

Thailand

Jackie Pollock

In order to contextualise the various responses to trafficking in Thailand, this chapter briefly outlines patterns of migration out of, into and within Thailand. While the chapter includes some responses to the trafficking of Thai workers overseas, it is not possible within the scope of this paper to explore the legal frameworks of all countries to which Thais migrate or are trafficked. Instead, cases have been chosen from countries covered in other chapters in this book, and as a comparison to the responses in Thailand. The primary focus of this chapter is the human rights impact of the trafficking responses within Thailand. Since the lives of migrants fleeing human rights abuses of military dictatorships in countries like Myanmar/Burma, or even those migrating for survival from desperately poor countries such as Cambodia and Lao People's Democratic Republic (Lao PDR), are not easily categorised into the international or national definitions of economic migrants, refugees and trafficked persons, the paper explores the legal frameworks and responses which may impact on the lives of all people who migrate to Thailand without documents, some of whom may be in trafficked situations. The chapter specifically looks at these issues within the framework of immigration, labour and trafficking.

1. Patterns of Migration – Some Issues

Outgoing Migration

During the 1970s, Thailand exported workers to the Gulf countries to fill labour shortages as the economies of the Organization of Petroleum Exporting Countries (OPEC) member states boomed. In the next decade, the export of Thai workers was promoted as a means of reducing unemployment, alleviating rural poverty, and generating remittance income. By the 1990s, Thailand was sending workers to the newly industrialised countries of Asia, Korea, Taiwan and Singapore, as well as Japan. Between 1998 and 2005, 656,508 Thai workers requested permission to work in Taiwan and 115,634 in Singapore (MAP Foundation, 2006).

At the beginning of this modern-day migration, Thailand had some systems in place to facilitate the migration of Thai workers overseas, such as systems for issuing passports, recruitment processes, and money-lending schemes. Nevertheless, for many workers coming from rural areas of Thailand, the systems were complicated and expensive, requiring several trips to the capital, Bangkok. Potential migrants, therefore, were often more inclined to make use of local expertise and experience, asking friends or brokers to facilitate the migration process. State mechanisms designed to protect the rights of migrants through bilateral agreements or the placement of labour attaches in embassies were put in place later as a response to the problems faced by migrants overseas.

Internal Migration

Over this same period, Thailand itself was rapidly developing its tourist and export industries. The distribution of work in Thailand changed dramatically as small farm holdings were sold and contractors took over the land to grow agricultural products for export, develop industrial zones, and build hotels, resorts, and golf courses for tourists. As the capital, Bangkok, continued to expand, workers were needed in every sector. Farmers or members of their families moved within Thailand to take up casual labouring jobs. Although millions of Thai villagers migrated for work, the majority of attention was focused on young women migrating for sex work within Thailand, with considerable blame directed towards parents for allegedly selling their daughters.

There was very little response to the highly exploitative and difficult situations other internal migrants faced in Bangkok – in factories, private households, as *tuk-tuk* (motor rickshaw) drivers, or salespeople. In contrast, the places women or girls had migrated to in order to sell sex were frequently raided and girls or women taken to a government rehabilitation home near Bangkok, at Barn Kredtrakarn.

Incoming Migration

The work created by the economic boom of Thailand could not be filled entirely by the internal movement of people, especially as the country's demographics changed dramatically with successful intensive family planning programmes. To maintain the level of economic growth, workers from other countries were needed to fill labour shortages.

On the western border, the population of Burma was facing social, political and economic hardships and, for many, escaping to Thailand was a matter of survival. With the violent repression of the pro-democracy uprising in 1988 and on-going military offensives by the ruling military regime against ethnic nationalities in Burma, hundreds of thousands of people from Burma fled and continue to flee across the borders to Thailand. While the Thai government set up refugee camps for ethnic groups they considered to be “fleeing direct fighting”, other ethnic groups had to find work in the labour market to survive. Meanwhile on the eastern borders, Cambodia and Lao PDR were opening up politically, but were desperately poor with little employment available. All three countries had been closed to the outside world for years and few people had access to passports or even national identification. Thus, all workers who arrived in Thailand travelled without any documentation, leaving their own country illegally, and entering Thailand illegally. There were no systems in place to facilitate this migration from their home countries, or to protect the rights of migrants once they had entered Thailand.

