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A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand

Pungpond Rukumnuaykit

ILO/Japan Project on Managing Cross-border Movement of Labour in Southeast Asia
Regional Office for Asia and the Pacific

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Preface

The cross-border movement of people between Thailand and its neighboring countries has been governed by the long historical legacy and the social relationship between people living along the border. In recent decades, economic and political factors have greatly influenced the migration of people in and out Thailand. The cross-border trade and investment, the ethnic conflict in Myanmar, and the different levels of economic development between countries are currently the main forces driving migration of labour. The incoherent migration policies, the restrictive approach to labour migration and the bottleneck in the implementation of the Memorandum of Understanding on Cooperation in the Employment Workers are the main causes for the increasing trend of irregular migration.

Many studies indicate that policy measures adopted by the governments to promote orderly migration, to regularize the irregular migrant workers, and to tighten border control have so far failed to stem the smuggling and border-crossing of irregular migrant workers. Ironically, many regularized and legally recruited migrants have been plunging into irregular status, due mainly to restrictive migration policies in the host country. This is because the management of labour migration in Thailand has been conceived from a national security lens, rather one that also economic and human securities, i.e. the economic gains and the protection of human and workers' rights. To achieve the goal of orderly migration and to maximize the benefits from labour migration, the policy makers, economic planners, and practitioners of both labour-receiving and sending countries need to adopt a rights-based approach in formulating labour migration policies and programmes. The eight ILO Core Conventions and the ILO Conventions on Migration for Employment (No. 97) and Migrant Workers (No. 143), including the non-binding ILO Multilateral Framework on Labour Migration are the primary source of reference.

Many people are not aware of the role that migrant workers have increasingly played in Thai society and in contributing to its economic prosperity. No doubt, exports of Thailand's agricultural and fishery sectors are the efforts of both Thai and foreign workers whose labours include the growing, chemical spraying, harvesting, processing and transport of such goods. In 2007, migrant workers in Thailand paid fees which amounted to 405 million Baht (\$12 million) as extra budgetary income to the government. Apart from paying the consumption tax, migrant workers add considerable value to the gross domestic product of the Thai economy. Thus, many studies have come up with the undisputable conclusion that Thailand's migrant workers bring positive contributions to Thailand's economy.

The synthesis report on labour migration policies, management, and immigration pressure in Thailand reviews studies on labour migration and highlights the critical issues including irregular labour migration, the benefits and the cost of migration, the past and current migration policies, and the suggested policy reforms.

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I. Introduction

The movement of labour into Thailand from its neighboring countries is expected to increase rapidly over the next decade due to widening income gaps, slowing growth of Thailand's work force, and improvements in roads and infrastructure linking the Mekong sub-region. Over the past few decades, workers from neighboring countries come to Thailand via informal and surreptitious means. While the Thai policies on migration are still both ambiguous and ambivalent, the majority of these workers have no legal status. Their rights are subject to frequent abuse, and they are at the mercy of unscrupulous agents, employers, and sometimes government officials.

This paper aims to bring together the findings and policy recommendations from the wide range of studies that have looked at Thailand's irregular labour migration. The synthesis report draws facts and findings mainly from the "Review of Labour Migration Policies, Regulatory Framework, Management Institutions, and Immigration Pressure in Thailand," which was prepared by the Thailand Development Research Institute (TDRI) under the ILO/Japan Project on Managing Cross-border Movement of Labour in Southeast Asia. Supporting information comes from "The Economic Contribution of Migrant Workers to Thailand: Towards policy Development" (Martin's, 2007), and "Do International Migration Policies in Thailand Achieve Their Objectives?" (Huguet's, 2007).

The term "irregular migrants" used in this paper are those who work or live in Thailand, but due to illegal entry or the expiration of their visas, and lack legal status in the country. The paper does not discuss the situations and policy implications regarding foreign professional workers registered in Thailand nor the deployment of Thai workers overseas.

Section II discusses facts and findings on the trends and dimensions of irregular labour migration into Thailand, push and pull factors for migration, and reasons why these migrants have become irregular or illegal migrants. Section III applies theories and empirical findings to synthesize costs and benefits for Thailand as a host country of irregular migrants. Section IV discusses the impacts of migration policies and the implications for policy reforms. Section V proposes recommendations based on current migration trends, problems, and institutional frameworks.

II. Trends and dimensions of labour migration into Thailand

Most irregular migrants in Thailand are from Myanmar, Lao PDR¹, and Cambodia. They are characterized as "irregular" because they entered Thailand illegally. The majority of these migrant workers have come to Thailand because of economic and political problems in their home countries and also because of the greater work opportunities available in Thailand. These migrant workers are actively working and looking for jobs in Thailand's low-skill sectors. Some of these migrants have registered with the Ministry of the Interior, and acquired work permits from the Ministry of Labour. However, it is estimated that a large number of old and new arrival migrant workers are compelled to engage in economic activities as "irregular migrant workers."

Who are irregular migrants in Thailand? How many are there? What do they do?

Burmese migrant workers make up approximately 75-80 per cent of migrant workers in Thailand. The next largest groups are from Laos and Cambodia. Moreover, there are over 143,000 Burmese refugees in Thai camps near the border, mostly from the Kayin and Kayah ethnic minorities, who are not permitted by the Thai authorities to work. Tens of thousands of Shan refugees are also in Thailand, but they are not allowed by the government to live in refugee camps. Most of the Shan refugees are migrant workers, many of whom would be at risk of serious human rights violations were they to be returned to Myanmar. Burmese migrants in

¹ In this paper denoted "Laos."

Thailand generally come from several ethnic minority states in eastern Myanmar, including the Kayin, Kayah, Mon, and Shan states; and from Bago and Tanintharyi (Tenasserim) Divisions. (The Human Rights Sub-Committee on Ethnic Minorities, 2007)

Although registration of migrant workers has been carried out through a series of Cabinet Resolutions, there is a consensus that the number of registered migrants is well below that of actual irregular migrants residing and working in Thailand. While the estimates of the actual number of irregular migrants were over 2 million, in July 2004, when the Ministry of the Interior campaigned for the registration of all irregular migrants from Cambodia, Laos, and Myanmar at local government offices, a total of 1,284,920 migrants (including dependents) registered with the Ministry of the Interior (MOI). Just 1,122,192 of these migrants went to local government offices to be photographed. Among these, 847,630 migrants finally received work permits from the Ministry of Labour. In 2007, a total of 535,732 migrants received work permits. The sectors that received the highest proportions of quotas are agriculture and livestock, household services, construction, and fisheries.

After 2004, a process to register migrants was initiated throughout the country by the Ministry of Labour. From the end of 2005 to mid-2006, 22,520 employers requested 77,419 new work permits for their migrant employees. With the 131,143 migrants allowed new work permits by the Cabinet Resolution in May 2006, and the 460,014 migrants which received extended work permits, a total of 668,576 work permits were issued in 2006. The table below shows the number of migrants registered with the Ministry of Labour and the number of estimated non-registered between 1996 and 2007.²

Foreign workers (Cambodia, Lao PDR and Myanmar) in Thailand, 1996-2007

Years	Registered	Estimated Non-registered	Total	Registered (%)
1996	293,652	406,348	700,000	42
1997	293,652	424,037	717,689	41
1998	90,911	870,556	961,467	9
1999	99,974	886,915	986,889	10
2000	99,956	563,820	663,776	15
2001	568,249	281,751	850,000	67
2002	409,339	558,910	968,249	42
2003	288,780	711,220	1,000,000	29
2004	849,552	149,848	999,400	85
2005	705,293	807,294	1,512,587	47
2006	668,576	1,104,773	1,773,349	38
2007	535,732	1,264,268	1,800,000	30

Note: An additional 53,202 migrants were registered under the MOU in 2006. Most were already in Thailand.

Sources: Martin (2007), International Labour Organization.

Note that even though the government tends to allow as many migrants in its quotas as employers request (in anticipation of their labour needs), many employers do not obtain work permits for the migrants they actually employ. In 2006, employers said they needed 1.3 million migrant workers. The government quota was 1.2 million, but only 668,576 migrants received work permits. A major reason for the discrepancy was that 41 per cent of the requests for migrants were in "other sectors," but only five per cent of the work permits were issued to migrants in these sectors.

