their family members, 4) ensure that proper wages are paid; 5) implement effective repatriation measures and 5) develop the economy of regions opposite the Thai border in order to reduce the volume of migration

To start the process 248,746 employers registered requests for 1,598,752 foreign workers, the government then issued a quota of 1,512,587.

**Box 10**

**Memorandum of Understandings on  
“Cooperation on the Employment of Irregular Migrants”  
signed between Thailand and**

<b>Lao PDR</b>	<b>October 18<sup>th</sup> 2002</b>
<b>Cambodia</b>	<b>May 31<sup>st</sup> 2003</b>
<b>Myanmar/Burma</b>	<b>June 21<sup>st</sup> 2003</b>

Since all Thai policies regarding migrants from Burma, Cambodia and Lao PDR have been difficult to implement due to the lack of documentation and recognition from the countries of origin, Thailand embarked on a series of negotiations with neighbouring countries to develop bi-lateral agreements to document the migrants from their home countries so they can enter the country legally and then be issued with work permits.

The Thai government held talks with the SPDC, Rangoon in 2001 about setting up a job placement agency to standardize procedures for its nationals to participate in the Thai labour market. In 2002 The Office of the Administrative Committee on Irregular Immigrant Workers set up a working group headed by Foreign Minister Surakiat Sathirathai for talks with the Burmese regime. Rangoon spoke of plans to issue special identity cards for family members of registered workers in Thailand and to impose tax on them. Thailand tabled options for the Thai Burma Joint Commission on how to send illegal workers back to Burma as well as attempting to create a framework for the legal entry of workers.

**As for those returning home, we are making sure that apart from returning safely to Myanmar through a holding center jointly administered by both Governments, they will also be provided with rehabilitation schemes and income-generating programmes. And above all else, the Myanmar Government has announced not to penalize them for their illegal exit. All these serve to ensure a return to their motherland with human dignity, security and their right to development.**

**We intend to promote legal recruitment of foreign workers by initiating bilateral agreements with neighbouring countries. As the majority of them come from Myanmar, we have worked closely with the Government of Myanmar and agreed to enter into a Memorandum of Understanding on Cross-Border Workers for a transparent and orderly recruitment of foreign workers into Thailand. Through such legal channels, the rights of migrants in Thailand will be duly protected. STATEMENT BY H.E. DR. SURAKIART SATHIRATHAI MINISTER OF FOREIGN AFFAIRS OF THE KINGDOM OF THAILAND AT THE 58TH SESSION OF THE COMMISSION ON HUMAN RIGHTS GENEVA, 26 MARCH 2002**

But even after the MOU was signed with Burma in 2003 less progress was made than expected. Initially one of the ruling generals, Khin Nyunt had planned to send a team of Burmese officials to Thailand to start the verification of nationality process, whereby they would interview migrants already in Thailand to verify their Burmese nationality and then issue them with temporary passports. However when Khin Nyunt was deposed, this process stopped altogether. It was not until 2005 that some steps forward were taken. In a live telephone interview with the press in Thailand after his visit to Burma, on September 1<sup>st</sup> 2005, Dr Kantathi Suphamongkhon, Thai Minister of Foreign Affairs said that Myanmar had showed readiness to exchange views on the topic of illegal workers and had also explained the difficulties involved in obtaining information on the exact identity of each worker. Thailand showed understanding of the difficulties experienced by the Myanmar side and therefore proposed a dual-track system whereby the Myanmar authorities would send officials to work at the Myanmar Embassy in Bangkok to verify the identity of Myanmar workers in the central part of Thailand and also send officials to be stationed at border checkpoints to perform verification of the identity of Myanmar workers in regional areas in Thailand so that proper registration could be carried out. In this connection, Thailand

also proposed a Working Group to be set up, consisting of officials from both sides to discuss the appropriate modalities.

After the registration of migrants in Thailand of July 2006, migrants were asked to fill in their personal details (family members, address etc) in Burmese or English. They were told that once they had returned these forms the Burmese embassy would call them to one of the centres being set up in Tachilek, Myawaddy or Kawthaung to collect their temporary passport. As of December 2006, 10,000 migrants nationality has been verified (and six refused) and a handful of migrants have crossed the border to be issued with temporary passports. With these temporary passports, which it is understood will not allow them to “pass any ports” they can then go to register for a work permit with the Thai authorities.<sup>1</sup>

While holding documentation from the country of origin is of course a right for citizens of that country and will ease the process of work registration in Thailand, there are as yet no guarantees that the holding of a temporary passport will improve the situation of Burmese migrant workers in Thailand. For the process to be truly beneficial for migrants, NGOs should be able to provide information about the process and their labour and social rights at the centres in Burma and at the Department of Employment in Thailand. The Thai Ministry of Labour should ensure that labour laws and occupational health and safety standards are enforced at the work place, and for domestic workers a standard employment contract should be endorsed by the Department of Employment and enforced. Taking into consideration the distrust between the migrants and the Burmese embassy officials, independent ethnic and Burmese lawyers and social workers should be supported to provide support and advice to migrants who have been abused or exploited and should liaise with the embassy only for the protection of the rights of the migrants. A guarantee should be issued that the passport will be recognized by the Burmese authorities when the migrants return to Burma and they should not be subject to further taxes. Without any back up system the passport system will hold few advantages over the current migrant card and migrants may choose to continue with the migrant card system which is independent and safe from the Burmese authorities.

### **And stop deportations:**

On July 6<sup>th</sup> 2004 the National Human Rights Commission organized a meeting with NGOs and GOs to make recommendations on the registration process. As a result of this meeting, the central Immigration department sent a directive to local immigration offices to desist from arresting and deporting migrants during the registration process. Also as a result, officials from the Department of Labour in other provinces followed the example set by the Department of Labour and MAP in Chiang Mai and contacted the local NGO from the Action network for Migrants to assist in the registration process.

Action Network for Migrants (Thailand) and PHAMIT recommended that the policy include a provision to legally register migrant health assistants so that they could provide health education, translation and counseling in the languages of the migrants. This recommendation was supported by the Ministry of Public Health.

The network also requested that the information on the registration procedure be produced in the languages of the migrants, since although the network has translated the materials it was limited in how many migrants it could reach. It also recommended for there to be public announcements on radio in the languages of the migrants. The Action Network also enquired if the registration gave the migrants the right to open a bank account, which had previously been denied them and how the government proposed to solve the problem of employers withholding the workers

### **REGISTRATION SIX A** **July 1<sup>st</sup> 2004 – June 30<sup>th</sup> 2005**

On April 27<sup>th</sup> 2004 the Cabinet passed a resolution for a completely new policy.

- The first process of the registration was to register for a temporary ID card (Tor Ror 38/1) at district level. This card was free and independent of an employer. Unlike the migrant workers card which inferred some rights on migrants, the ID card only inferred the “right to be” in Thailand for a year.

<sup>1</sup> For more information on the process for Lao PDR and Cambodia and for reprints of the MOUs see [www.mapfoundationcm.org](http://www.mapfoundationcm.org)



No real protections were afforded by this card, but nevertheless it was a hugely popular move with the migrants. Migrants with the ID had the option of buying a health card. The independence it afforded migrants, the identity as a person rather than merely a worker, allowed migrants to take part in the social life of their area. Migrants started to gain some confidence to feel they could speak their native language in public without fear of arrest. Despite this migrants still officially remained “people who had entered the country illegally” awaiting deportation which underlies any policy in Thailand. 1,284,920 million migrants (9921,492 from Burma) signed up for this card.

●● Migrants then needed to report to the district office to be photographed and fingerprinted. A total of 1,122,192 migrants completed this step, 93,082 under the age of 15yrs and 10,000 over 60.

●●● In the next step 817,254 migrants completed the health check and got health insurance, while 814,247 migrants did the full process also applying for a work permit. The policy also allowed migrants to change their employer but the procedure was quite complicated and the workers had to pay a further fee of 1,900 baht.

400,000 migrants who had registered for the ID card did not register for the work permit. Around 100,000 were accounted for, being too young or too old to apply for a work permit. There was no information available to know precisely why the other 300,000 migrants with a temporary ID card did not apply for a work permit, but NGOs from all around the country working with migrants workers listed possible reasons from their discussions with migrants:

1. migrants were doing work that was not included in the registration policy (ie shop work, sex work, NGO work, seamstress etc),

2. some would not have been able to find an employer,

3. others would have previously paid 100 UDS\$ for a work permit and still been harassed by the police, paid under minimum wage and have become disillusioned with the process. They preferred to keep the money for registration to pay off protection bribes to the police,

4. Some migrants might not have had the money to pay for the registration.

5. It was also apparent that some migrants were victims of corruption and cheating. Some village headman inferred to migrants that the ID card was a Thai ethnic card which later would be transferred to a full Thai ID card, and migrants were happy to pay for this only later to find they had paid for a free temporary migrant ID. In other cases, employers led the migrants to believe that they were registered for a full year and deducted the registration fee for a full year when in actual fact the employer had only registered them for three months.

Those migrants who did register for the work permit were disappointed that the actual card was not issued until the end of the registration year. For nearly twelve months migrants only held a flimsy paper receipt instead of the laminated workers card. Migrants often experience problems with the police and at the hospitals when they only have a receipt to show. Sometimes police or immigration tear up the receipt and arrest and deport migrants even though they are registered.



Migrants enjoying their new found temporary freedom



Exchanging news about registration



Learning and having fun

In 2005 The Ministry of Labour produced a pamphlet in Burmese, Laotian and Cambodian on the Rights and Responsibility of Employers and Employees which was distributed widely to migrant workers.

In April 2005, MAP was invited to participate in a meeting with government officials from the Ministry of Labour to cooperate to improve the mechanisms for the improvement of working conditions for migrant workers in Mae Sot. Following

this meeting a female interpreter was employed by the One Stop Labour Office in Mae sot .

### And Deportations

The authorities tried to implement the policy of deporting women who tested pregnant. Following an outcry from NGOs and womens groups again the pregnancy testing stopped. The decision of whether pregnant migrant women could be employed or not was left to the discretion of the employer.

### Box 11

#### MEDICAL CHECKS AND ACCESS TO HEALTH SERVICES

Since 1996, migrants have undergone a health check in every registration process:

***Migrants are tested for:***

- Tuberculosis
- Elephantiasis
- Syphilis
- Leprosy
- Illegal drug addiction
- Alcoholism
- Mental disorder

Migrants are deported if they have physical deformations or physical weakness due to elephantiasis, or leprosy, advanced TB or syphilis, illegal drug addiction, psychological disorder or mental illness.

Migrants with early stages of TB, elephantiasis, syphilis and leprosy can stay for treatment.

During many registration periods, migrants have been given medicine for elephantiasis when they take their medical check up.

In 1999, HIV was also tested in some areas. Although it was not included on the migrants form, it was included on the medical form (section 6.6) of the medical form used for medical checks at provincial level as a condition for rejecting a work permit. In all other registrations, HIV has not been tested in accordance with the work place non-discrimination policy.

In 1999 a directive permitted pregnancy testing. Being pregnant was included as a condition for deportation. Although every time the government includes this test there are protests and the testing stops, it remains on the statutes and can be implemented whenever an administration decides to use it.

Health check ups have generally cost around 600- 700 baht.