For many years, the Burmese and Laotian regimes refused to acknowledge the existence of refugees or migrants in Thailand, only agreeing to Memorandums of Understanding (MoUs) on Cooperation of the Employment of Workers in the early 2000s,¹ even then taking several years to begin implementing them. It was not until 2007, following the release of several hundred workers from highly exploitative conditions in a seafood processing factory at Samut Prakarn in Thailand, that the Burmese state-controlled media mentioned mass migration, and then only to acknowledge 80,000 migrants (*New Light of Myanmar*, 2007). At the time, 800,000 migrants from Burma were registered to work in Thailand, with possibly an equal number unregistered.

When workers from Burma, Cambodia and Lao PDR entered Thailand, there was some work available along

THAILAND

the borders: agricultural work in the north, newly established garment factories in Mae Sot, and fishing and seafood processing factories in Ranong and along the eastern seaboard. The demand for work, however, was not confined to the borders. Construction workers, domestic workers, entertainment workers and plantation workers were needed all over Thailand. By 1996, the Thai government enacted the first of a series of annual cabinet resolutions to allow for the temporary employment of the Cambodian, Burmese, and Lao migrant workers, who had entered the country illegally. In the first registration in 1996, 303,088 migrants registered; by 2004, 1.28 million migrants had registered.

A Role for Brokers

With migration an almost spontaneous event in many Asian countries in response to the labour shortages in receiving countries as well as a lack of employment and human rights in countries of origin, people relied on brokers to facilitate their migration.

For Burmese and Cambodian villagers, an experienced broker was essential to navigate the numerous checkpoints and landmines between home and the border. Once across the border, brokers were needed to transport migrants to workplaces throughout Thailand. Without any documents, cross-border migrants cannot travel independently within Thailand and require brokers to negotiate the numerous army and police checkpoints.

Restrictions on the rights of the ethnic populations of Thailand (commonly called hill-tribes) also encourage people to use brokers. Thailand has ratified several international human rights instruments that legally obligate the government to protect the rights of those who live in Thailand, including migrants and ethnic minorities. Both the *International Covenant on Economic, Social, and Cultural Rights* (ICESCR), and the *International Covenant on Civil and Political Rights* (ICCPR) stress the principle of non-discrimination (between citizens and non-citizens). However, many of the ethnic populations have not been granted full citizenship and are restricted in their rights to vote, travel, access health care, and employment. The ethnic minorities, thus, have fewer opportunities to choose their employment or to travel safely to find employment. While many brokers are simply facilitating the livelihood and survival of ethnic minorities, the lack of legal protection in the system allows for opportunistic brokers and for traffickers to abuse and exploit those needing to travel.

Despite having full citizenship rights and more access to information, Thai migrants often prefer private labour brokers to the government-run Thailand Overseas Employment Agency. They make this choice because private brokers are faster and more efficient than the state agency. Samarn Laodumrongchai, a researcher at the Asian Research Center for Migration (ARCM) at Chulalongkorn University, reported that brokers charge steep placement fees, exceeding the limit set by the government, (approximately US\$1,650). For Taiwan, fees generally range from US\$4,631 to US\$7,718, and for Singapore, about US\$3,087 (Laodumrongchai, 2000).

For both incoming and outgoing migrants, the cost of migrating is a root cause of vulnerability. Migrants may sell their assets (land, buffaloes, etc.) or borrow money, either directly from brokers or from moneylenders who charge huge interest rates. In some cases, employers pay upfront and the money is then deducted from the worker's subsequent salary. In all of these situations, migrants are bonded by debt, either to the moneylender or the employer. The pressure of making money to repay the broker or employer or buy back assets at home increases the level of migrants' tolerance to exploitation, as the greatest fear is returning home with no money.

COLLATERAL DAMAGE

The flow of migrants is constant and, thus, a real business opportunity. Many brokers run an efficient, competitive business in order to attract new clients. However, the unmonitored nature of the business allows for brokers who are opportunists to cheat potential migrants of their recruitment fees. Laodumrongchai cites situations in which brokers take Thai workers to the airport and then disappear with their money, or workers have paid higher fees to work in the area of their choice, only to find they are siphoned off into other work. Migrants from Burma have reported paying a broker to take them to Thailand, only to be abandoned to the police at the first border checkpoint.

It is clear that the lack of any form of recruitment services for incoming migrants and inaccessible recruitment services for Thai migrants creates a dependency on an unmonitored network of brokers, which has the potential for abuse. Corruption is pervasive and, thus, the formal state recruitment services also expose migrants to abuse. The case of 1,700 Thai workers recruited from the north and north-east of Thailand to work in Taiwan on a major infrastructure project of the subway in Kaohsiung exposed corruption at various levels. Three Thai brokers who supplied workers had their licences suspended and were ordered to reimburse workers with US\$4 million for illegally collected fees. Thailand also recalled its top labour envoy in Taipei and Kaohsiung. In Taiwan, two Taiwanese labour brokers and more than a dozen government officials were indicted for corruption.