² A 2006 presentation by the Ministry of Labour, Department of Employment reported a total of 2.8 million foreigners in Thailand, including the almost 1.3 million migrants registered with the MOI in 2004, the 500,000 foreigners who entered legally and overstayed their visas (from 190 countries), the 800,000 foreigners under the responsibility of the Ministry of the Interior, and the 104,000 registered foreign professionals (Martin, 2007).

When taking a closer look at the recent trends and characteristics of these irregular migrant workers in terms of work permit requests and actual work permits issued during 2004-2006, the following findings are worth noting (ILO/TDRI report on Review of Labour Migration Policies, Regulatory framework, Management Institutions and Immigration Pressures in Thailand, 2007):

1. Between 2004 – 2006, there were approximately 190,000 - 240,000 employers involved in employment of migrant workers, while the number of employers legally employing migrant workers has declined by about 50,000 during this period. This could be due to the fact that employers did not receive any benefit from registering their migrant employees. Employers who did not register their migrant employees nevertheless hired migrant workers without penalty because the enforcement of the law with regard to employers is not strict.

2. About 1.59 million migrants were requested by employers in 2004. This number increased to 1.88 million in 2005. Part of this increase was due to the need to replace workers who had left jobs or had returned to their home countries in the previous year. In recent years, the decline in the number of registered migrant workers may be attributable to the fact that the employers did not perceive any benefit from registering their workers. Lax law enforcement has caused some employers who abide by the law to feel unfairly treated. There is also a legal constraint (except in 2005) which allows only previously registered migrants to fill employer requests. Therefore, new migrants had to wait for new registration periods to become eligible.

3. The Government has also adjusted the quota to be too low, at about 5.3-8.0 per cent of the demand. The word “admission quota” has been used dubiously. It is not clear how this quota was set nor whether it has been determined jointly in a tripartite fashion with the involvement of trade unions, employers/trade associations, and government agencies. In practice, officials simply use it as a process for screening the probable labour demand of the employers.

4. In 2006, there were about 200,000 employers who employed migrant workers, and each of them, on average, hired 3.5-4.5 migrant workers. Hence, the total number of migrant workers demanded was approximately 800,000. However, this figure only includes employers who forthrightly expressed their needs to the proper authority.

Pull and push factors for irregular migration

The economic and social disparities between Thailand and its neighboring countries bring about the push and pull factors which have increased migration into Thailand. These include that disparity in income, living standards, and stages of economic and political development. To effectively manage migration into Thailand and lessen migration pressure, one needs to closely monitor these push and pull factors.

Pull factors

It is clear from economic rationale that **wage differentials** between countries of origin and destination determine the flow of migration. Hugué (2007) shows that the per capita GDP of Thailand adjusted for purchasing power in 2003 was 3.7 times that of Cambodia and 4.3 times that of Laos. Even though no estimate of per capita GDP for Myanmar is available, it is believed that the differential is similar to that of the other two countries. Furthermore, migration can be explained using household or family socioeconomic data. The majority of migrants to Thailand come from countries with high levels of extreme poverty, due to the inaccessibility of banking, formal credit mechanisms, and crop insurance. These families therefore seek ways to secure their sources of income and **diversify economic risks** by having a household member become a migrant worker.

In terms of industrial institutions, migration can be explained by development and industrial organization theories. One of Thailand’s pull factors is its **dual economy**. That is,

there is both a capital-intensive sector, which employs highly educated and specialized skilled workers for high wages and other benefits and a labour-intensive sector, which tends to hire low-skilled and temporary workers without offering benefits or job security. This latter category of workers is subject to being laid off during slack periods and generally is covered by labour protection Act. The presence of a dual economy in Thailand causes migrant workers to enter Thailand because there are jobs (in the informal sector) available for them as long as wage differentials persist. To reduce the illegal employment of migrant workers, Thailand may have to contain the size of informal sector. Another strategy for Thailand to cope with the influx of irregular migrants is to export jobs, or outsource production to labour-sending countries.

Thailand's educational system promotes a relative long compulsory education, often 12 years and beyond. This has gradually reduced the number of Thai entrants with little education and into the low-skilled segment of the labour market. Hence, even though about 60 per cent of Thai workers still have a relatively low level of education and engage in low-skill sectors such as agriculture, construction, and other informal economies, there is an increasing demand for migrant workers to work in the 3D (Dirty, Dangerous, and Demeaning) jobs. A recent survey conducted by the National Statistics Office in 2007 shows that employment in the informal sector has increased by about 4 per cent from 2005.

In addition, the **demographic dynamics** of Thailand and its neighbors stimulate the movement of migrants into Thailand. While the number of young working-age Thais, 15-39 years, has declined, the number of people in this demographic group is increasing by 1.2 per cent per year in Myanmar and by more than 2.5 per cent in Laos and Cambodia. (Huguet, 2007)

Another pull factor comes from **social networks and migration-related institutions**. A good social network can help cope with problems of incomplete and asymmetric information. A better social network and effective migration-related institutions help increase the safe movement of migrant workers by providing information on the destination. This reduces the costs and risks associated with moving (Massey et al., 1993; Huguet, 2007)

Push factors

Studies on irregular migration into Thailand reveal two main factors that "push" migrants to leave their home countries. These push factors are lack of economic opportunity and internal political strife. In Huguet's (2007) report, the 2003 GDP per capita was US\$2,078 and US\$1,759 US in Cambodia and Laos, respectively, while Thailand's GDP per capita was US\$7,595. In the same report, figures from the most recent years show that the percentage of the population living on less than US\$1 per day was 34, 26, and less than 2 per cent for Cambodia, Lao, and Thailand, respectively. **Under-development and poverty** combined with lack of education play a major role in pushing migrant workers in search of a better life.

However, while low income and poverty are major push factors for labour migrants from Thailand's neighboring countries, **political instability and administrative inefficiency** are also particularly strong factors for people in Myanmar. Some Burmese migrants had been living in areas of internal armed conflict, where there still exists fighting between ethnic minority-based armed opposition groups and the central Myanmar Government. "Although such conflicts have greatly decreased in the last 16 years, there remain pockets of resistance in Southeastern Shan State, and in small areas of Kayin, Kayah and Mon States and in Tanintharyi Division. Migrants from these regions have often been victims of or witnesses to the Myanmar Army's counter-insurgency activities, including forced labour and forced relocation." (The Human Rights Subcommittee on Ethnic Minorities, 2007) In one survey of Burmese migrants in Thailand, 21 per cent of the interviewed migrants had been subject to forced labour in Myanmar. A third of the migrants had suffered a combination of traumatic experiences such as unemployment, forced labour, and extreme poverty (Huguet, 2007). On the other hand, those who live in conflict-free areas often leave their homes in Myanmar because there are no jobs or other economic opportunities as a result of the political unrest.

Why do they become illegal migrants?

As a result of the push and pull factors discussed above, many migrant workers want to enter Thailand to find work and search for better lives. Apart from the thousands of migrant workers who were trafficked to Thailand to work in brothels, sweat shops, or private homes, many others wished to enter Thailand legally, but current institutional settings in both the labour-sending and receiving countries made legal admission to Thailand difficult for most of them. Therefore, these workers become “irregular” migrants, as they enter and stay in Thailand illegally.

According to the Human Rights Sub-Committee on Ethnic Minorities (2007), most Burmese migrants possess an identity (ID) card, which grants them some form of citizenship, but does not necessarily permit them to leave or return to Myanmar legally. The majority of Burmese nationals do not possess passports since a passport could cost thousands of dollars. Furthermore, when these workers wish to return home, they cannot be processed through immigration without a passport. But avoiding immigration checkpoints is illegal under Article 13 (1) of the Immigration (Emergency Provisions) Act of 1947. Those who enter Myanmar illegally are subject to one-year imprisonment and a fine.