In 1998, migrants paid 500 baht for a health card which entitled them to free state hospital health service.

From 2001, migrants have paid 1,300 baht for a health card which entitled them to the 30 baht user fee health service.

In 2002 the Ministry of Health proposed that all dependents of migrants should be able to have access to the universal health care scheme and from 2004 dependents of migrants with a temporary ID card or migrant workers card were able to access health care.

The joint NGO-GO project PHAMIT (Prevention of HIV/AIDS Among Migrants in Thailand) has advocated for the right to employ migrant health assistants legally as front-line service providers in the migrant communities.

Migrants who do not register for work permits or ID cards have to pay full costs for treatment at the hospitals and many fear exposing themselves as undocumented. Even registered migrants still have problems accessing the hospitals, which include transportation, language, attitudes, lack of free time and loss of days work.

After the tsunami hit the South of Thailand on December 26<sup>th</sup> 2004, Burmese migrant workers entered the emergency relief camps with the local Thai population. When soldiers came to offer transport to the border, many migrants, having been traumatized in the tsunami were eager to go home. Unfortunately, when they reached Ranong there was no system other than the deportation system for migrants to go home and they ended up in holding cells and being deported, rather than assisted home. Fearful that there would be large numbers of migrants arriving the Burmese authorities punished some of the returning migrants for entering illegally as a deterrent to others.

During the tsunami, up to 2,500 Burmese migrants were directly affected and many lost their ID cards and work permits in the process. Without the cards they were at risk of being arrested and deported. There was no emergency system to re-

issue cards. If migrants could remember the 13 digit number the cards could be retrieved through the computer system, however if they could not remember the number, which was often the case, it was a question of sorting through all the cards in the office.

One group of migrant workers were arrested during the tsunami for allegedly looting. A year and a half later the judge ruled that there had not been sufficient evidence to arrest the migrants in the first place and they had been wrongfully accused. Although the migrants should have been eligible for compensation for the time they had been wrongfully detained, they were quickly deported.



## REGISTRATION SIX B July 2005 – June 2006

The Cabinet Resolution of May 10<sup>th</sup> allowed for all migrants who had previously registered with the Ministry of Interior for the temporary ID card in 2004 to register for the first time with an employer and for migrants who had previously registered with an employer to re-register. A new addition to this policy was that migrants were allowed to move their place of employment from one province to another. However the process was quite complicated and there was no procedure to move back legally to the original province in cases of exploitation.

Dependents of migrants who re-registered were allowed temporary status in Thailand. 871,170 migrants registered under this policy and 240,297 employers requested 1,881,520 migrant workers.

## And Deportations

Crackdowns were carried out before, during and after registration supposedly to block new migrants from entering the country, especially into the Bangkok area.

226,508 migrants were deported to the country of origin.

## REGISTRATION SIX C AND 7A March 2006 – February 2007

The big shortfall between the number of migrants needed by the employers and the number of migrants

registering affected the employers and they requested a solution to fill the labour shortage. A new Cabinet resolution was passed on December 20<sup>th</sup> 2005 to try and get a further 500,000 migrants to register. It was hoped that 200,000 of these migrants could apply through a speeded up application of the MOUs. While the other 300,000 migrants would be either new arrivals or migrants extending from the previous registration.

In many ways, the registration was a form of punishment for migrants who had not re-registered. It had a completely different tone from previous registrations, requiring a deposit fee for each migrant worker. 10,000 baht for a migrant re-registering and 50,000 baht for new arrivals. The policy also stipulated that it need not be implemented within a human rights framework. The system of deposit is used in neighbouring Malaysia and Singapore, and civil society groups were well aware of its propensity to abuse and were shocked that the new policy was such an about turn from the 2004 openness of the temporary ID cards. There did not seem to be any reason why there should be such a turn about. There had been no incidents of unrest among the host or the migrant population since the registration of 1.2 million, health carers were more able to reach migrants and worked more closely with NGOs to do this, more migrants were taking cases forward when they were exploited and using the Thai legal system to right the wrongs. But nevertheless the policy changed, once again closing in on the migrants.

The employers met to demand the government to waive the deposit fee as it was too costly for them and the Action Network for Migrants (Thailand) sent an open letter of protest:



Hope to see you soon

**Box 12**

**February 15<sup>th</sup> 2005**

**OPEN LETTER OF CONCERN**

**Regarding**

**THE THAI CABINET RESOLUTION OF DECEMBER 20<sup>TH</sup> 2005**

**On**

**"SYSTEM OF MANAGING BURMESE, LAOTIAN AND CAMBODIAN  
MIGRANTS WHO ENTERED THE COUNTRY ILLEGALLY"**

The Action Network for Migrants (Thailand) is deeply concerned that the Cabinet Resolution of December 20<sup>th</sup> 2005 violates the basic rights of migrant workers and will have an adverse effect on migrants security, local communities and the economic stability of Thailand and the region.

We are particularly worried that the system of requiring a deposit fee for the employment of migrant workers is contrary to the principle of decent work.

Previous registration policies have charged a fee of 3,800 baht for registration, health insurance and the work permit. Most employers have in the past deducted the registration fee from the daily wages of the migrants, confiscating their work permits as 'insurance' against the workers leaving or changing their work place for better conditions before the fee is re-paid.

An additional deposit of 10,000 baht or 50,000 baht is highly likely to increase this debt-bondage of migrants to the employers and increase migrants' vulnerability to situations of forced labour and severe forms of exploitation. Migrant workers will be under unreasonable pressure to work excessive hours to re-pay the employer. They will not be able to choose to leave their work or negotiate their working conditions, however exploitative or abusive they may be. This in turn will seriously impact on the physical and mental health of migrant workers.

Certain employers associations have already publicly expressed disagreement with this policy. Therefore we are concerned that employers will refuse to participate, thereby creating an environment where brokers will play a greater role with increased power and influence and will in effect control the systems of employment. This will increase underground employment systems, corruption, and trafficking. Clearly in denying a human rights framework to one set of people, Clause 17 of the policy is against the principle of non-discrimination in the Constitution of Thailand and the Universal Declaration of Human Rights.

The policy's proposed industrial zones and contract farming in border areas will likely negatively impact on the livelihoods and resources of local people on both sides of the border. Any such policy or program should be formulated in consultation with civil society and especially those affected. Since political situations currently exist which do not allow for civil society's participation, the Thai government should restrain from implementing such policies.

The Action Network supports systems for protection of the rights of migrant workers but we believe the problems faced in regulating migration stem from the policies of the respective countries not from the migrant workers who were not consulted. In respect of this, any policy in Thailand should take into account the political situation in the countries of origin. The 2004 policy of Thailand which allowed for migrants to register for the temporary residence was an example of an appropriate and realistic response to the current situation of migration in the Mekong region.

For the reasons outlined above, The Action Network for Migrants (Thailand) is deeply disappointed by the Cabinet Resolution on the management of irregular migrants and we call for its immediate

withdrawal. We urge the government to design and implement any consequent policy on migration within a human rights framework and in respect of the principle of non-discrimination. We call on the Royal Thai Government to formulate further policies on migration in consultation with all stakeholders. However, taking into account the restriction of freedom of movement of migrants, we call on the Royal Thai Government to organize mobile consultations throughout Thailand in the month of March, with migrant workers, migrant support organizations, health and employment officials and employers.

*The Action Network for Migrants is a national network of community organizations, and NGOs working with migrants from Burma, Cambodia and Lao to protect the rights of migrant workers and their families.*

The government met on the issue and the fee was initially waived while a committee was set up to look into it, and eventually the committee recommended that the fee should be waived completely and those who had paid should be reimbursed.

#### **REGISTRATION SIX D** **July 2006 – June 2007**

This registration period can be traced back to the 2004 policy, and only migrants who had registered in 2004 and kept up their registrations could re-register. For this policy, migrants were only allowed to register with a new employer in exceptional situations such as if their previous employer had died, lost his/her business, or if the worker could prove that s/he had been seriously exploited. 668,576 workers re-registered (568,878 Burmese)

#### **And deportations**

On Aug 27<sup>th</sup> 2006, Immigration arrested 674 Karen migrant workers while they were celebrating their traditional New Year ceremonies at the compound of the Police Cadet School in Nakhon Pathom. The migrants were arrested for being outside of the area where they had registered for work and were deported.

A month later migrants were arrested while attending the end of lent religious ceremonies in Chiang Mai. Local people were shocked that this would happen during a religious festival.

#### **REGISTRATION SIX E and SEVEN B** **March 2007 - June 2008 (7 B)** **July 2007 - June 2008 (6 E)**

Cabinet Resolution was passed on December 18<sup>th</sup> 2006 to allow registered migrants to extend their work permits for a further year. 141,289 migrants re-registered under the interim March registration and 394,443 migrants re-registered under the July registrations. Migrants were allowed to register with a new employer only under exceptional circumstances.

#### **REGISTRATION EIGHT A** **March 2007 - February 2008**

Special registration to fill the labour shortage in the Southern most provinces, Yala, Pattani, Narathiwat, Satun and five districts of Songkla. 10,540 workers registered.

#### **REGISTRATION SIX F, 7C and 8B** **Work permits valid for one year but renewable up to February 28<sup>th</sup> 2010.** **March 2008 – February 2009 ) (two groups: interim group and Southern group) (7 C, 8 B)** **July 2008 – June 2009 (6 F)**

The December 18<sup>th</sup> 2007 Cabinet Resolution: Any migrants who had previously registered could renew their registrations. In addition, migrants who had originally registered for the Temporary ID Card Tor Ror 38/1 in 2004 but had not renewed could now enter back into the system. This Cabinet Resolution stated that this two year period would be the final registration of migrants who entered the country illegally and that by February 28<sup>th</sup> 2010 only migrants who had changed their status to entering legally would be allowed to stay, all other migrants would be deported with no chance of re-registration. The total number of migrants who re-registered in this period was 501,570.

#### **REGISTRATION SIX G, SEVEN D and 8C** **January 2009 - January 20<sup>th</sup> 2010** **March 2009 - February 28<sup>th</sup> 2010 (7 D)** **March 14<sup>th</sup> 2009 – February 28<sup>th</sup> 2010 (8 C)** **July 2009 – February 28<sup>th</sup> 2010 (6 G)**

18<sup>th</sup> December 2008 Cabinet Resolution: All migrants who had registered in 2008 could extend their work permits. The January group could extend for one complete year until January 20<sup>th</sup> but all the



others could extend until February 28<sup>th</sup> 2010. As this was the second phase of the previous years registrations, migrants had to renew their work permits but did not reapply for the Temporary ID card. 61,543 migrants registered in the January registration.

**Total:** 382,541 re-registered (370,711 Burmese, 6,130 Cambodian, and 5,700 Lao)

### REGISTRATION NINE A July 2009 – February 28<sup>th</sup> 2010

May 26<sup>th</sup> 2009 Cabinet Resolution for new registrations of migrants to register for the temporary ID card and work permit. Since the number of migrants who had re-registered was very small and since only those migrants who registered would be allowed to enter the nationality verification process and be allowed to apply for Temporary Passports and new work permits, the government opened a completely new registration to increase the number of registered migrants in the country who would be eligible for the Temporary passport. The migrant worker cards were colour coded in order to keep migrants in one sector of work. They could not be re-hired in a different sector.