Migration and the Entertainment Industry

The sex industry in Thailand has been in the international public eye since American troops used Thailand as a centre for rest and recreation from the war in Vietnam. It continues to attract attention from the American government, concerned about public health issues as both American troops and tourists continue to be clients of the sex industry.

In 1984, a fire broke out in a brothel in Phuket. The women working there were unable to escape because they were chained to beds. The case caused both national and international consternation and started debates among the nascent NGO community over appropriate responses to sex work in Thailand. During 1991–1993, a series of raids on brothels across the country further exposed the presence of migrant sex workers, sometimes in conditions similar to the Phuket brothel. In one case, a raid on a brothel in Ranong, conducted in the middle of the night with fully armed police, released 150 Burmese women. During the raid, all the personal possessions of the women were confiscated and, according to someone present at the raid, the belongings were never returned. The women were initially sent to the Ranong police detention cell where they were locked in cramped and frightening conditions (*Burma Issues Annual Report*, 1992; Human Rights Watch, 1995).

In many of these raids in the south of Thailand, the women and girls released were tested for HIV, with many finding they were HIV positive (*Far Eastern Economic Review*, 1992). When one group of women was officially deported to Burma, the Director-General of the Public Welfare Department of Myanmar (Burma) received the women and girls at the border in Chiang Rai. Almost immediately, a rumour began circulating, allegedly started by a Thai general, that the girls had been killed in Burma using cyanide (*The Nation*, 1992). The reports could not be substantiated, and the Swiss-based NGO, the Association Francois Xavier Bagnoud (AFXB), went to Burma to search for the girls. Some, but not all, of the girls were found.² It was assumed that the other girls had migrated back to Thailand. AFXB then established a home in Rangoon to provide services for girls already under custody of the Myanmar Social Welfare Service and for a few girls returned from Thailand.³

THAILAND

Regardless of whether reports of the killings were true, the possibility of such abuses happening sparked debate in Thailand regarding the safe return of women to a country under a military dictatorship; one which recognised neither migrants leaving their country, nor HIV/AIDS.

Under pressure from the European Union to eradicate child labour, Prime Minister Chuan Lekpai announced plans on 3 November 1992 to rid Thailand of child labour exploitation. Almost immediately, a young woman, Passawara Samrit, was found dead outside the Social Welfare Department in Songkla, where she had sought help after escaping from a brothel (Human Rights Watch, 1993). The focus on child labour promptly shifted – almost exclusively – to child prostitution. A report published by Asia Watch in 1993 titled, *A Modern Form of Slavery* focused on the situation of Burmese women held in captivity in some brothels in Thailand. Following the report's publication, brothels all over the country were raided in what seemed more of a publicity stunt than an operation motivated by concern for the situation of migrant women and girls. In some cases, the raids forced women to leave their jobs and lose their income. In other cases, the raids released women and girls from exploitative conditions but, in the process, they lost assets (clothes, jewellery and savings) and were deported to a country in which slave labour and systematic rape were common (Burma). In all the actions, there was little, if any, consultation with sex workers on how to proceed or what was the best course of action.

HIV/AIDS

In the early 1990s, Thailand was at the height of its AIDS epidemic, and migrant women working as sex workers were serving a clientele with high HIV prevalence. The women themselves had little knowledge about HIV because neighbouring countries did not acknowledge AIDS as a problem until the following decade. Sex workers who were debt-bonded to employers had little chance of refusing a customer who wanted sex without a condom, and had to service many customers in order to earn enough to repay debts and keep any savings. The response to migrant sex work was partly fuelled by the fear of HIV spreading. Trafficking fitted this agenda well. Other initiatives to address the HIV/AIDS situation were more practical. The Ministry of Public Health initiated a 100 per cent Condom Use Programme (CUP), placing signs in all brothels and distributing free condoms to every establishment. CUP had some limitations, particularly as it threatened to close brothels in which workers were found to have sexually transmitted infections, thus, driving brothels underground. Additionally, the programme alienated sex workers because it used a system of entrapment, deploying undercover health officials to test women's resolve to insist on condoms.⁴ Nevertheless, there was an overall increase of HIV awareness and sex workers' accessibility to personal protective equipment (PPE) and society's acknowledgement of sex work as work.