An implication of these legal requirements is that most Burmese workers can enter Thailand and return to Myanmar illegally should they wish to. Therefore, this illegal status of returning workers has long-term impacts on Thailand since these legal and administrative requirements largely prohibit Burmese migrants from returning home, resulting in more and more irregular migrants in Thailand. Furthermore, the Thai Government does not accept Myanmar ID cards as sufficient proof of identity for registration purposes. As a result, a proof of national identity is needed. Obtaining this proof of identity is the main problem among migrants from Myanmar, particularly in border areas where borders are easily crossed. In agriculture and fishing industry, registration is further complicated by the seasonal nature of migration. With low and uncertain income due to seasonal demand from employers, these migrants often cannot afford to register officially.

In Thailand, because of the restrictive policy towards changing employers and geographic mobility, both of which involve complex and costly processes to gain permission, the number of migrant workers who have come forward to renew their registration for extension of work permits has declined over time from 849,525 in 2004 to 532,482 in 2007 (although the number would be much lower than this if 208,562 new regularized migrants are not included) Thus, inadvertently, a number of once-registered migrants (317,043) have fallen into irregular status. Looking toward the future, however, the Foreign Worker Employment Act (2008) is expected to provide some flexibility for geographical mobility and change of employer.

For migrant workers whose immigration status has been legalized through obtaining the legal travel documents (Certificate of Identity – CI for Cambodia and Temporary Passport- TP for Lao PDR), their status may become “illegal” if they temporarily leave Thailand without reporting to Immigration and/or paying the 1,000 Baht re-entry fee. Those who fail to do so have their work permits revoked and have to restart the entire recruitment process from the original country all over again. Given the cumbersome administrative process, a number of migrants have opted for illegal exit and re-entry.

Most migrants are lured by employment agencies with the idea that they will earn extra income from overtime work. Workers have to bear all the costs of recruitment, which are deducted in installments from their salaries. But failure on the part of employers to provide them with overtime work may cause added resentment on the part of migrants, who may then decide to leave their jobs either to return home or to illegally switch to new employers, who are not supposed to deduct any portion of their wages to cover the recruitment expenses.

Because of their irregular status, these migrant workers typically work in low-skilled sectors, including agriculture (fruit orchards, and paddy, onion, and chili fields), fisheries, day

labour, and domestic work. They face problems in their jobs and lives as they earn less than the minimum wage and work and live in dirty and unsafe conditions. Furthermore, their illegal status causes them to be exposed to harassment, arrest, and deportation by some Thai police. In addition, they often lack access to proper medical care and education for their children. This is especially true for those who do not have a valid work permit.

III. Benefits and costs for Thailand as a host country of migrant workers

Before policy recommendations can be made for Thailand's management of irregular migrants, the contributions and costs of migration to the host country should be clearly stated. The fact that employers demand and hire migrant workers, regardless of their legal status, suggests migrant workers benefit the economy. Yet, the government's policies towards migrant workers often ignore their positive contributions.

Benefits of migrant workers to Thailand

It is natural to assume that migrant workers in Thailand, irrespective of their status, are attracted to low-skilled jobs that are shunned by local workers. Economic theories on trade and development suggest that migration is another channel to improve overall welfare of the countries concerned. Even though in the case of Thailand, there have been limited studies on the contributions of migrant workers, the following benefits from theoretical implications should be considered.

1. Migration increases Thailand's output (GDP) in labour intensive sectors such as agriculture, construction and manufacturing. This is particularly true in the case that there exists market failure in the sectors that employ migrant workers such as incomplete information and uncertainty of output. Regularized migration could help stabilize the labour supply in these sectors to prevent uncertainties in production and fill vacancies.
2. Migration benefits employers or producers in low-skill and uncompetitive sectors. Pricing theory suggests that as producers maximize profits, they switch to available inputs that are cheaper. Low-cost labour from migrants, therefore, gives producers the choice of using more labour for production as long as marginal output exceeds marginal cost, resulting in a higher quantity of outputs or higher value added. As a consequence, the market equilibrium price of the product will be lower than at the initial level. The receiving country can enjoy low costs of the products and increased competitiveness.
3. According to the National Economic and Social Development Board, approximately 65 per cent of Thailand's GDP comes from exporting sectors that are largely labour intensive. The lower cost of products which is a result of migrant labour, helps increase competitiveness of Thailand's exports in world markets.
4. Migrant worker allows producers to keep the cost of goods at low prices, which helps to keep the national inflation rate low. Additionally, the low cost for production for labour-intensive products contributes not only directly, but also indirectly to reducing inflation rate if the products are used as intermediate inputs to other manufacturers.
5. In principle the domestic work performed by migrant workers is non-tradable. Even so, migrant domestic workers allow Thai women to participate in the labour market, which partly alleviates Thailand's labour shortage.
6. As a result of factor mobility from migration, there is often a knowledge transfer to receiving countries. In the case of Thailand the knowledge transferred may be small given that migrants are low-skilled, and uneducated.

7. The cheap labour provided by migrant workers makes Thailand more competitive and attractive to foreign investors. This investment in turn increases GDP and job opportunities for Thais.
8. Increased labour migration to Thailand helps speed the shift of Thai workers to higher-skill sectors (occupational mobility). When there is a greater supply of labour to fill low-skilled jobs vacated by local workers, Thai workers are indirectly pushed into higher-skilled sectors such as service, computer and electronics, and automobile and spare parts. This could be considered a benefit to Thailand in moving towards capital-intensive production.

There has been limited research on the quantitative contributions of migrant workers to the Thai economy. The Thailand Development Research Institute estimates that in 1995, when there were 750,000 migrants (about 2.2 per cent of the labour force), migrants increased the Thai GDP by one-half of one per cent, or approximately \$839 million at current prices or \$600 million in 2000 constant dollars (Martin, 2007). Using the same method and parameters, Martin (2007) estimates that in 2005, when migrants were five per cent of the Thai labour force, they would increase the Thai GDP 1.25 per cent or \$2 billion at current prices or \$1.8 billion in 2000 constant dollars.

Martin (2007) uses another approach to estimate the contribution of migrant workers to Thailand, namely, measuring the value added by migrants in each sector in the economy. Using assumptions regarding the average productivity of each migrant and the proportions of migrants in major sectors, he finds that if migrants' productivity were even half of that of Thais employed in these major sectors, migrant workers would have contributed 3.1 per cent to the Thai GDP in 2005. In cases where migrants were equally productive, the contribution would double to 6.2 per cent of GDP. In addition, assuming that migrant workers, representing 5 per cent of the labour force, depressed wages of Thai workers by 3 per cent, and assuming that labour's share of national income is 40 per cent, *the net gain* due to migrant workers would be \$47 million in constant dollars and \$53 million in current dollars.

Pholphirul and Rukumnuaykit (2007) use a similar method to Martin's (2007) to estimate economic contributions, but they adjust the estimate by taking into account the share from the informal labour sector (around 70-80 per cent) and the estimated reduction in the wages of Thai workers found by Bryant and Rukumnuaykit (2007). They find an increasing trend in capital gains from migrant workers from around 0.03 per cent of the real national income (880 million Baht) in 1995 to around 0.055 per cent of the real national income (2,039 million Baht) in 2005. The estimation of the *net gain* due to migrant workers shows that between 1995-2005, migrant workers generated a net contribution to the Thai economy of about 8,360 million Baht (in constant 1988 Thai Baht). On average, this contribution accounts for the net contribution of approximately 0.023 per cent of the real national income (in constant 1988 Thai Baht) per year, or around 760 million Baht per year (in constant 1988 Thai Baht).

Cost of migrant workers to Thailand

Public opinions regarding irregular migrants in Thailand suggest that most Thais considered migrant workers to be a burden to the country. According to an ABAC opinion poll supported by the ILO and UNIFEM, 59 per cent of respondents thought that the government should not admit more foreign workers while 82.5 per cent believed that admitting foreign workers would have a negative impact on Thai workers with lower skills and/or income. This survey outcome suggests potential direct and indirect costs of having migrant workers in Thailand. The following are potential costs of migrant workers to Thailand.