Work sectors were colour coded	
Fishery:	pink/ light blue
Fishery Processing:	pink/ orange
Agriculture/Livestock:	pink/ green
Domestic Worker:	pink/ grey
Construction:	pink/ yellow
Other Occupations:	pink/ pink

### NATIONALITY VERIFICATION STATISTICS

Nationality	Completed Nationality Verification	In process of doing Nationality Verification	Eligible for NV process but did not make March 2 <sup>nd</sup> deadline	Total number of migrants in the system as of May 12 <sup>th</sup> 2010
Burmese	80,435	752,578	246,690	1,079,991
Cambodian	70,790	26,712	26,712	124,902
Laotian	58,430	52,609	0	110,039
Total	209,655	832,587	273,690	1,315,932

According to Office of Foreign Workers Administration on the 12<sup>th</sup> May 2010, as reported in the IOM Migrant Note

Migrant children and dependents were not included. Migrants entering this registration had to complete nationality verification before February 28<sup>th</sup> 2010.

**1,054,261** total received Tor For 38/1  
785,017 from Burma, 148,420 from Cambodia and 120,824 from Lao PDR.

**792,175** were granted work permits, 627,230 from Burma, 76,390 from Cambodia 88,555 from Lao.

**July 28<sup>th</sup> and November 3<sup>rd</sup> Cabinet Resolutions** extended the time that migrants could register under this period. Under the latter Resolution the Ministry of Interior agreed to register children under 15 years old whose parents had been granted a work permit through the new round of registrations in 2009.

### REGISTRATION SIX H, SEVEN E, EIGHT D and NINE B Jan 19<sup>th</sup> 2010 -Jan 20<sup>th</sup> 2011-Jan 20<sup>th</sup> 2012 March 1<sup>st</sup> 2010–Feb 28<sup>th</sup> 2011-Feb 28<sup>th</sup> 2012

The Cabinet Resolution of January 19<sup>th</sup> 2010 allowed migrants who registered in 2009 (1.3m) to extend to work in the country until 28<sup>th</sup> February 2012, and also extended the deadline to complete the nationality verification process by two years until February 28<sup>th</sup> 2012.

During this period over one million migrants submitted their papers for the nationality verification process and re-registered for the migrant workers cards.

### Nationality Verification/ Temporary Passports

As of 12<sup>th</sup> May 2010 a total of 209,655 migrants had successfully completed the Nationality Verification process. (70,790 Cambodians, 58,430 Lao, and 80,435 Burmese)

By June 2<sup>nd</sup> 2010, the Burmese passport issuing offices in Myawaddy, Tachilek and Kawthaung (which then moved to Ranong to avoid accidents on the sea during rainy season) had issued 93,834 temporary passports.

### Recruitment of Workers from Their Home Countries

On 26 August 2010 the Office of Foreign Workers Administration, Department of Employment (DOE), of Thailand issued a memorandum to inform Provincial and Bangkok Employment Offices about the procedure to recruit Burmese workers to Thailand. According to the memo, the Burma Labour Department had approved a list of 11,862 workers requested by 86 employers to work in Thailand. The procedure required Employment Offices to notify the employers that their request for workers has been approved and to re-confirm with employers their level of demand for workers. The Employment Offices were then to submit the confirmation to the Office of Foreign Workers Administration by 31 August 2010 so it could be forwarded to the Burmese authority.

### Quota of Migrants Requested from Home Country, August 2010, Office of Foreign Workers Administration

Country	Quota Requested by Employers	People have actually come
Burma	11,862	-
Laos	75,229	10,753
Cambodia	58,380	17,456
Total	145,457	28,191

### And deportations

**June 2<sup>nd</sup> 2010** Order of the Prime Minister's Office No. 125/2553 to set up a Special Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground.

## RIGHTS of MIGRANT WORKERS

### Unprepared

Due to the political situation in Burma in the last decade there are no NGOs in Burma that can address cross-border migration, to provide information about migrants rights and the situation in Thailand.

Migrants today probably have more information about Thailand when they first arrive than a decade ago, not because of any organized informational access by the regime, but because over the decade there have been thousands of migrants who have returned, and because the situation of migrants in Thailand gets wider media coverage today and people in Burma can find more out about the situation by listening to Burmese radio (BBC, VOA, DVB, RFA).

### Protection Under the Law

Prior to 1997 there was very little formal protection of the rights of migrants. The People's Constitution of 1997 provided for greater protection of rights, although there were different interpretations of whether these rights were extended to only Thai citizens or all on Thai soil. Nevertheless, by creating independent bodies such as the National Human Rights Committee migrants were able to access more mechanisms for protection.

In early March 1998, Thai officials announced the legal requirement to pay all migrant workers the same wage by employers as Thai workers. At the time it was introduced to curb the practice of hiring 'illegal' migrant workers. In more recent years the Ministry of Labour has publicly announced that all workers, irrespective of their immigration status are protected by all provisions of the Labour Protection Act of 1998. Domestic workers, however, are not afforded such protection as the Labour laws do not recognize the work of domestic workers.

Nevertheless it remains difficult for migrants to benefit from the Labour Laws for several reasons:

**Migrants are not allowed to form unions.** Migrants can only join existing unions. But there are usually no unions in areas migrants work.

**Most migrants are housed within the work site.** This increases the dependency of the migrants on the employers, creates stress and conflict, means that migrants can be on call 24 hours a day and that they become homeless the moment they stop working. Thus if they try to complain about working conditions, they not only lose their work but also their shelter and have nowhere to stay safely while pursuing their case.

**Employers withhold the registration cards of migrants** thus effectively bonding the migrant to the employer. Without the registration card, migrants are liable to police harassment, arrest and deportation and have difficulty accessing hospital services. It is clearly stated in information to employers employing migrants that it is against the law to confiscate the personal documents of the workers, but it is rarely enforced. If this situation prevails with the Certificate of identities/temporary passports being issued under the MOUs, the situation of migrants will be no better than it is with a migrant workers card.

Registered migrant workers who complain about their working conditions are often **threatened by their employers**, sometimes physically and there is little protection for them.

If registered migrants are dismissed by their employer for complaining they quickly **become illegal**. Although they have the right to take a case of unfair dismissal they used to be liable to arrest and deportation the moment they stopped working with the employer on their registration card. In 2001, the policy allowed migrants who had been exploited to immediately report to the Employment office and have seven days to find a new employer. If they could not find an employer within seven days they were deported. The seven day grace period was a question of debate in subsequent policies. In 2004, the temporary ID card gave migrants the right to be in Thailand independent of an employer and thus provided migrants with more avenues to leave exploitative employers and seek justice.

For unregistered migrants, although officially protected by the labour laws and with the right to file a complaint, they are liable to **immediate arrest and deportation as “illegal migrants”** thus considering the power of the employers who can inform the immigration authorities, it is extremely difficult for non-registered migrants to seek justice.

**In cases of sexual and gender based violence**, there are similar difficulties due to the tenuous legal status of migrants. There is also the added dimension of accessing services in a non familiar language and being exposed as a victim of sexual violence. However for women who do dare to seek justice, there are a wide variety of experiences, ranging from protection being offered by state services during court cases to total dismissal of the right to seek justice by the authorities.

## Freedom of Movement

All of the registration policies have **restricted the freedom of movement** of migrants. They are only allowed to stay in the province and sometimes only the district where they registered. In 2005 migrants were allowed to move from employment in one province to employment in another province. However, there was no clear mechanism for the return to the original province if the new employer exploited them. In one case in Khon Kaen the migrants were rendered illegal in the process of return to the original province, even though they had followed the procedures. They were then deported

Migrants are **not allowed to get a driving licence**. In many provinces the main mode of transport for long-term migrants is a motorcycle. When MAP requested the Driving Test Centre to teach the Highway code to migrants, we were informed that it would encourage illegal driving.

## Bank accounts

For many years registered migrants were unable to open bank accounts but today they can use their migrant workers card to **open a bank account** and keep their money safely.

## Education of Migrant Children

The Education policies of Thailand have recognized **education for all** since 2001. In July 2005 a resolution was passed on the mechanism to provide access to education for all non-Thai and non-documented people. While more migrant children currently access the education system it is still only a small percentage of the migrant children who get access to the state education system. In some areas, particularly border areas where there are large numbers of migrant children, schools have a **shortage of teachers** and could not cope with an increased number of pupils. The school system is **not set up to be multi-cultural and multi-lingual**, teachers are not trained in these skills, and while



the education itself is free, there are **extra costs** (school uniforms, extra curriculum activities, transportation to schools etc) which the parents of migrants have difficulty meeting, particularly since they do not receive minimum wage. In addition it is unclear what happens if the parents are undocumented and thus liable to deportation, but the children are allowed to stay for their education. In areas where there are large numbers of migrant children, the Burmese community has organized itself to provide education for the children.

### Natural Disasters/Conflict zones

Natural disasters too, like the tsunami, demonstrated the need to have systems in place to reach all people, including migrants. Over 50,000 Burmese migrant workers worked in the areas affected by the tsunami. While responses did not deliberately omit the migrants from relief and assistance, the long-term situation of migrants isolation, fear of authorities, lack of access to information and services meant that migrants did not seek government help and government help did not have any experience of how to reach migrants. Migrants have also been victims of the floods in Thailand, and many migrants are working in the deep south of Thailand where the conflict has claimed more than 2,000 lives. It is necessary to include migrants in disaster preparedness training, emergency evacuations and relief.

## CONCLUSION

The migrant labour policy of registration/deportation reflects the ‘tug of war’ over migrant

labour between powerful business interests and government forces that evolved in the mid 1990s and continues unresolved today. In the 90s it was based on the argument that undocumented migrants living and working in Thailand caused social and security problems for Thailand and take jobs from Thais at times of high unemployment. Opposing the Thai government policy to deport migrant labour were strong business interests. Many industries in Thailand, including fishing, canning, garment manufacturing, rubber and fruit orchards not only used migrant labour to fill labour shortage gaps in times of high growth, but developed precisely because of the profits made by employing cheap exploitable labour.

After Taksin Shinawatr, a business tycoon, became prime minister, the economic argument for keeping migrants in the country gained more weight, and the policies aimed at recruiting more and more of the migrants currently in the country into the registration fold. This allowed for a stable work force for the employers and a higher level of knowledge and control over the migrants for the government. More migrants were also officially able to enter the formal systems of Thailand for health and education, although the policies on paper still require a great deal of commitment by government, civil society including independent human rights groups, migrant support groups, lawyers and migrant workers before they become a reality. It is these experiences which must be carried forward in the processes for migrants working under the MOU agreements, otherwise their Certificates of Identity or temporary passports will be just another piece of paper.

### Box 13

## Kingbody PROFILES

Advert on [www.thaitrade.net/home/kingbody/profiles](http://www.thaitrade.net/home/kingbody/profiles)

### King Body Concept Co., Ltd.

Was established by taking the advantages on cheap labour cost and Thai government's support on special economic zone (B.O.I. Zone 3).

Our labour cost is as cheap as of China, Vietnam, Indonesia, The Philipines, Bangladesh.

We have more than 15 years of experience management team. Therefore, our quality products could be offered to customers at best competitive price.