1. If migrants are employed as substitutes for Thai workers, lower wages for Thai workers can be expected. Using data from migrant registration, the Labour Force Survey, and the Population Census, Bryant and Rukumnuaykit (2008) find that immigration sufficient to increase Thailand's total labour force by one per cent would

reduce Thai wages by approximately half a per cent. However, they find no evidence that immigration has reduced Thai employment rates or affected internal Thai migration.

2. Migrant workers may also affect mobility of Thai workers, in that there is likely to be a sectoral shift of Thai workers to higher-skill sectors as low-skilled migrants can take the place of low-skilled Thai workers and do so at a lower cost. The process of this sectoral shift may take some time, leaving Thai workers to bear the adjustment costs such as temporary unemployment, especially for those whose skills do not yet match the demands of the high-skilled sectors that they are moving into.
3. In the presence of dynamic labour market demand and supply, an abundant migrant workforce that will accept low wages and poor working conditions could further force Thai workers out of low/unskilled sectors.
4. Because of skills gained from on-the-job training in industries like agriculture, construction, and domestic work, unskilled migrants can become specialized in low-skilled jobs and thus further force Thai workers out of these sectors. In the long run, it will be difficult for Thais to return to these sectors. In some cases, low-skilled Thais could be left jobless if they do not possess enough skill or training to move forward to work in capital-, skill-intensive sectors.
5. Migrant workers and their families are usually entitled to social services such as healthcare and education for their children accompanying them. As the majority of migrant workers are unregistered and thus do not contribute to the healthcare budget, public hospitals bear the costs of providing medical treatment to them. In many cases, Thai nationals have to compete for services with migrant workers, especially in areas where migrants are highly concentrated. On the educational side, the July 2005 Cabinet Resolution mandated the Ministry of Education to allow all non-Thai children to study in Thai schools from kindergarten to high school. This mandate creates a potential burden for Thailand's educational system.
6. Other social costs to Thailand are a probable increase in human trafficking, migrant smuggling rings, drug abuse, crime, disease transmission, and discomfort among Thai community.
7. As the number of regular and irregular migrant increases, this would inevitably impose a heavy burden on law enforcement authorities and those monitoring compliance with the laws. These requirements puts additional strain on the budgets of agencies involved, including those that maintain security along the porous borders.
8. If migration flows grow beyond the control of the Thai authority, it is likely that underground channels for transportation of these migrants would develop. It is assumed that such a landscape creates opportunities for bribery and corruption among some government officials who might exploit this illegal movement.

IV. Impact of migration policies and the implications for policy reforms

Thailand's primary policy objectives with regard to labour migration are to prevent irregular migration and to encourage migrants to return home after their work permits expire. The operational policies are to promote legal recruitment of migrant workers through the established MOU bilateral agreements and to convert the status of registered irregular migrant workers to legal immigration status through verification of their nationality and issuance of temporary travel documents. Currently there are four main Acts which govern labour migration. They include, the Foreign Workers Employment Act (2008), the Prevention and Suppression of Trafficking in Humans Act (2008), the Labour Protection Act (amended in 2008), and the Immigration Act

(1979). A number of ad hoc Cabinet Resolutions governing the management of labour migration also provide policy guidelines for management of labour migration.

A review of governmental policies on migration in this paper reveals that policies from different governmental agencies are sometimes inconsistent and often ineffective. For example, the Ministry of Labour has outlined its policies on labour migration in three areas, namely, legal measures against irregular migrant workers, extension of legal protection to registered migrant workers, and reduction of dependency on migrant workers; while the 10th National Social and Economic Development Plan (2007-2011) does not explicitly provide any policy on labour migration, though it has acknowledged the impact of globalization and the free cross-border movement of people.

A brief history of migration policies

Migration policies before 2001

Before 2001, there was no host agency that managed irregular migration. Migration policies were mandated by Cabinet decisions and processed by the National Security Council and the Ministry of Labour. Between 1992-2001 migration policies were often short-term policies and often unclear due to the inconsistency in Cabinet decisions and the inexperience in managing irregular migrants. Regulations in terms of geography, work sectors, and work permits needed to be considered, and such policies were issued and executed based on Cabinet resolutions during 1992-2006.

As a result of the inconsistent, yet also inflexible policies during this period, the number of registered irregular migrant workers dropped from 372,000 to 99,650 migrants, or a drop of 33 per cent per year, from 1996 to 2000. When a new registration campaign began in 2001, the number of registered migrants increased to 568,285, or by 12.5 per cent. This discrepancy shows that during 1996 - 2001, new migrants came into Thailand every year, but because the law and regulations did not permit it they were not registered during those years. At the risk of being deported, these migrants were hired illegally by Thai employers who would pay some bribes to officials involved.

Migration policies after 2001

In 2001, the newly-elected government, led by Prime Minister Thaksin Shinawatra, expanded migrant registration to all provinces and industries. Employers paid a 3,250 Baht registration fee for each migrant worker. The fee covered the 6-month work permit and 1,200 Baht for health insurance. Employers paid another 1,200 Baht to extend the work permit for six months. As a result, 568,000 migrants were registered, but only 350,000 of those first registered in 2001 were re-registered in 2002. The registration fee was approximately equivalent to one month's salary for a typical migrant worker. In most cases, employers paid the fee and deducted the registration fees from migrant workers (Martin, 2007). In 2001, the National Committee on Illegal Worker Administration (NCIWA) was established by the Cabinet to centrally manage irregular migrant workers. The NCIWA is supposed to be chaired by the Prime Minister, but in practice it was led by the designated Deputy Prime Minister (ILO/TDRI report).

Policies from the NCIWA generally aimed to regularize irregular migrants, especially the many that were already residing and working in Thailand. Thus, the policies aimed to manage these workers, to prevent more workers from coming to Thailand illegally, and to admit more workers from neighboring countries legally.

After 2001, the number of registered migrants decreased because the only workers eligible were those who were already registered and wished to extend their permit under the same employer. Because of the high turnover in unskilled workers, the number of registered migrants decreased by about 30 per cent every year. In 2002, the registration policies did not confine to geographical areas as they had in 2001, but instead targeted at specific sectors. In

2002, these sectors included fisheries and related industries, agriculture and farming, and 'other unskilled.'

In 2004, the Cabinet endorsed the following strategies proposed by the Ministry of Labour: (i) develop the system for management of labour migration; (ii) extend protection of the rights and legal guarantee to migrant workers; (iii) reduce over dependency on foreign workers; (iv) support research and study on labour migration issues; (v) streamline legal, regulations and operation procedures on management of labour migration and inform the public; (vi) develop the information, communication and technology to support the management of labour migration; and (vii) improve labour migration management structure.

The NCIWA adopted 3 strategic policies in 2004, which are to:

1. Open registration for irregular migrants from the 3 neighboring countries, permitting one category eligible for employment and the other category to stay as dependants.
2. Establish a nationality verification process which allows officials from labour sending countries to carry out verification in Thailand, in order to work towards legalization of all migrants.
3. Implement MOUs for legal recruitment from and repatriation of workers to neighboring countries.

A key resolution which aimed to reduce illegal migration linked the number of migrants to the demand for migrant labour in each sector. This policy objective was to minimize the number of migrant families in Thailand and called for the issuance of migrant identification cards and enforcement of the minimum wage and other migration laws. Martin (2007) states that a new feature of the 2003 resolution was to encourage migrants to return home after their work permits expired. One such strategy was to promote economic development in the border areas and to facilitate daily communication between migrant workers in Thailand and their homes in Myanmar, Cambodia, and Laos.

The largest migrant registration campaign took place in 2004 in an effort to obtain a more precise estimate of the number of irregular migrants in Thailand. The Ministry of the Interior was responsible for registering migrants from Myanmar, Laos, and Cambodia who had been in Thailand for at least one year. As an incentive for these migrants to register, there was no fee involved in the process, and 1,284,920 migrants registered. The Ministry of Labour was responsible for registering employers who wished to register migrants for work permits. As a result, 248,746 employers registered. They requested 1,598,752 permits, 849,522 of which were eventually issued to migrants. The Ministry of Public Health performed health examinations and provided health insurance while the Ministry of Defense and the Royal Thai Police proceeded with law enforcement to intercept new migrants and suppress illegal ones. There was also a policy to decrease the number of occupations "prohibited" to migrant workers, but in order to implement the policy, the government needed to overrule the Alien Employment Act (1978).

Several developments in the management of irregular migrants took pace in Thailand in 2004, when the government considered the collection of levies from employers who hired migrant workers, as it's done in Singapore and Malaysia. Another development was to allow the employment of daily and seasonal migrant workers along provinces in the border areas.

During the same period of this revision in labour migration policy, Thailand signed MOUs with Laos (October 2002), Cambodia (May 2003), and Myanmar (June 2003) to facilitate the process of legalizing migrant entries and employment. The key responsibility of the neighboring counties under the MOUs is to process nationality verification and issue formal identification such as passport or other documents to irregular migrants. In addition, the governments of these countries are to recruit and select migrants to fill the jobs requested by the registered employers.

Progress under the MOUs with Cambodia and Laos has been very limited. There are about 72,098 migrants in Thailand from these two countries who have had their nationality verified and applied for work permits. From late 2005, Thailand requested 51,105 workers from Laos and 17,470 from Cambodia. For the fresh new recruitment under the MOU, Lao PDR and Cambodia were able to provide only 3,418 and 570 workers, representing 7 and 3 per cent of the targets, respectively. From 2006 to August 2007, the demand for admission of foreign workers increased to 60,890 for Lao PDR and 36,733 for Cambodia. As of 2007, there were 14,150 workers recruited from these two countries. As of 2007, there were 72,089 migrant workers from Lao PDR and Cambodia who had had their nationality verified by the respective authorities. Until recently, there has not been substantive progress in implementing the MOU with Myanmar. Huguet (2007) suggests that this is because the implementation of the MOU and national verification of Myanmar's citizens in Thailand requires intensive cooperation from the government of Myanmar.

In 2005, the government allowed registered migrants to stay in Thailand for another year. As a result, the Ministry of Labour approved work permits to 705,293 migrant workers. In late 2005, the Cabinet approved the additional registrations of 77,419 new migrants.

In 2006, the Ministry of Labour approved a migrant quota of 1,226,106 and extended the work permits, set to expire in June of that year, for 460,014 migrants.

In December of 2006, the Cabinet decided to allow migrants whose work permits would expire in 2007 to stay and work in Thailand for another year. As a result, work permits were issued to 535,732 migrant workers in June 2007. In addition, the Cabinet decided to establish a system to register irregular migrants in the five southern border provinces. About two-thirds of migrants whose work permits expired in February requested to have their permits renewed. There were 3,071 migrants in the five southern border provinces that registered with the Ministry of the Interior, 871 of which applied for work permits (updated data on March 28, 2007).

The reform of legislation which regulates the employment of foreign workers and replaces the Alien Employment Act (1978), has been a decisive step in creating a sound and comprehensive policy on migration which considers both economic and security needs. The new Foreign Workers Employment Act (2008), which went into effect on February 13, 2008, contains 7 sections, covering (i) work to be engaged in by foreign workers, (ii) repatriation of foreign worker funds, (iii) setting up of a committee to review work of foreign workers, (iv) setting up of a committee to review appeals concerning work of foreign workers, (v) monitoring and oversight, (vi) penalties, and (vii) provisional clauses. However, critics claim that the new Act has been too harsh on irregular migrant workers, which could be tantamount to breaching their human rights. One emphasis of this Act is to establish a repatriation fund to send migrants back to their home countries after their work permit expired. To date the organization of this repatriation fund is underway. Detailed information regarding the contributions from workers and the procedure to gain access to the fund are still unknown to the general public. Another important feature of this Act is the reduction of the registration fee and the issuance of work permits to seasonal and daily workers. This is intended to encourage such workers to stay near the border areas. One controversial mandate of the Foreign Workers Employment Act is permitting the law enforcement officials to enter, without warrants, the establishments suspected of hiring illegally migrants. Migrant workers without a work permit can be arrested without an arrest warrant. Activists are currently contending this latitude given in the law.

Implications for policy reform

Thailand has entered the ranks of "aging societies," with a Total Dependency Ratio that will increase from 47 per cent in 2006 to 49 per cent during 2007-2010. In addition, the fertility rate is now 1.8 per cent, which is below the replacement rate. Many sectors have already experienced acute labour shortages among vocational school-educated workers, especially in the manufacturing sector. With an extremely low unemployment rate (about 1.4 per cent in

2007), and a relatively high labour force participation rate (70 per cent), Thailand is expected to encounter severe labour shortages in the near future. Starting in 2008, the TDRI report projects an additional demand of 800,000 skilled and management workers and 250,000 basic or low-skilled workers per year. A tight labour market has already been foreseen for workers in the latter category. Shortages among skilled workers have also been high when the projected number of new entrants to the labour market is considered. Leaving the issue of real productivity aside, there are fewer people taking vocational education courses in Thailand, even though the demand for labour continues to grow with economic expansion. Initially, the migrant workers can help alleviate the labour shortage. However, if economic expansion continues, the gap between demand and supply of labour is expected to widen. Thus the pressure for effective management of migrant workers will intensify in the long run.

Thailand has struggled with the management of its migrant workforce because it lacks clear and coherent labour migration policy and little regular dialogue has taken place among the agencies involved. Moreover, there is very limited involvement of the social partners, i.e. workers' and employers' organizations, in the social dialogue. Even though Thailand has successfully registered a large number of low-skilled migrants, the policies that relate to these workers are inconsistent with the country's national development objectives. The 10th National Economic and Social Development Plan, which offers guidelines for economic restructuring to achieve competitiveness in world markets, does not foresee the labour shortage. This desired competitiveness coupled with the increasing trend toward the free movement of capital and labour and Thailand's demographics, suggest an inevitable increase in the number of migrant workers and the need for effective measures to manage them. Yet the National Plan has no such guideline. Often, strict migration policies are not coherent with the economic policies being outlined. For example, the promotion of bio-energy, as well as positioning Thailand as a world kitchen will result in a considerable increase in labour demand, while Thai labour migration policies still focus on limiting and restricting the number of migrant workers.

Secondly, agencies involved in the current management of migrant workers have different perspectives on migration and thus their policies are often formulated with different objectives. For instance, the Ministry of the Interior aims mostly to obtain information on irregular migrant workers. It allowed free registration to encourage these workers to register. The Ministry of Labour, on the other hand, aims at legalizing and controlling these workers. Rules on applying for a work permit are therefore stricter and sometimes inconsistent with other agencies' objectives. The Ministry of Public Health and The Ministry of Education are expected to give social services to the migrants, but they take different approaches. While the Ministry of Public Health has accommodated irregular migrant workers, the Ministry of Education still lags behind in the integration of migrant children into the formal education system.

In summary, it can be concluded that the NCIWA did not succeed in implementing the three strategic policies adopted in 2004. With too many irregular migrant workers employed in various key economic sectors, the authorities, i.e. the prevention, suppression, and repatriation units, under the three NCIWA sub-committees could not adopt stringent measures for fear that it would badly affect employers (ILO/TDRI report 2007). The critical issues lie in how to reform Thailand's complex and costly registration system, to further progress with the MOU instruments, to minimize number of irregular migrant workers, and to achieve the coherent migrant worker policies. Discussions on these issues are highlighted below:

Registration process

1. The government has not fully leveraged the lessons learned from five years of registration to improve its management of foreign labour. The frequent changes in policies and registration procedures along with the resulting widespread confusion have only complicated registration for migrants in recent years. Neither migrants nor employers have accurate information about the process. Registrations have not been administered as ongoing, but executed only for a short and specific period. Occasionally, the government has called for a fresh

registration in response to sharp falls in the annual renewal numbers. The reality is that the migrant workers are mobile and tend to move to places offering attractive wages and better working conditions. Many engage in seasonal work and in long term fishing jobs. As a result, only the registered migrant workers (with the same employer) have been able to extend their work permits. Migrant workers have often been misinformed about their responsibility in obtaining the work permit. According to the most recent legislation, migrant workers are responsible for the application and meeting the costs of the work permit. Since migrants are largely illiterate and do not understand the Thai language, they depend on the employer to acquire and pay the cost of work permit, which the employer will later deduct from their salary. As a result, migrant workers are tied to their employer and are exposed to potential abuse. If workers lose their jobs, their legal status often reverts to illegal migrant, which makes them subject to detention and deportation