King Body Concept Co., Ltd. is located at Maesod, Tak, north-western part of Thailand. It takes 7 hours by driving from Bangkok and about one hour by plane.

And in order to increase our efficiency to serve our customers well, We also have 2 factories in Bangkok.

**Box 14**

## **420 Workers from Kings Body Concept Ltd Factory Deported**

On 23 June, 2003, 420 Burmese factory workers were dismissed from their jobs for submitting a complaint about their working conditions to the Tak Labor office. Prior to their dismissal, the workers approached their employer and listed their demands. The workers were legally entitled to their requests under Thai law and were attempting to negotiate an agreement through legal channels. The employer responded by firing all of the workers and calling the police to arrest and deport them. This arrest directly violates Thai law, which states that registered workers who are dismissed from their jobs have 7 days to find new employment. All 420 workers were deported to Burma on June 24<sup>th</sup>.

### ***Background***

King Body Concept Co. Ltd. Factory is located in Mae Sot, Tak Province. The factory produces clothing that is exported to six countries including the US, Malaysia, and Hong Kong. Approximately 100 Thais and 420 Burmese migrants (400 women and 20 men) work at King Body Concept. All of the Burmese workers have legal permits to work in Thailand. According to Thai Law, registered workers must receive the same rights and protections as Thai workers. In Tak Province, the minimum wage is 133 baht per day, with 25 baht per hour for overtime work. At the King Body Concept Factory, Thai workers receive the minimum wage, but Burmese workers earn only 55 baht per day, with 5 baht an hour for overtime. In addition, Burmese workers report that they are not allowed to refuse to work overtime and their normal workday runs from 8 am to 10 pm. During peak production periods, workers are sometimes forced to work until 3 am. The factory owner also withholds the original copies of the Burmese workers' work permits which violates Thai immigration law that requires workers to carry their permits with them at all times.

Out of their 55 baht-a-day wages, the factory owner also deducts 300 baht monthly for providing basic housing and rice to the Burmese workers. In addition, the owner levies a further unexplained 3% tax on the workers' salaries.

### ***Situation***

Since June 2003, the workers report that living conditions at the factory have been poor. There is not enough water for drinking or bathing, the dormitory is overcrowded, and the toilets are filthy and stinking. The workers became increasingly dissatisfied with these conditions and demanded that their employer remedy these issues. On June 19<sup>th</sup>, the 420 Burmese workers handed a signed statement to their employer. The statement included the following demands:

- to be allowed to keep their original work permits
- to raise the wages to 80 baht a day (still 50 baht less than minimum wage)
- for their wages to be paid on time
- to not be forced to work overtime later than 10 pm
- to have a healthy work environment
- to be able to elect a worker representative to bring their grievances to the employer

The employer made no response, so on June 20<sup>th</sup>, the workers sent a formal complaint letter to the Tak Labor Protection and Welfare office. The Labor Protection Office stated they would send a labor official on June 23<sup>rd</sup> to mediate between the employer and the workers. On June 20<sup>th</sup>, the workers went into the factory, but the factory managers told them there was no work for them to do that day and the next two days would be holidays. (Usually the workers have to work on Saturdays and Sundays).

On Monday, June 23<sup>rd</sup>, the labor official arrived at the factory and held a meeting with the factory owner and 10 workers elected to be representatives. Armed soldiers and immigration police were also present. The employer said he would not concede to any of the workers demands. He wanted to dismiss all of the workers on the grounds that they had not worked for the last three days. The workers then asked for the two months compensation that they were entitled to according to the law. The owner refused and told them “I will give you your last month’s salary, if you leave immediately.” When the labor official left, several of the factory security guards threatened the workers saying, “You should accept this salary and leave, otherwise you will be in big trouble.”

The employer then gave the workers their last month’s salaries and the immigration police forced them onto the immigration trucks. At this point, several of the labor officials were standing outside the factory watching as the workers was arrested. The workers were taken to the Immigration Detention Centre and deported the following day. King Body Concept was most certainly “taking the advantages on cheap labour cost and Thai government’s support” at the expense and exploitation of the migrant workers.



Orderly departure



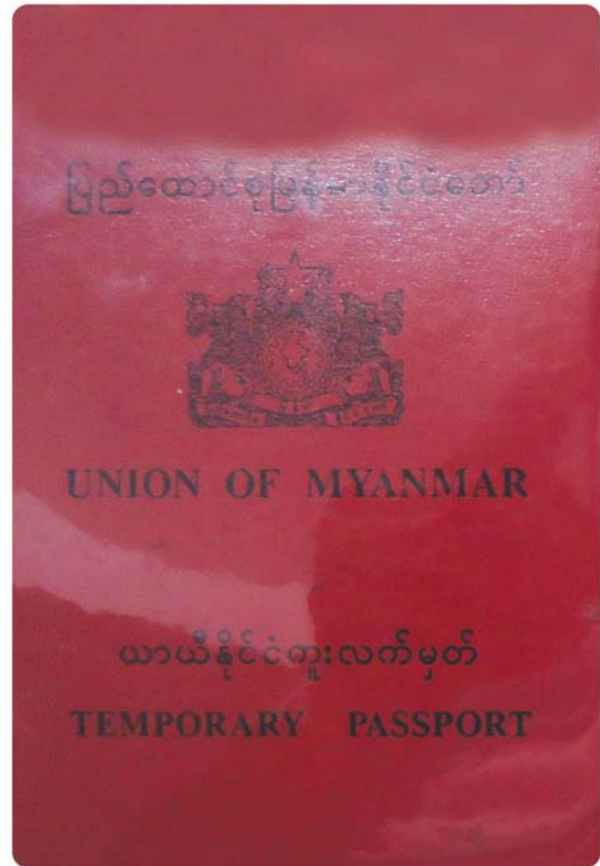
**Chapter (3) Update, MAP 2007 - 2010**

**Provincial Decrees**

During 2006 and 2007 a series of decrees were issued at Provincial levels even further restricting the rights of migrants. On December 19<sup>th</sup> 2006 Phuket issued the first decree, followed by Surat Thani, January 2007 Rayong on February 16<sup>th</sup> and Phang Nga on June 9<sup>th</sup>. Each of the decrees placed restrictions on migrants gathering, on the use of mobile phones and motorbikes and imposed curfews on migrants. The Action Network for Migrants (ANM) designated August 30<sup>th</sup> 2007 as International Day Against Provincial Decrees and organized events to draw attention to the further abuse of rights of migrant workers.

**Changing Status**

All migration to Thailand of migrant workers has previously been illegal migration, with migrants crossing the borders without any documentation. When the MOUs were signed between Thailand and the neighbouring countries in 2003, the aim was to regulate migration in the region with migrants crossing legally into Thailand. Since there were already many migrants in Thailand, it was agreed that the countries of origin would verify the nationality of the migrants and then issue them with a Temporary Passport or a Certificate of Identity. With these documents migrants could then apply for a



**Temporary Passport**



**Work Permit**

visa and a work permit. The process to verify the nationality of Burmese migrants encountered many challenges. Originally a meeting was held on August 26<sup>th</sup> 2006 between Thai and Burmese authorities, two months later on November 7<sup>th</sup> the New Light of Myanmar newspaper reported that the three temporary passport offices had been opened in Tachilek, Myawaddy and Kawthaung. But the passport offices did not really start to work until June 2009, after the Thai authorities had issued many ultimatums for Burmese migrants to enter the nationality verification process or be deported.

Migrants who successfully receive their passport must apply for a visa and work permit, which are valid for two years and can be renewed for a further two years. After a period of four years working in Thailand, the migrants will be forced to go home and not allowed to return for a further three years. In addition, the temporary passport is only valid for three years, so at the end of the first two year period, the migrants must renew their passport as well as the work permit, thereby incurring even more costs.

## Advantages of Holding a Temporary Passport

- ◆ Enter the country legally, have legal status. Therefore should feel more secure and protected.
- ◆ Included in health insurance and/or social security benefits. Should thus be able to access compensation in case of accident at work, maternity benefit etc.
- ◆ Allowed to travel, which should result in less smuggling and fewer tragic deaths and injuries that happen during smuggling.
- ◆ Brokers should be less powerful as migrants can travel without them, can travel on normal public transport.
- ◆ Do not need to be afraid of police or immigration, as fully documented.
- ◆ Migrants should feel more confident to claim their rights; to negotiate with employers.
- ◆ More security: two year work permit with extension possible for two years. Can plan for four years.
- ◆ Should be no excuse not to be paid minimum wage as entered the country legally, working legally.

## Disadvantages of Holding a Temporary Passport

- ❖ There are no employment agencies for migrants, so cannot find work without using a broker.
- ❖ Employers continue to confiscate temporary passports and thus leave the migrants undocumented again. No enforcement of the illegality of this action.
- ❖ Moving employers is still difficult. The Temporary passport still binds the worker to the employer restricting their freedom to choose to stay or leave employment.
- ❖ Time in Thailand restricted to four years with no return for a further three years. Not long enough to recuperate the costs of paying for the passport and work permit and to save.
- ❖ Employers are the same people who previously exploited migrants. Will continue to do so unless there is genuine enforcement of the labour laws.
- ❖ May have to pay monthly contributions to social security or compensation fund (and national health insurance) without knowing what benefits migrants are entitled to.

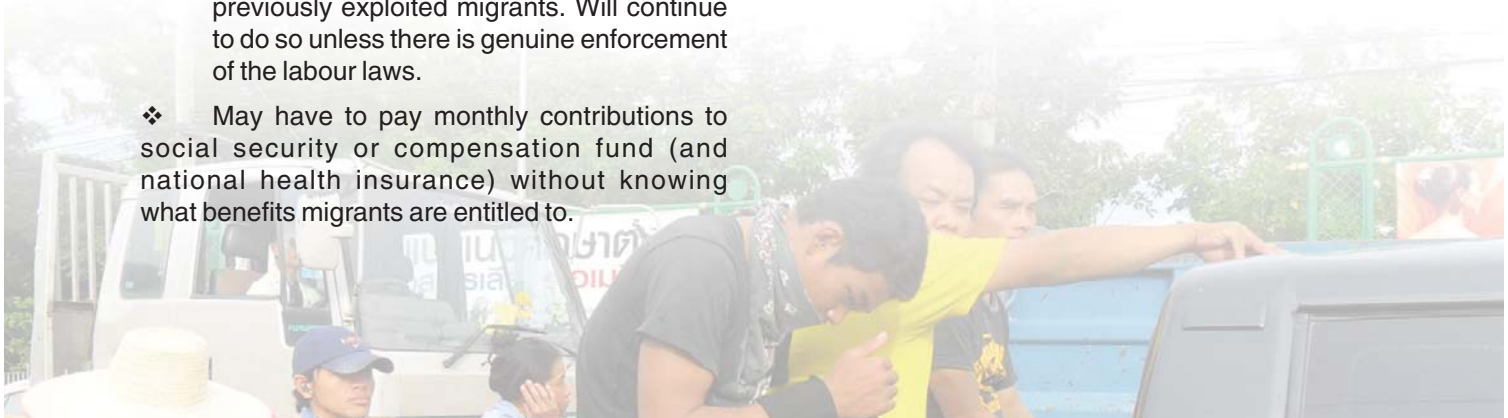
## Undocumented Deaths

On 11<sup>th</sup> April 2008, 54 migrants from Burma, including 37 women (one girl) and 17 men (one boy) suffocated to death in a food container while being smuggled into the resort island of Phuket. The migrants had called the driver to plea for him to stop and open the doors as they could not breathe but the driver refused to stop for fear of being detected by immigration authorities. The sixty seven migrants who survived were then held in crowded, mosquito infested police cells of Ranong police station and then transferred to a hostel in Kawthaung.