2. Even though the Foreign Workers Employment Act (2008) is more flexible than it used to be, it still entails restrictive procedure like that applied in the migrant registrations carried since 2004. Only those migrants already in possession of a work permit are eligible to renew their work permits. Irregular migrants who do not possess a work permit have no channel to be regularized, unless there is a special Cabinet Resolution.
3. Despite the fact that migrant workers can change employers, they may need to pay an additional fee for a fresh work permit, which will specify the name of employer and the work place.
4. In addition to high registration fees, the levy placed on employers and the contribution required imposed on migrants in the repatriation fund are expenses which may discourage employers and migrant workers from seeking registration or legal recruitment. While the employers may pass on these costs to migrant workers, they come as another financial burden to migrant workers who may instead choose to remain undocumented. Hence, without addressing these issues, illegal recruitment and irregular employment are bound to persist.

Implementation of the MOUs

1. The nationality verification for Lao and Cambodian migrants has been progressing and should be completed in 2008. To date, there has been slight progress on the implementation of MOU between Thailand and Myanmar governments, when the national verification procedure is finally due to take place in the Myanmar soil in early 2009, following the long contention from Thailand that it should be carried out on Thai soil. As one might imagine, the non-Burman ethnic groups do not feel comfortable with this arrangement. Meanwhile, recruitment through the formalized MOU process should begin for 10,000 Burmese migrants. Even so, the slow progress with the agreement has led officials to turn blind eyes to illegal Burmese workers. Furthermore, the formal recruitment of workers from Laos and Cambodia is still far from what employers actually demanded.
2. The high costs (both official and unofficial) involved in recruitment under the MOUs and nationality verification is one reason the system is not working well. The procedure is long and complicated for recruitment agencies which lack experience, and thus suffer financial losses. There is ineffective and insufficient support from government, while agencies do not have enough coverage in the sending countries.

3. Some migrant workers do not see the merit of recruitment through the MOU, when the costs borne to them at home and in the destination countries are much higher than that incurred by quasi-legal migrant workers. Those who migrate informally have to pay only for renewal of annual registration. For legal recruitment to become more attractive to migrant workers than unauthorized channels, it must be proven that their earnings are guaranteed and their rights better protected.
4. There is still some debate as to whether the governments should continue to pursue formalized labour migration through the MOU process. It's been suggested that the MOUs be abandoned and that formal registration procedure be relaxed and adapted to reality. Among these restrictive procedures are those imposed by the Immigration Act, which strips legal migrant workers of their status if they are found in violation of the law. Most migrant workers holding Temporary Passport (TP) or Certificate of Identity (CI) tend to lose their legal status or become "irregular" when they temporarily leave Thailand and fail to follow the prescribed immigration procedures.

Migrant workers in irregular status

1. One main reason the government has not been successful in regularizing migrants are the high costs and the complexity involved in the registration and work permit application process. These factors are overwhelming to workers and may discourage migrants from becoming documented workers. Many migrants find that it is easier and less expensive to simply ignore the regularization process and operate through unofficial channels. (Huguet, 2007)
2. Frequent changes in policy and unpredictable timing of registration periods can also discourage migrants from regularizing their status as they fear possible repercussions of unknown future policies. For many workers, it is more convenient to rely on an unauthorized local boss who will take care of their safety and negotiate with authorities if their status has been questioned. The Foreign Workers Employment Act (2008) allows work permits to be extended twice each for two years. Therefore, regularized migrants may stay in Thailand for a maximum of 4 years. Those who plan to stay in Thailand longer may be reluctant to be identified.
3. One major reason for the increasing number of illegal migrant workers is slack law enforcement. The implementation of various laws by officials still lacks transparency. Migrant workers are more often targets of unscrupulous authorities, while employers are rarely held accountable for hiring irregular migrants.
4. Over the past 15 years, Thai migration policies have evolved from one of containment of migrants at the key border areas to containment based on geography and economic sector. This change is the government's attempt to respond to the incessant demand for foreign labour in various locations, occupations, and sectors. These policies, formulated without understanding of the underlying causes of migration, have led to the spreading out of foreign workers, legal and irregular, all over the whole country, which has made it harder for the government to monitor and control irregular migrant workers. In other words, the containment policy, at the border areas, in selected sectors, and in some occupations is undeniably futile.

Coherent migrant policies

1. Thailand's past migration policies have been short-term, reactive and not consistent with realities. For example, the apprehension and deportation of irregular migrants without due process conflicts with Thai policy for equal protection of migrant workers. Similarly, the conversion of migrant immigration status from 'illegal entry' to 'legal entry vis-à-vis the restrictive immigration policies' (temporary cross-border return and periodic reporting) has led a number of migrants turn to irregular status again. Ironically, some migrants are comfortable with illegal border crossing in order to maintain the 'stay' permit status. The national investment promotion policy toward low skilled labour intensive industry conflicts with the migration containment policy. The drive toward increased competitiveness through low cost production of agricultural and marine products has resulted in Thai producers becoming dependent on the cheap migrant workers. In other words, the policy bias, through subsidies and tax break, towards labour-intensive manufacturing has spurred demand for low skilled migrant workers in unregulated labour market. The methods for determining the migrant worker quota have not been clarified. Meanwhile, the government has scant information on the sectoral and occupational demands for migrant workers at the provincial level. The policies regarding dependants are also inconsistent and unclear e.g. access to education, health, birth registration, etc. Migrant workers often stay and work in Thailand with their dependant, who was either born in Thailand or accompanied them in migrating.
2. Even though law like the Labour Protection Act of 1998, mandate equal protection for migrant workers regardless of their status, some rights and protections are still limited, such as freedom of association and employment rights. Many studies find that migrants work longer hours than is permitted by law and receive wages well below the statutory minimum wage. Sometimes migrants are abused and harassed even if they have work permits. Migrant workers generally do not realize their rights, and so they are exploited by some police and authorities (The Human Rights Sub-Committee on Ethnic Minorities, 2007). Additionally, even if they are registered or recruited under the MOU, migrant workers are not covered by social security and workmen compensation funds.
3. The allocation of government resources to the NCIWA's 8 Sub-committees, including three working committees, and units in the Ministry of Labour for the implementation of the various migration management tasks were not realistic in terms of budgets and manpower and have resulted in the failure of the 7 strategic policies. Most importantly, the Thai government has not yet set any clear long term integrated policy on labour immigration.

V. Recommendations

While the benefits and costs of irregular migrant workers to Thailand cannot be comprehensively measured, policies related to labour migration should aim to maximize the economic benefit to Thailand, the labour sending countries and the migrant workers themselves. Based on current economic development policies, demographic changes, and the disparity in economic conditions between Thailand and its neighboring countries, it is likely Thailand's demand for migrant labour will increase in the future. Thailand's inconsistent migration policies, combined with lack of enforcement of existing laws will only exacerbate irregular migration and perpetuate the underground labour market. In addition, the current labor migration management system cannot collect information or capture the movement of registered and non-registered migrant workers. This makes it extremely difficult for the authorities to design and execute appropriate policies and programme to address the issues mentioned in the previous section.

The following section summarizes some key policy recommendations for consideration by the authorities and the concerned organizations.

Coherent national immigration policies

1. A clear policy on labour migration needs to be consistent with national social and economic development plans, taking into account human resource development, competitiveness, and demographic transition, as well as industrial and agriculture development. To obtain maximum benefits from permitting migrants to live and work in Thailand, the government needs to put a great emphasis on obtaining an accurate estimation of labour demand by sectors and occupations. The Ministry of Labour should be the main agency to monitor labour demands in various sectors and skill levels in close coordination with the National Economic and Social Development Board (NESDB), the private sector, the Board of Investment, the Ministry of Education and workers' and employers' organizations. The Ministry should project both labour demand and supply for both the short and long terms by skill categories and geographical areas.
2. A new coordinated regularization programme should be launched to understand the current situation and the dynamics of labor migration. The program should be designed, to prevent the regularized migrant workers from lapsing back to irregular status. This may require a more flexible registration system that allows workers geographical mobility and changes in employers.
3. The Immigration Act needs to be reviewed and amended to address the current economic, human rights and labour rights aspects, and the change in pattern of cross border movement of people (e.g. consistent with the new Trafficking in Humans Act and the Labour Protection Act).
4. As the current National Social and Economic Development Plan does not specifically spell out clear guidance on human resource planning and policy to cope with immigration pressures, a supplementary plan may need to be conceived to address imbalance in labour market, population dynamics and sustained international competitiveness. Promotion of information-based development, capital intensive production techniques, mobilization of workers from sectors with excessive labour, employment of part-time workers, and participation of women and retired workers to reenter into the labour market are some short-term and long-term options to address the immigration pressure. Relocation of sunset industries and outsourcing to countries with cheaper labour can also help lessen the demand for low skilled labour.

Management of labour migration

1. The NCIWA needs to be formally institutionalized with broadened mandates and clear objectives that are consistent with national development plan and other strategic policies. It should also be responsible for formulating national labour migration policy, and coordinating the action plans of the concerned ministries and agencies related to migration management.
2. Simplified, integrated, low-cost, and easy to access registration and renewal of work permit for migrant workers should be instituted and vested in the Ministry of Labour.
3. To meet the urgent need for the low skilled labour, more flexible options for legal employment of migrant workers should be considered. In addition, national identity verification needs to be quickened; and especially for Burmese workers, it should be conducted unilaterally by the Thai government, so as to prevent families of migrant workers in Burma to endure harassment by some Burmese authorities.

4. The work permit authorized to migrant workers should allow them to move between jobs and employers within that sector without a need to re-register. Individual employers looking to hire migrant workers should compete for migrant workers with work permits in a competitive market as they would do for the Thai workers. The employer has the responsibility to report and register the hiring of migrant workers with the Ministry of Labour.
5. Clear regulation should be established to prevent employers from withholding of the migrant worker's work permit and identity card.
6. From a cost-benefit analysis, it is clear that employers benefit from hiring migrant workers while unskilled Thai workers are likely to suffer a reduction in their wages. The government should tax the benefits from employers by imposing some form of migrant levy. The government should ensure that the levy will not be passed onto the workers. The levy should be put in the funds designated for skill development of Thai and migrant workers.
7. Like Thai workers, migrant workers should be covered by the workmen compensation fund. They and their employers should also contribute to the national social security.
8. Support services and information in the language of migrant workers should be available to them so they can access to social and legal services.
9. Given the large number of irregular migrants in Thailand, the government may consider another round of well-planned across the board registration (a quasi amnesty programme) similar to the one carried out in 2004. In the meantime, the recruitment through the MOU should be further strengthened, focusing on reducing the cost and shortening recruitment procedures.
10. Work permit and employment quotas should be realistically established in a transparent manner through consultation with workers' and employers' organizations and the community. The determination of the quota should be decentralized to the provincial level.
11. The administration of labour migration management at the ministerial and provincial level need to be streamlined through improved procedure and more resources.

Protection of migrant workers

1. The government must ensure that the rights of migrant workers, irrespective of their status, are protected in line with the obligations under the international labour standards, international Conventions, and national laws.
2. The government needs to ensure that migrant workers are not discriminated against and are given equal treatment to that of its nationals.
3. A standard work contract should be mutually adopted between Thailand and the labour sending countries. It should be written in the language of migrant workers and provided to them before departure to Thailand.
4. The government should organize a mandatory pre-employment orientation for employers and newly admitted migrant workers to educate all parties on their obligations, duties, and work safety.
5. Because migrant workers are often engaged for short-term work, a special social security scheme should be designed for them so that they can withdraw their benefits when returning back to their home countries. The repatriation fund designated in the

new Alien Employment Act (2008) should be abolished and replaced with social security funds.

6. The labour and immigration laws should be vigorously enforced so that if employers illegally hire migrants or violate the rights of the workers, they are punished and held accountable for paying the compensation, and/or the costs of detention and repatriation of irregular migrant workers.
7. The government should encourage migrant workers to participate in the collective bargaining and the formation of trade union or worker associations, so as to enable them to protect their interests and against the exploitation by unscrupulous employers.
8. A proactive modality for labor inspection and monitoring of the exploitation of migrant workers should be introduced with the involvement of workers, employers and NGOs.

Long-term perspective and inter-state cooperation on labour migration management

1. Taking into account various social and economic factors, including technology, international trade and development, Thailand must establish a long-term vision with regards to the contributions of migrant workers to Thai economy. Moreover, Thailand should pursue both multilateral and bilateral cooperation on migration with labour-sending countries. For example promoting capital-intensive production technology, outsourcing (both contract farming and other types of labour outsourcing), and the relocation of factories to neighboring countries would reduce immigration pressure, and at the same time create jobs in labor sending countries. In the meantime, measures should be introduced to attract more Thai workers to work in sectors relying on foreign workers. These measures include improvement in working conditions, working environment, and welfare.
2. There is a need to enhance the credibility of the bilateral MOUs on employment as a legal channel of recruitment for migrant workers. A review the contents of the MOU and of recruitment and the placement procedures should be initiated between Thailand and the labour-sending countries. Moreover, there should be a bilateral or intra-regional agreement on the standard work contract for migrant workers. The concept on circular migration needs to be concretized and promoted.
3. The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers adopted in 2007 should be implemented by the individual states as well through the bilateral cooperation.
4. The bilateral and intra-regional social dialogue involving key stakeholders such as trade unions, NGOs and employers organizations, in addition to governments, should be promoted.
5. The economic integration as outlined in the ASEAN Vision 2020, encompassing the free flow of goods, services, investment, and capital, should explicitly include the free movement of natural people and labor within the ASEAN community.

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Appendix

Cabinet Resolutions on Labour Migration Management

Date	Where	Fees	Note
March 17, 1992	10 border provinces	5,000-Baht bond; 1,000-Baht fee	Burmese only; 706 migrants registered, but 101,845 purple cards issued
June 22, 1993	22 coastal provinces; fisheries		Not implemented in fisheries until 1939 law amended
June 25, 1996	39 (later 43) provinces; 7 (later 11) industries	1,000-Baht bond; 1,000-Baht fee 500-Baht health fee	Two-year permits for those who registered between Sept 1-Nov 29, 1996--34 types of jobs open to migrants; 372,000 registered, and 303,988 permits granted
July 29, 1997 January 19, 1998	Step up border and interior enforcement	Remove 300,000 migrants in 1997; another 300,000 in 1998	Provincial committees to deal with migrants; encourage factories in Thai border areas
April 28, 1998 May 8, 1998	Max 158,000, but 90,911 migrants registered; Permit border commuters	1,000-Baht bond; 700-Baht medical exam fee, 500-1,200-Baht provincial health fee	54 provinces, 47 types of jobs; Extend permits expiring in August 1998 to August 1999
August 3, 1999 November 2, 1999	37 provinces; 18 sectors in 5 industries	1,000-Baht bond; 700-Baht medical exam fee, 1,000-Baht health card	Max 106,000 permits good for one year, to expire August 31, 2000; 99,974 migrants registered
August 29, 2000	37 provinces; 18 sectors		Allowed 106,684 migrants in 18 sectors and 37 provinces to work until August 31, 2001
August 28, 2001	All industries and all jobs	3,250 Baht (\$74) 1,200 Baht for six-month renewal	Six-month permits renewable for another six months until September-October 2002; 568,245 migrants registered
September 24-October 25, 2002	All employers, provinces, and jobs	3,250 Baht (\$74) 1,200 Baht for six-month renewal	409,339 migrants registered
July 21, 2003	National Security Council Resolution		Link the number of migrants to demand by sector; minimize migrant families; issue identification to migrants; enforce minimum wages; encourage returns; develop border areas
November 2003- June 2004	All employers, provinces, and jobs	3,250 Baht (\$74) 1,200 Baht for six-month renewal	288,780 migrants registered