The year 2009 then started with another migration controversy. It was revealed that the Thai military were intercepting boatloads of Rohingya, and then abandoning them to the sea.

In the third week of January 2010 nine Karen job-seekers were shot dead in Phop Phra District, allegedly after being unable to pay a bribe to local police. On February 25<sup>th</sup> 2010, three migrant children (a three-year-old, six-year-old and 16-year-old) were shot dead when soldiers fired at the car transporting them. In Phuket, on March 8<sup>th</sup> 2010, two young sisters drowned while trying to escape a police raid on their camp. On May 23<sup>rd</sup>, 2010, nine Chin migrants, including two young children, died and 19 others were seriously injured when the pick-up they were travelling in was fired upon and chased by a police car in Petchburi province. □



## chapter 4

## Global Circulation

*"In 1936 [a] white man turned up in Phekon...He invited two of my grandmothers and some of their friends from the village who wore neck-rings, along with their husbands, to come to England....They were to be taken around Europe by a circus called Bertram Mills and exhibited as freaks." Fifty-three years later, the grandson telling the story left the same village first to work in a tea-shop in Mandalay and then to head to the jungles on the Thai-Burma border to fight the military dictatorship. He then embarked on a journey for safety which led him to a small town in England where by chance he came face to face with the "ghost" of his grandmother, a brass bust of her head and ringed neck .*

From the Land of Green Ghosts, A Burmese Odyssey Pascal Khoo Thwe

Even 70 years ago, from the remotest of villages of Burma, from the tiny Kayan Paduang tribe, women, men and children have tales to tell about migration. It is part of our global history. In the words of the Deputy Minister of Justice of Brazil, "The flows change and yet the coming and going of people, across national borders and through different regions of this planet, remains a common trait...Thoughtful consideration of these issues may open the door to common, creative, humane and just solutions for the migratory phenomenon. We owe this to our ancestors as well as our descendants." {UN High Level Dialogue on International Migration and Development, September 15<sup>th</sup> 2006}

With the creation of nation-states, the international community also created many categories which we have found so difficult to use to define the people who move from Burma: refugees, asylum seekers, trafficked persons, smuggled persons, economic migrants<sup>1</sup>. Each categorization is defined by why and how a person moves and where they end up, each carries its own set of rules and values. Was Pascal's grandmother, with her rings around her neck, trafficked to England?

Was she a migrant worker? Was she an ambassador of her culture? In her stories to her grandson, she admits confusion as to why they took her there, "The English are a very strange tribe," she tells her grandson, "They paid money just to look at us – they paid us for not working". Her own descendants are now refugees and the tourist tribes are still paying money just to look at them in the camps of Mae Hong Son.

An Inter-Pares paper, Boundaries of Belonging, suggests that these categories are inherently racialized, classed and gendered. The word migrant is nearly always used about the working class. A migrant is considered temporary, not entitled to full rights while an immigrant has been let in, is included into society. The temporary status of migrants can be attested to in Thailand: ten years of annual uncertainties. The word "Refugee" is loaded with all types of undertones, we only need to look at the fierce debate that raged in America during Hurricane Katrina, when black residents of New Orleans were labeled refugees whilst white residents were called evacuees or victims. The camp based refugees in Thailand don't even have the dubious status of this name.

Of the numerous categorizations, the final defining categorization is between forced and voluntary and mandates which then prescribe protection for forced migrants and the control of the voluntary migrants, and leave huge numbers of people falling outside of any of the current categories available. One of the most protracted and largest of refugee problems in the world today is that of Palestinian refugees, but the universally accepted definition of a refugee, under Article 1A(2) of the 1951 Convention relating to the Status of Refugees does not apply to the majority of Palestinians. The lives of people are not so clearly defined as international law presumes, but this would not be so problematic, if all people were afforded rights and protection.



## Box 15

# Alien



The word *Alien* comes from the Latin *alienus* meaning "of or belonging to another person or place", *alius* "other, another". English adopted it from Old French in the 14th century to denote something that was "strange" or "not of one's own". By the 15th century it was used to refer to "foreigners", and by the 16th century it referred also to "foreign things". It was not until the 20th century that the word came to be applied to "extraterrestrials". The Oxford English Dictionary identifies the source of the first usage with this

meaning as the June, 1944 issue of *Astounding Science Fiction*. Since Thai is a direct translation of this meaning "dang dao" it must be presumed that the usage only started after 1944.

[www.takeourword.com](http://www.takeourword.com)

## Box 16

Mr President, on behalf of the Mekong Migration Network, I would like to call attention to the non-voluntary nature of a large section of labour migrants. Indigenous and ethnic peoples are fleeing human rights abuses, being forced to surrender their land to mega-development projects or for the building of military facilities. There is no clear divide between a refugee and an economic migrant from countries which have no protection of the rights of their citizens.

If the root causes of non-voluntary migration are to be addressed, civil society must be allowed to exist and be supported to be vibrant and to be able to co-design the development choices for the country and the people.

In the receiving countries, while temporary migration policies might suit the labour market, they should not be an excuse for not providing temporary migrants with social, cultural and civil rights. While one person's migration might be temporary, the flow is permanent. Policies to include migrants into the health system, the social security system and the judicial systems must be permanent, so that each temporary migrant can always access essential services.

If there is to be true co-development, the migration process should provide migrants the opportunity to learn more about human rights, about democratic processes to carry back with them to contribute to the democratic development of their countries.

*Intervention of the Mekong Migration Network at the UN and Civil Society Interactive hearings, General Assembly, New York, July 2006*

The Global Commission on International Migration notes that the world has changed since these categories were defined and migration is now a global phenomenon linked intrinsically to the new order of the world. "The widespread implementation of neo-liberal economic policies throughout the globe has resulted in a diminished capacity of national governments to develop economic policies in the interests of the majority of their own citizens." leading large numbers of people to leave in search of livelihood. The Global Commission frames migration in terms of a new set of 3Ds: development, demography and democracy. Too many people continue to live in countries characterized by poor governance, low levels of human security, corruption, authoritarianism, human rights violations and armed conflict. As these differentials widen globally, so the number of people seeking to migrate increases and the need for people to migrate increases.

Moving affects the communities left behind, the countries left behind and the communities and countries of destination. While the "brain drain" is often talked about, there is also a "workers drain" the backbone of the countries of origin is broken, leaving some form of paralysis. The World's richest countries spend over 300 billion dollars in agricultural subsidies, more than six times the amount spent on overseas aid. Small farmers in the South cannot compete and have little choice but to give up their farms and migrate often to work on the agribusiness farms as paid (or sometimes unpaid) labourers as opposed to the land-owners and subsistence farmers, they once were.

The countries of the South recognized the global impact of migration and during the 1990s,

called for a United Nations world conference on migration – modelled on those held on the environment, on human rights and on development. The South wished to link migration to development at an early stage, but the countries of the north were reluctant to discuss migration without first controlling it. It was not until 2006 that the UN held the first High Level Dialogue on Migration and Development. Capturing the global governance mood on migration, the dialogue sought to address two issues: how to maximize the benefits of international migration and how to minimize its adverse consequences.

Migrants rarely refer to themselves as trafficked, or forced or voluntary, but they do have a great deal of experience in finding ways to maximize the benefits of migration and reduce its adverse consequences. The benefits that migrants seek to maximize are diverse and include: being able to live with their families in safety, to earn enough money to support themselves and their families, to save money to guarantee their future security, to learn new languages and experience new cultures. Are these the benefits governments are seeking to maximize? The discussions among governments in the first decade of the 21<sup>st</sup> century focus on maximizing the benefits of remittances to the country of origin. In many developing countries the remittances received from migrants constitute a more important source of income than Official Development Assistance or Foreign Direct Investment. But there is little debate, at least among the countries of destination about how migrants themselves can benefit during the migration process.

The divergence between migrants' and governments' priorities on the benefits and losses of migration is compounded by another more powerful actor on the scene, the corporate sector. The benefits of migration the corporate sector seeks to maximize are increased profit, competitiveness, and expansion of their markets through paying below accepted wages to migrant workers and having access to a large, temporary, flexible workforce.

The global capitalist system creates tensions between states' focus on national politics and the corporate sectors' focus on international business. Employers are frustrated with the restrictive policies of migration and have called for a more liberal approach to international migration of people to work in agriculture, industry, service. These tensions between the market and the state, between the corporate and the government, between the global and the local, between national interests and globalization process threatens to become the centre

of future debates, further distancing the experience and expertise of the migrants.

Migrants needs and experiences are maybe best reflected in the global debates around social cohesion which argue that both migrants and citizens of the destination countries should respect their legal obligations and benefit from a mutual process of adaptation and integration that accommodates cultural diversity and fosters social cohesion. The leading voices call for the active support by local and national authorities, employers and members of civil society, based on a commitment to non-discrimination and gender equity, informed by an objective public, political and media discourse on international migration. It recognises that while temporary migrants and migrants with irregular status are not usually granted the right to integrate in the society where they are living, their rights should be fully respected and they should be protected against exploitation and abuse. In the interests of social cohesion and harmony, it is essential to ensure that migrants who have been admitted to another state on a temporary basis benefit from the process of inclusion, in the sense that their human rights are respected; that they are protected from exploitation or abuse; and that they are able to establish convivial relationships with other members of society.

The argument for social cohesion views labour migration as contributing towards security and political stability by reducing poverty levels, curbing unemployment and expanding the experiences and opportunities available to the population. But, in many parts of the world, irregular migration is regarded by politicians and the public alike, as a threat to the sovereignty and the security of the state. Seeking to defend their sovereignty and security, some states have devoted enormous amounts of attention and resources to tighten borders, building walls between countries, increasing selectivity on who can and cannot enter, lowering the rights to privacy by storing electronic personal data on passports and ID cards. Instances of international terrorism have been used to defend this position on migration.

While the number of migrants in the world is increasing, according to UN statistics between 1980 and 2000, migrants in developed countries more than doubled, from 48m to 110m, while the number of migrants in developing countries grew from 52 to 65m. Nevertheless, the majority (97%) of the world's population do not migrate, including the poorest and most vulnerable who do not even have access to

Box 17

## The Death Ship



Burmese migrants might well identify with the New Orleans sailor in the novel "The Death Ship" written in the 1920s by Bruno Traven. His ship left him in Antwerp with his passport and seamen's papers on board. Left without any identification documents he asked the US Consul for help but was told:

"Think it silly or not I doubt your birth as long as you have no certificate of (it).... The fact that you are sitting in front of me is no proof of your birth ... the Department of Labour may or may not accept my word that I have seen you, and that as I have seen you, you must have been born.'

The sailor had no choice but to sign up on a ship with an autocratic skipper and terrible conditions, thus named the "death ship" going from port to port, never being able to go ashore because of his lack of papers.

that choice. Throughout history there have been major waves of female migration, with women being taken across the world as slaves, domestic workers and brides of new settlers. Today more women are migrating independently, with a smaller proportion being forcibly moved.

As international migration attracts more and more attention, international law will play a more important part in dealing with the issue. However there is still resistance to sovereign states abiding to international law on migration. The International Convention on the Protection of Rights of Migrant Workers and their Families, (1990) only came into force over decade later and is still only mainly ratified by the countries of origin. In 2005, the ILO Tripartite Meeting of Experts adopted the ILO Multilateral Framework on Labour Migration, a set of principles

and guidelines for a rights-based approach to labour migration. The Framework takes a positive perspective on labour migration consistent with the current global emphasis on migration and development. It recognizes the crucial role of social dialogue and value of social partner participation in migration policy. However these principles and guidelines are non-binding and thus unlikely to be practised.

The challenge in the next decade will be to redefine not the migrants but the contexts, to acknowledge and respect the role of migration in history and in the world today and to include, not exclude, the men, women and children who are the chief protagonists of this story.



## Appendix One

## EXPORT OF THAI LABOUR

<i>Number of Thai workers requesting permission to work overseas between 1998 - 2005 by country</i>		<i>Total Thai workers leaving to work abroad per year:</i>	
Taiwan:	656,508	1998:	91,364
Singapore:	115,634	1999:	159,566
Israel:	80,399	2000:	177,709
Brunei:	52,766	2001:	165,047
Malaysia:	39,137	2002:	160,807
Hong Kong:	31,579	2003:	147,769
America:	14,503	2004:	148,596
UAE:	13,472	2005:	139,667
Libya:	12,220	Total:	1,190,525

<i>Number of workers asking for permission to go overseas in the first 5 months of 2006</i>			
	Men	Women	Total
Taiwan	24,588	3,955	28,543
Singapore	6,888	321	7,209
South Korea	5,947	1,034	6,981
Japan	1,918	964	2,882
Brunei	2,130	268	2,398
Malaysia	1,297	481	1,778
Hong Kong	92	1,662	1,754
Total (including Other countries)	56,347	11,166	67,513

Source: (Office of Overseas Employment, 02272 2937  
www.overseas.doe.go.th visited on 18/07/06)

## Appendix Two

### IMPORT OF FOREIGN LABOUR - Summary of Registration Policies

PERIOD OF REGISTRATION 1	November 1996 - August 1998
NUMBER OF REGISTERED MIGRANTS:	303,088 migrant workers 263,782 or 87% of registered migrants were people from Burma
CONDITIONS:	2 year "work while awaiting deportation" Burmese, Cambodian and Laotian migrants 43 provinces, 7 types of work in 11 sectors, including agriculture, fishing and its downstream industries, construction and quarries, pottery, brick industries and domestic labour Migrants had to report to immigration every 3 months.
COST OF REGISTRATION:	1,000 Baht deposit fee, 1,000 baht health/ permit
PERIOD OF REGISTRATION 2	August 1998 - August 1999
NUMBER OF REGISTERED MIGRANTS:	90,911 work permits (79,057 from Burma, 10,593 from Cambodia and 1,261 from Laos)
CONDITIONS:	37 provinces, performing 18 types of manual labour Quota of 159,902 work permits allocated.
REQUESTS OF EMPLOYERS:	employers requested 233,346 migrant workers.
COST	<b>Total: 3,210 baht</b> (1,000 baht deposit to immigration, 700 baht for a medical certificate, 500 baht for a health card 1,000 baht for work registration, 10 baht for government stamp)
HEALTH CRITERIA	migrants were refused work permits for advanced tuberculosis, physical weakness, physical deformation due to leprosy and elephantitis, third stage syphilis, illegal drug addictions, alcoholism, psychological disorder and mental illness.
PERIOD OF REGISTRATION 3	August 1999 - August 2000
NUMBER OF REGISTERED MIGRANTS	86,895 work permits
CONDITIONS	7 provinces and 18 types of work. Fields of work done predominantly by women, including domestic work, restaurant and retail jobs were excluded.
REQUESTS OF EMPLOYERS	355,050 workers in 51 provinces in 82 different types of work.
COST	process was decentralized so different costs in different provinces, around 3,700 baht.
HEALTH CRITERIA	Same as 1998 except that HIV was also tested. It was not on the list of diseases for migrants, but was on the medical form used for medical check at provincial level (section 6.6) as a condition for rejecting work permit.

PERIOD OF REGISTRATION 4	SEPTEMBER 2000 - AUGUST 2001
NUMBER OF REGISTERED MIGRANTS	106,684 migrants registered.
CONDITIONS	Domestic workers still not allowed to register.
HEALTH CHECK	7 diseases checked; TB, syphilis, elephantitis, leprosy, drug addiction, mental health, alcoholism. Pregnancy tested as a condition for deportation.





<b>PERIOD OF REGISTRATION 5A</b>	<b>September 2001 - February 2002</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	<b>568,249</b> (451,335 from Burma)
<b>CONDITIONS</b>	all categories of manual labour allowed to register 80,000 domestic workers registered. Migrants could register for six months without an employer, 100,000 migrants took advantage of this
<b>HEALTH CRITERIA</b>	health check up after six months.
<b>COST OF REGISTRATION</b>	<b>Total: 4,250 Baht</b> (1,000 baht deportation deposit for Immigration, 1,300 baht for health insurance, 150 baht for card, 900 baht for health check up, 900 baht registration fee.
<b>PERIOD OF REGISTRATION 5B</b>	<b>March 2002 - August 2002</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	<b>430,037</b> (of the 568,249) successfully completed Health check up.
<b>HEALTH CRITERIA</b>	same as in previous policies, no pregnancy testing.
<b>MOU signed with Lao PDR</b>	18 <sup>th</sup> October 2002 MOU on Cooperation in the Employment of irregular migrants signed between the Ministry of Labour, Thailand and the Ministry of Labour and Social Welfare, Lao PDR.
<b>PERIOD OF REGISTRATION 5C</b>	<b>August 2002 - July 2003</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	<b>353,274</b>
<b>CONDITIONS</b>	only those migrants who had registered in 2001 could re-register. Factories or firms with Board of Investment privileges would not be allowed to employ alien workers.
<b>COST OF REGISTRATION</b>	Total: 4,450 Baht for one year (3,250 for first six months 1,200 for second six months)
<b>MOU signed with Cambodia</b>	May 31 <sup>st</sup> 2003 Ministry of Labour, Thailand and Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation sign MOU on "Cooperation on the Employment of Irregular Migrants"
<b>MOU signed with Myanmar</b>	21 <sup>st</sup> June between Ministry of Foreign Affairs, Thailand and the Ministry of Foreign Affairs, Myanmar "Cooperation in the Employment of irregular migrants"
<b>PERIOD OF REGISTRATION 5D</b>	<b>August 2003 - July 2004</b>
<b>NUMBER OF REGISTERED WORKERKS</b>	<b>288,780 migrants.</b>
<b>CONDITIONS</b>	only migrants who registered in 2001 and re-registered in 2002 could register again.

<b>PERIOD OF REGISTRATION 6A (FOR TOR ROR 38/1 TEMPORARY ID)</b>		<b>July 1<sup>st</sup> 2004 - June 30<sup>th</sup> 2005</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	<b>1,284,920 migrants</b> (921,492 from Burma, 179,887 from Lao and 183,541 from Cambodia).	
<b>CONDITIONS</b>	All migrants in Thailand from Burma, Cambodia and Lao could register for the one year temporary ID card (Tor Ror 38/1), free and independent of an employer. This number included: 93,000 persons under the age of 15 years and around 10,000 over the age of 60 years.	
<b>COST</b>	<b>Total: 3,800 Baht</b> (600 baht for health check up, 1,300 baht for health insurance 1,800 baht for work permit 100 baht for the card.	
<b>REGISTRATION OF EMPLOYERS</b>	246,553 employers registered requested 1,591,222 migrants.	
<b>RREGISTRATION OF WORK PERMITS</b>		<b>August 1<sup>st</sup> 2004 - July 30<sup>th</sup> 2005</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	<b>814,000</b> of migrants registered with ID Card now registered for work permits.	
<b>CONDITIONS</b>	migrants with temporary ID to register for a work permit within six months.	
<b>COST OF REGISTRATION</b>	<b>Total: 3,800 Baht</b> (Medical check up: 600 baht , Health insurance: 1,300 baht , One year work permit 1,800 baht (3mth (450 baht) 6mth (900 baht) and one year (1,800 baht) were available Work permit card 100 baht)	
<b>REGISTRATION OF EMPLOYERS</b>	248,553 employers registered requesting 1,591,222 migrant workers.	



<b>PERIOD OF REGISTRATION 6 C &amp; 7 A</b>		<b>March 2006 - February 2007</b> <b>(Cabinet Resolution Dec 20th 2005)</b>
<b>NUMBER OF REGISTERED WORKERS</b>	220,892 (208,392 renewals, 12,490 new registrations) <b>Burmese</b> 168,849 (renewals 163,499) <b>Lao</b> 22,848 <b>Cambodian</b> 29,195	
<b>CONDITION</b>	<ul style="list-style-type: none"> <li>❖ Attempt to employ an extra 500,000 workers to fill labour shortage.</li> <li>❖ 50,000 baht deposit fee per newly arrived migrant and 10,000 baht deposit fee for migrants who had previously registered.</li> <li>❖ The policy stated that it was not to be implemented under a human rights framework.</li> </ul>	

<b>PERIOD OF REGISTRATION 6 D</b>		<b>July 2006 - June 2007</b> <b>(Cabinet Resolution May 18th 2006)</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	668,576 workers registered ( <b>Burmese:</b> 568, 878; <b>Lao:</b> 51,336 <b>Cambodia:</b> 48,362)	
<b>CONDITION</b>	migrants could register with a new employer only if their previous employer had died, could prove that they had forced or didn't pay the worker, unfair dismissal had stopped or changed business, migrants changing employers needed to pay an extra 450 baht.	
<b>COST OF REGISTRATION</b>	<b>Total: 3,800 Baht</b> (100 baht for new card, 1,800 baht for one year work permit, 600 baht for health check up, 1,300 baht for health insurance.	
<b>HEALTH CRITERIA</b>	same as in previous registrations.	
<b>REGISTRATION OF EMPLOYERS</b>	Thai employers registered to hire 1,333,703 migrant workers.	