Date	Where	Fees	Note
March 2, 2004 decision; July-August 2004 registration		3,800 Baht for work permit (1800), medical exam (600), health fee (1300), registration fee (100); 13-digit ID	1,284,920 migrants and dependents (103,100)--72 per cent Burmese, 14 per cent Cambodian, and 14 per cent Laotian. 838,943 completed one year registration, and 343,777 reregistered in June 2005
MOL, 2006			668,576 registered migrants, 85 per cent Burmese, including 460,014 whose work permits expire June 30, 2007 and 208,562 whose work permits expire February 28, 2007. In each case, work permits can be extended one year

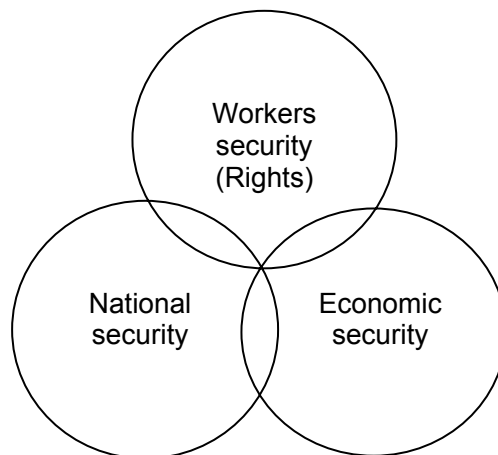
Source: Table 1 in Martin (2007).

Summary of key policy recommendations from the ILO/TDRI report on “Review of labour migration policies, regulatory framework, management institutions and immigration pressure in Thailand”

In Thailand the recent labour migration policies have been rather vague and sporadic, which make goal setting and implementation difficult to achieve. There is, therefore, a need to formulate the coherent and clear labour migration policies taking into account the transition in labour market, the demographic trend, the long-term competitiveness, and the rights-base approach. The admission of migrant workers should be carefully calibrated in order to balance the economic interest, the national security, and the human security. Ultimately, the policies should work towards promotion the legal employment and protection of migrant workers with a view to ensuring the equality of treatment enjoyed by the Thai workers. A comprehensive database system should be established to support the administration, decision making, and monitoring of labour migration. Policies should also aim to avoid adverse effects on social services, and human rights violation.

What Thailand really need is “the sound legislation” to mandate the management of labour migration, in place of the ad hoc Cabinet Resolutions. As the Foreign Worker Employment Act (2008) has now been enforced, it should bring about a clear practical guideline, liable authorities, and legal penalty, though the Act remains imperfect from the perspective of migrant workers and human rights advocates.

In reality, the management of labour migration should align with the three critical areas, which includes the national security, the economic security and the workers security (human rights and workers’ rights). To effectively manage problems arising from labour migration, these three key dimensions should be appropriately balanced.



Policy expectations

1. Preventing employers from exploitation of migrant worker (workers’ security) and from resistance to adopt new labour saving production technology;
2. Preventing the negative impact from employment of migrant workers on Thai workers (not competing for job opportunity with Thai workers);
3. Preventing the spread of uncontrollable diseases carried by illegal cross-border migrants (public health security);
4. Improving the quality of life of migrant workers, easing fear and reducing illegal stay (human security);

5. Ensuring the alignment of the legally recruited low-skilled migrant workers with the labour market conditions;
6. Collecting revenues from levies and fees from employment of migrant workers, and using them for development of Thai workers and provision of welfare to migrant workers;
7. Preventing contention from international organizations on alleged use of slavery workers and/or violation of human rights or worker rights;
8. Maintaining the principle of “The party employing migrant workers shall take the full responsibility.”

Some key policy recommendations and measures by strategic areas

Strategy 1: Integrated Migration Information Management and Monitoring System

- (a) Develop an integrated and real time database of migrant workers for planning, monitoring, law enforcement, and administration.

Strategy 2: Foreign Worker Admission

- (a) Establish clear goals aiming to balance demand for migrant workers and the long-term economic development.
- (b) Streamline foreign worker admission procedure and reduce the costs of recruitment.
- (c) Introduce the integration and assimilation orientation programme in the Thai society for migrant workers, a pre-employment programme prior to starting working with employer.
- (d) Consider the possibility for migrant workers to acquire the permanent residence or citizenship.
- (e) Establish the clear criteria and guideline on skill training and education for migrant workers and their dependants.
- (f) Introduce the circular migration concept for migrant workers from neighboring countries.
- (g) Cooperate with the origin countries to prevent and combat human trafficking and cross-border migrant worker smuggling.

Strategy 3: Repatriation/Deportation

- (a) Adopt the humanitarian consideration, and the respect of human rights and workers' rights when deporting the irregular migrant workers. The deportation should not bring about the exploitation and the persecution of the deportees in their home countries.
- (b) Use the penalty fines imposed on employers for illegal employment of migrant workers to cover the cost of deportation.

Strategy 4: Law Enforcement

- (a) Enact the legislation governing the management of labour migration, in place of the Cabinet's Resolutions.
- (b) Pursue the transparent and indiscriminate law enforcement.
- (c) Impose strict measures to prevent the recruitment of irregular migrant workers, with stern legal sanction against employers who illegally employ migrant workers.

- (d) Entrust the local government organizations to monitor the illegal recruitment and employment of irregular migrant workers.

Strategy 5: Quality Life and Working Conditions

- (a) Permit migrant workers to join or form trade unions or migrant workers' associations.
- (b) Promote the NGOs and other volunteered organizations to provide legal assistance and other support services to migrant workers in Thailand.
- (c) Allocate budget and provide interpreter to the public health clinics for delivery of healthcare services and medical treatment to migrant workers.
- (d) Provide options for access to the universal health insurance, and/or participation in the national social security system.
- (e) Establish a Sub-committee on protection of the rights of migrant workers within the Committee for Labour Migration Administration (NCIWA).
- (f) Introduce Ministerial Regulations to protect domestic migrant workers.
- (g) Establish MOUs between the Ministry of Labour and the Ministry of Social Development and Human Security including other concerned ministries on administrative procedures for rehabilitation and return of victims of human trafficking and child migrant labour.
- (h) Extend the coverage of labour inspection in areas and business establishments employing migrant workers.
- (i) Introduce a new initiative on labour inspection involving the workers and employers' organizations, NGOs, and migrant workers network in monitoring the employment of migrant workers.
- (j) Provide training on workplace safety and occupational safety and health for migrant workers.
- (k) Promote and facilitate migrant workers access to financial services and to open Bank account in Thailand.
- (l) Provide coordinated pre-repatriation orientation for migrant workers to reintegrate in home country labour market.

Strategy 6: Public Relations and Awareness Raising

- (a) Adopt proactive public relations and cooperate with the local government administrative bodies on issues relating to labour migration, e.g. registration, protection, human trafficking, illegal employment of migrant worker, etc.

A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand

The economic and social disparities between Thailand and its neighboring countries bring about the push and pull factors which have increased in irregular labour migration into Thailand. These include that disparity in income, living standards, and stages of economic and political development. While the Thai policies on migration are still both ambiguous and ambivalent, the majority of these workers can not enjoy the full legal status for staying and working in Thailand. As a result their rights are subject to frequent abuse, and they are often at the mercy of unscrupulous agents, employers, and sometimes government officials. In order to promote orderly labour migration, Thailand signed MOUs on employment promotion with Laos (October 2002), Cambodia (May 2003), and Myanmar (June 2003) to facilitate the process of legalizing migrant entries and employment. However, the progress of implementation of the MOUs with Cambodia and Laos has been very limited, while there is virtually no progress with Myanmar.

This paper aims to bring together the findings and policy recommendations from the wide range of studies that have looked at Thailand's irregular labour migration. It discusses the trends and dimensions of irregular labour migration in Thailand, the push and pull factors for migration, the costs and benefits of labour migration to Thailand's economy, and the impacts of migration policies and the implications for policy reforms.

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