UPDATE

<b>PERIOD OF REGISTRATION</b>	<b>7 B</b>	<b>March 1<sup>st</sup> 2007 - 28th February 2008</b>
	<b>6 E</b>	<b>July 1<sup>st</sup> 2007 - 30th June 2008</b> <b>Cabinet Resolution December 18<sup>th</sup> 2006</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	<b>March 2007–February 2008:</b> 141,289 workers (Burmese: 121,448, Laotian 9,159 and Cambodian 10,322)  <b>July 2007 - June 2008:</b> 394,443 workers (Burmese 367,834, Laotian 12,140 and Cambodian 14,469);	
<b>CONDITION</b>	Migrants who previously registered will be allowed to re-register for a further year. All migrants who register for a work permit will have to enter the verification of identification process. Authorities will strictly enforce the entry and deportation of unregistered migrants to avoid negative impact on society and the security of the country. Migrants renewing the July work permit will have six months in which to register. Migrants only allowed to register with new employer under exceptional circumstances.	
<b>Health Criteria:</b>	Health check 600 baht; health insurance 1,300 baht	



<b>PERIOD OF REGISTRATION</b>	<b>8 A</b>	<b>March 14<sup>th</sup> 2007 - March 13<sup>th</sup> 2008</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	10,540 workers	
<b>CONDITION</b>	special registration to fill the labour shortage in the troubled areas of the South, Yala, Pattani, Narathiwat, Satun and five districts of Songkhla.	
<b>PERIOD OF REGISTRATION</b>	<b>6 F</b>	<b>July 1<sup>st</sup> 2008 - June 30<sup>th</sup> 2009</b>
	<b>7 C</b>	<b>March 1<sup>st</sup> 2008 - February 28<sup>th</sup> 2009</b>
	<b>8 B</b>	<b>March 14<sup>th</sup> 2008 - March 13<sup>th</sup> 2009</b>
<b>Work permits valid for one year but renewable up to February 28<sup>th</sup> 2010</b>		
<b>Cabinet Resolution 19<sup>th</sup> December 2007</b>		
<b>NUMBER OF REGISTERED MIGRANTS</b>	501, 570 workers	
<b>March 1<sup>st</sup> 2008 - February 28<sup>th</sup> 2009:</b>	135,004 migrants (126,265 Burmese, 4953 Cambodian, 3756 Lao)	
<b>July 1<sup>st</sup> 2008 – June 30<sup>th</sup> 2009:</b>	366,566 migrants	
<b>CONDITION</b>	<p>Migrants who had previously registered and migrants who had registered for Tor Ror 38/1 in 2004 but not renewed. All these migrants then must complete the nationality verification process by February 28<sup>th</sup> 2010, if they failed to do so they would be deported.</p> <p>This Cabinet Resolution stated that this two year period would be the final registration of migrants who entered the country illegally and that by February 28<sup>th</sup> 2010 only migrants who had changed their status to entering legally would be allowed to stay, all other migrants would be deported with no chance of re-registration.</p>	
<b>PERIOD OF REGISTRATION</b>	<b>6 G</b>	<b>July 2009 - February 28<sup>th</sup> 2010</b>
	<b>7 D</b>	<b>March 2009 - February 28<sup>th</sup> 2010</b>
	<b>8 C</b>	<b>March 14<sup>th</sup> 2009 - February 28<sup>th</sup> 2010</b>
<b>Cabinet Resolution 18<sup>th</sup> December 2008</b>		
<b>NUMBER OF REGISTERED MIGRANTS</b>	382,541 migrants re-registered (370,711 Burmese, 6,130 Cambodian and 5,700 Lao)	
<b>CONDITION</b>	<p>All migrants who had registered in 2008 could extend their work permits until February 28<sup>th</sup> 2010. As this was the second phase of the previous years registrations, migrants had to renew their work permits but did not reapply for the Temporary ID card or do a medical check up. All migrants were required to enter into the Nationality Verification process before February 28<sup>th</sup> 2010 otherwise they would be deported.</p>	

<b>PERIOD OF REGISTRATION</b>	<b>9 A</b> <b>July 1st 2009 - February 28th 2010</b> <b>May 26<sup>th</sup>, July 28<sup>th</sup> and November 3<sup>rd</sup> 2009 Cabinet Resolutions</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	<b>1,054,261</b> total received Tor Ror 38/1. (785,017 from Burma, 148,420 from Cambodia and 120,824 from Lao PDR.)  <b>792,175</b> were granted work permits, (627,230 from Burma, 76,390 from Cambodia 88,555 from Lao.)
<b>CONDITION</b>	To increase the number of migrants eligible to enter the regularization process and work legally in Thailand, a new registration of migrants was opened. Migrants could newly register for a temporary ID card (Tor Ror 38/1) and for a work permit.

The migrant worker cards were colour coded in order to keep migrants in one sector of work. They could not be re-hired in a different sector. Work sectors were colour coded :

Fishery:	pink/light blue
Fishery Processing:	pink/orange
Agriculture/Livestock:	pink/green
Domestic Worker:	pink/grey
Construction:	pink/ yellow
Other Occupations:	pink/pink

- ◆ Migrants entering this registration must complete nationality verification before February 28<sup>th</sup> 2010.
- ◆ Originally migrant children were not allowed to register as dependents, but the latter Cabinet Resolution on Nov 3<sup>rd</sup> made provisions for the children of migrants who had registered to also register as dependents.
- ◆ **July 28<sup>th</sup> and November 3<sup>rd</sup> Cabinet Resolutions** extended the time that migrants could register under this period.

<b>PERIOD OF REGISTRATION</b>	<b>Jan 19<sup>th</sup> 2010 - Jan 20<sup>th</sup> 2011- Jan 20<sup>th</sup> 2012</b> <b>March 1<sup>st</sup> 2010–Feb 28<sup>th</sup> 2011-Feb 28<sup>th</sup> 2012</b> <b>January 19th 2010. Cabinet Resolutions</b>
<b>NUMBER OF REGISTERED MIGRANTS</b>	Over one million
<b>CONDITION</b>	Migrants who had registered during 2009. All migrants registering had to submit papers to start the Nationality Verification Process. Migrants also have to contribute to a deportation fund, 2,400 baht for Burmese and Laotians, and 2,100 baht for Cambodians, which will have to pay 400 baht a month and Cambodians 350 baht a month for six months starting January 17th 2011. If migrants do not pay on time they will have to pay a monthly 2 % penalty.  In 2011, 932,255 migrants should be renewing their work permits while they wait for their nationality to be verified and to be issued temporary passports.

**Total number of migrants who have been recruited through MOU from 2005 - 2010**

Nationality	Number of workers requested by employers	Number of migrants allowed to enter Thailand for work
Cambodia	69,542	21,595
Lao PDR	83,236	11,950
Burma	47,906	534
Total	200,684	34,079

**Total number of migrants who have successfully completed NV since 2006, by nationality**

Nationality	Total number of migrants who have successfully completed NV since 2006				
	2006	2007	2008	2009-2010*	Total
Cambodia	37,329	8,299	5,037	86,684	137,349
Lao PDR	43,657	12,502	167	59,411	115,737
Burma	0	0	0	142,338	142,338
Total	80,986	20,801	5,204	288,433	395,424

**NV detailed figures for 2009 - 2010**

Nationality	Number of migrants eligible for NV in 2009-2010 (i.e. who obtained a work permit)	Number of migrants who have completed the NV process in 2009-2010*	Number of migrants who have applied for NV in 2009-2010, but not yet completed it	Number of migrants who did not enter the NV process in 2009 - 2010
Cambodia	124,902	86,684	11,506	26,712
Lao PDR	111,039	59,411	51,628	0
Burma	1,079,991	142,338	690,675	246,978
Total	1,315,932	288,433	753,809	273,690

*Source:*

- *Office of Foreign Workers Administration, Department of Employment, Ministry of Labour, Thailand.*
- *\* Figures updated as of 25 July 2010*



# POLICY BRIEF AND RECOMMENDATION ON UNDOCUMENTED LABOUR

## MIGRATION IN THAILAND

### Preamble

*This policy brief is based on a research project entitled “Gender, Cross-border Migrant Workers and Citizenship: A case study of the Burmese-Thai border” conducted by Asian Institute of Technology (AIT), Thailand and the University of Leeds, UK, funded by the International Development Research Centre of Canada. It also draws on the experience of the MAP Foundation, a local NGO, which has worked with Burmese migrant workers in Thailand over the past two decades. The issues covered in this paper were discussed at the “International Workshop on Gender, Migrant Workers and Citizenship in the Greater Mekong Sub-region: Economic and Political Perspectives for a World in Crisis” held on 1-3 June 2009 at AIT. Fifty two scholars and activists from Thailand, Singapore, Japan, Hongkong, China, India, USA, UK, and Australia who participated in this workshop agreed that a briefing paper should be prepared in order to disseminate as widely as possible our findings and experience concerning the gendered situation of migrant workers, which can make a contribution to informed public policy discussion.*

### Context

For nearly two decades, the Government of Thailand has instituted a series of policy initiatives concerning the regulation and registration of undocumented migrant workers from the neighboring countries of Burma (Myanmar), Cambodia, and Lao PDR. At the end of 2009, according to the Department of Employment, Ministry of Labour, 943,291 migrants were registered under these policies. However, unlike previous policies which, while only giving migrants temporary one year work permits, have been repeatedly renewed, the current policy comes with a serious threat of deportation after February 28th 2010. Migrants can only avoid deportation by signing up for a process of nationality verification by their country of origin as outlined in Memoranda of Understanding (MOUs) which the Thai government signed with the governments of Laos, Cambodia and Burma (Myanmar) in 2003. Because of this threat of imminent expulsion, migrants are living in a state of uncertainty, fear and insecurity. Whether or not the mass expulsions will be executed, the unending

temporary nature of the migration policies, including the MOUs, ignores the reality of migrants' lives and the reality of the labour needs of the country. This briefing paper will review some of the consequences for migrants of current policy responses to undocumented (irregular) migration. We question whether the restrictions in the current policies are necessary and indeed, whether they work against the declared objective of regularizing migrants and actually contribute to keeping undocumented migrants in a situation of illegality. In the final section, based on our experience of grassroots work and research with migrant communities, we make some suggestions and urge increased dialogue between policy makers, local communities and migrant representatives.

### Policy Responses to Cross Border Migration

Since 1992, successive Thai governments have tried to respond to the immigration of undocumented migrants from neighbouring countries by (a) allowing irregular migrant workers to register for one year's work in certain sectors of work (b) arresting and deporting migrant workers who do not have registration documents and (c) creating work sites or economic zones in the border areas with the intention of keeping migrants at the border and not in central Thailand. The latter approach was first implemented through the Ayeyawady-Chao Phraya-Mekong Economic Cooperation Strategy (ACMECS). In 2003, the government started a process which, if successful, might change the whole picture of migration in the Mekong. The MOUs which the Thai government signed with Cambodia, Lao and Burma (Myanmar) made arrangements for the countries of origin of the migrants to provide travel documents. Migrants would then be able to enter Thailand legally and apply legitimately for a work permit. Despite many set backs with the implementation of the MOUs, particularly but not exclusively with the MOU with Burma, the Thai government is concentrating all its efforts on this process and is abandoning policies for the large number of migrants who have and continue to enter the country illegally.

## Restrictions in Migration Policies

### *Restrictions on Labour Rights*

Migrants' legal status in Thailand is dependent on them being registered for work with an employer. Tying a worker to an employer decreases the autonomy of the worker and increases the opportunities for the employer to exploit the worker. Migrant workers are bound to their employers through the policies of registration for a migrant workers' card and through the new application process for a temporary passport. Thus even migrants who manage to become regularized through the nationality verification and MOU process are unlikely to enjoy protected working conditions and labour standards.

Only in certain conditions (e.g. death of employer, closure of business, exploitation) can a migrant request to change employment. The migrant then has seven days to find a new employer and to transfer the papers from one employer to the other. Restricting the time to job hunt for a new employer to seven days is impractical for migrant workers who do not have access to any employment agencies or services. Migrants consequently have to take whatever jobs are available regardless of the conditions and pay.

These restrictions on migrants contradict the right of all workers in Thailand to seek protection under the Labour Laws regardless of immigration status. In the current situation, migrants who have filed complaints of non-payment, exploitation or violations of working conditions, are regularly dismissed from their work. Loss of employment leads to the loss of legal status and the migrant being deported before the dispute can be settled.

Many migrants are also dependent on their employer for their housing as local authorities encourage employers to house migrants on work site. Migrants who have disputes with their employers therefore also risk losing their accommodation. Even where migrants are not forced to live on site, there are few options available since local authorities do not make provisions for more social housing to be built and extra public utilities to be provided in areas where the population has been increased substantially by the arrival of migrant workers.

### **Time Restrictions**

All policies on migration have been and continue to be temporary and insecure, and none have included any measures which provide for a more secure option for long term migrants in employment. The registration exercises over the last two decades have allowed migrants to register for three months, six months or one year. Only in 1996 were migrants

able to register for a two year period. Migrants entering the country legally with a temporary passport from 2010 will be allowed to work for two years and then to apply for an extension of two years. At the end of four years, the migrants are bound to return home and not return to work in Thailand for a further three years.

### **Mobility Restrictions**

Migrants who registered for the temporary migrant workers' card are not allowed to travel outside of the area where they registered. This is a violation of a fundamental human right. It also creates an artificial situation within the country. Unable to move freely to where there is work, seasonal workers stay in place even when the season is over, creating an over-supply of workers in certain areas for out-of-season periods, and thus further pushing the wages down.

The restriction of internal movements of migrants within Thailand also creates situations where migrants are liable to arrest and deportation despite registering as required. If a migrant is subcontracted to another area, or travels to another area for leisure or personal business, the police may arrest and deport the migrant. If a migrant needs to travel to another area they can only do so clandestinely. The suffocation of migrants hiding in trucks while being transported from one area to another has been a direct, tragic consequence of this restriction. The lifting of such restrictions for migrants entering the country with travel documents is a welcome improvement.

### **Unionization Restrictions**

According to the Labour Relations Act, B.E. 2518 (A.D. 1975) union officials must be Thai-born Thai nationals which thus bars migrants from forming new unions or becoming officials in existing ones. Although migrants can join Thai unions, in many of the geographical areas where migrants work there are no union offices. In addition, migrants, and particularly migrant women, frequently work in jobs which are not traditionally unionized such as domestic work, sex work and agricultural work. Nor are these occupations protected by the labour laws which leaves migrant workers without any form of collective bargaining.

These restrictions on migrants' freedom of association and collective bargain are contrary to the spirit of decent work and workers rights as set out by the ILO.

### **Family Restrictions**

Although migrant workers themselves have been able to obtain the status of temporary workers in Thailand since the early 1990s, the existence of their dependents has only been recognized in occasional policies, and family members live with daily uncertainty and instability. The MOU process makes no provision for the dependents of migrant workers. This contradicts the Cabinet Resolution on the Education of Non-Documented and Non-Thai People July 2005 which allows for all children, regardless of legal status to attend Thai schools and to register for a ten year status while studying. It is therefore possible that within a single migrant family, each member may hold a different legal status which could then lead to separation in raids and deportation.

### **Social Security Restrictions**

Employers of migrant workers have previously been prohibited from entering their employees in the National Social Security Schemes or joining them up to Workers' Compensation Fund. Under the new regulations employers of migrants with temporary passports may enter their employees into the schemes but are not obliged to. The social security system in Thailand offers free health care and a social safety net for workers. Migrant workers who are excluded from the system are deprived of their rights for compensation for workplace accidents and social welfare benefits, such as free health care and severance pay packages.

### **Reproductive Rights Restrictions**

The reproductive rights of migrant women have been brought into question many times over the last decade. Pregnant women have been threatened publicly with deportation. Local authorities have encouraged employers to return pregnant women. Maternity leave for migrant women is unheard of. This has frequently resulted in migrant women having to seek abortions which are illegal in Thailand. Many women die or suffer long term damage from these back street abortions. Women who decide to keep their babies, have to struggle to survive without any supportive social services and without their extended family.

### **Universal Access Restrictions**

Only registered migrants can pay into the National Health Care system and access the national health system. Dependents of migrants are not able to pay into the system. Migrants are subject to certain restrictions in health care, including access to ARV treatment for HIV positive migrants under the National Health Care.<sup>1</sup>

### **Restrictive Processes for Legalization**

The registration of migrant workers who entered the country illegally has cost migrants 3,800 baht (US\$115), the equivalent of one month's salary each year. Participation in the new MOU process, involves trips to the border for nationality verification, issuing of a temporary passport, application for work permit and health insurance. Since the process is complicated and time consuming, employers and migrants are utilizing private brokers which increases the costs. Only migrants currently registered in Thailand, with enough money and time and a willing employer can hope to become legalized under the new system but many migrants will not fulfill these conditions. Some fear that their nationality will not be verified by the Burmese regime; others will not dare to submit their details to the regime that they have fled, with many fearing the repercussions of admitting leaving Burma (Myanmar) illegally, with the additional fear that their families will be taxed or their names will be used to vote in the election without their knowledge. It may therefore be possible that the legalization process of migrants may result in more migrants becoming illegal and an increased number of migrants being stateless as both the country of origin and destination deny their existence.

### **Restrictions from Participating in Society**

None of the current policies on migration have addressed the integration of migrants into Thai society. The unwritten policies of housing migrant workers on site rather than in residential areas and not enforcing labour laws so that migrants have long working hours and little free time, all result in segregated communities. Only the education policy which provides for migrant children to integrate into Thai schools makes any contribution to acceptance of migrant families into Thai society; but since a large number of these children have to return to the construction site or plantation or orchard in the evenings, they are unlikely to be able to fully and fruitfully be integrate into Thai society. Segregated communities become distrustful and fearful of each other and breed tensions.

### **Multiple Restrictions**

The unprotected and precarious situation of migration to Thailand serves to erect barriers between the country of origin and country of destination - barriers which do more to prevent migrants returning home than they do to prevent them arriving. Migrants are less likely to remain in the country of destination, even during an economic crisis when they are not fully employed or fully paid, if it were possible to

<sup>1</sup> Some migrants currently access ARVs through special programs and support such as the Global Fund to Fight HIV/AIDS, Malaria and TB



return home temporarily. If temporary return is not possible, they will try and stay in Thailand, even if they lose their jobs

### **Suggestions To Protect Migrants' Rights and Facilitate Migration**

In our view it would be preferable for the Thai government to adopt an open and transparent policy which would cover all migrant workers in Thailand, and offer them protection under the national laws and regulations. The introduction of a new system of migrant registration in March 2010 provides a good opportunity for the government to revise its procedures to effect a more straightforward and effective migrant registration policy

The restrictions, limitations and difficulties of the registration process often have the perverse effect of increasing the number of undocumented migrants, who are still able to obtain paid work without the expense and risks of becoming legally registered. Less restrictive migration policies would also mean that migrants are more likely to return to their countries of origin when work is not available, which would be a preferable situation for both the migrants themselves and the Thai authorities.

The temporary nature of the policies which force migrants to return after one year or after four years, being contrary to the nature of migration and the nature of the labour needs of the country, serves only to increase the number of migrants who, even if they have legal status, revert to illegality in order to be able to remain in the country.

### **Simplified Processes for Legalization**

To respond to the reality of the situation where migrants will continue to arrive in the country without documents due to the political situation in Burma (Myanmar), a different, simplified process of registration could be employed. The following is one such suggestion:

- (1) Develop Registration Booths at the Thai side of the border where a migrant ID card could be issued on the spot with a computerized system.
- (2) Provide migrants with these ID cards access to the Thailand's Department of Employment's job finding services. Official information booths could supply information about job demands around the country and migrants could legally travel to find work.
- (3) Institute a system whereby, when migrants found a job, they would register with the local authorities for their ID card to be activated in that province and be able to access health, education and social services.

### **Ease Dependency on Employers**

Migrant workers who wish to change their employment, should be allowed a reasonable time to find new employment (minimum two months).

Migrant workers should have the right to choose their accommodation and local authorities should ensure that sufficient housing is available with proper public facilities (water supply, garbage collection, etc.)

Migrants who file complaints against their employers should be protected from automatic dismissal and should not lose their legal status as a consequence of exercising their labour rights.

Migrants pursuing legal cases should be provided protection and status to stay for the duration of the process.

### **Ease Mobility Restrictions**

Since migrants will always travel to where there is work available, they should be allowed to travel without restrictions and to use public transport. This is particularly important to avoid tragedies such as the suffocation of migrants in the container in Ranong and also to lessen the need for brokers and the power of traffickers.

### **Revoke Unionization Restrictions**

Migrant workers should be able to fully exercise their right to collective bargaining and to participate actively in unions. The Labour Relations Act should be reformed to respond to the current labour situation in Thailand. When migrants are not yet able to form or join existing unions, the government should recognize migrant workers associations and include them in policy level discussions.

### **Recognise Migrant Families**

Dependents of migrant workers should have access to social services such as education and health services. Dependents should be able to register and participate fully in the social life of the community.

### **Lift Social Security Restrictions**

Instead of one-off payment of health insurance, migrant workers and their employers in all sectors/occupation should be mandated to join National Social Security Scheme which includes free health care, unemployment benefit, maternity benefit and child allowances, as well as having access to Workmen's Compensation Funds which covers compensation for OHS injuries. It also foresees a time when ASEAN may implement a portable social security system.

### **Promote Reproductive Rights**

Migrant health volunteers who have provided services in collaboration with the Department of Public Health and NGOs and CBOs should be given recognition for their contribution to the public health of the country and should be able to attend trainings and be promoted and be employed as migrant health workers. In addition to the general health workers, a cadre of migrant women reproductive specialists should be supported.

Pregnant migrant women should not face discrimination in the workplace or accommodation.

### **Make Universal Access Universal**

All migrants regardless of legal status should be able to access health care.

HIV positive migrants should be included in all universal access schemes to ARVs and pregnant HIV positive migrant women should be able to access the latest available treatments.

### **Advance Integration Policies**

Local authorities should be encouraged to promote integration policies, ensure that migrant communities have equal access to services and education and are included in local events. Migrant communities should also be able to host their own significant events. Cross cultural events should be promoted in the community and schools.

Cross border migrants in Thailand cross the border to find work and livelihood and in some cases refuge and safety. They are currently forced to contribute to the economic advancement of Thailand without being invited to contribute to the cultural and social enrichment of the country. They are forced to pay an annual health insurance fee but not allowed to pay a monthly social security contribution which would provide a social safety net to themselves and their families.

They are forced to travel clandestinely in high risk situations, to work in situations which are sub standard. They are not allowed to travel freely and flexibly to fill labour shortages and to freely associate to ensure that working standards in Thailand do not deteriorate. They are forced to be temporary and insecure when their lives are permanent and they require security. Thailand has initiated responses to undocumented migration for over two decades. As we enter a new decade, a new response which respects the rights of the migrants and which believes in the integration of communities of neighbours countries is eagerly awaited by all concerned.

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*The views in this document do not necessarily represent the views of the institutions.*

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