Trafficking

During the 1980s and most of the 1990s, the rulers of Burma and Lao PDR were not open to discussing issues of migration since it was seen as a reflection on the state of their countries. They preferred to maintain a myth that no citizen of their countries had any desire to leave. In contrast to the issue of migration, the trafficking issue allowed for the countries to communicate. The cause of the migration was formulated in this instance, not as an immediate reflection on the country, but as the intervention of a third, unknown force. Although most trafficking reports have pointed to economic, political, and social reasons for the prevalence of trafficking from certain countries, countries of origin blamed the brokers, transnational crime gangs, and anything other than their own

COLLATERAL DAMAGE

policies. Thus, while countries in the Greater Mekong Sub-Region found it difficult to sit together and discuss other issues, trafficking conferences were always well attended and, at least in the case of Burma, conferences were exploited as a political tool to give credibility to authoritarian regimes.

Regional substantive dialogue on related human rights issues such as forced labour, forced migration, labour exploitation, and migrant workers' rights have yet to share equal attention with trafficking. There are many reasons why countries have been reluctant to include these issues in a South-East Asia dialogue, including a country's financial inability to implement effective measures (Cambodia, Lao PDR) and a government's refusal to admit the extent to which these issues exist (Burma).

NGO Initiatives on Migration and Trafficking

There are networks of NGOs working to promote the rights of migrant workers in Thailand. The Action Network for Migrants (Thailand) is self-supporting and brings together NGOs and migrant workers' associations to promote and advocate for the labour rights of migrant workers. The network collaborates closely with the Thai Labour Solidarity Committee, basing their strategy on the principle that workers need to be able to organise to improve their conditions and that migrant and host workers need to work collectively to promote the rights of all workers. The Prevention of HIV/AIDS Among Migrant Workers In Thailand project (PHAMIT), funded by the Global Fund to Fight AIDS, Tuberculosis and Malaria, coordinates on health issues. Sex workers and entertainment workers are represented in these networks and also have their own organisations and networks in Thailand, pressing for their work to be protected by the labour laws and occupational health and safety standards.

At the sub-regional level, the Mekong Migration Network brings together NGOs, academic institutions, and government officials to develop collaborative resource books on issues concerning migration in the region, including the quality of life of migrants, and arrest, deportation and detention.

The United Nations Inter-Agency Project on Human Trafficking (UNIAP) hosts a profile-mapping section on the agencies involved with anti-trafficking in the Greater Mekong Sub-region (GMS). This is categorised by country, locale, and programme type. Thailand has by far the largest number of NGOs, with a range of programme diversity and the political freedom for tackling issues such as forced migration, migrant labour rights, citizenship, statelessness, and human trafficking.

In the southern part of Thailand, there is a glaring absence of NGOs working on the issues mentioned above. The UNIAP lists only two NGOs and international organisations for a region that includes the borders of Burma, Thailand and Malaysia. *Agir pour les Femmes en Situation Précaire* (Action for Women in Precarious Situations – AFESIP), an NGO based in Cambodia, identifies victims of trafficking in the sex industry and at the Thai Immigration Detention Centres in Hadyai as well as on the Cambodian border at the Aranyaprathet-Poipet border, the Laotian border at Mukdahan, and in Bangkok. Their activities also include repatriation.⁵ The other listed NGO in the southern region is World Vision, a Christian charity that approaches trafficking in persons in the traditional sense of rescuing 'at risk' women and girls, and behaviour modification. Their profile lists activities such as "removing victims from risky areas", which highlights how some NGOs view sex work and how this then influences their anti-trafficking activities.⁶

THAILAND

The diversity of approaches to migration and labour rights is particularly apparent when NGO profiles are juxtaposed. For example, an NGO called EMPOWER describes its activities along the Thai-Burmese border as “promoting the right of workers in the entertainment industry to be considered part of society and therefore receive the same benefits and protections”.⁷ EMPOWER uses less judgmental language and their activities translate into supporting safe employment environments rather than paternalistic protection from immorality.

The northern part of Thailand has an array of NGOs specifically targeting hill tribes, migrant workers and stateless peoples. Many, such as Save the Children UK, follow the general theme of intervention programmes for youth, which include: education, vocational training and encouraging youth groups.⁸ Some programmes, such as the Mirror Art Group Foundation in Chiang Rai, are more holistic than others and become involved in wider issues, such as land and cultural rights, as a way of decreasing migration to cities or slave labour situations, rather than simply providing conventional ‘preventive measures for at risk groups’, which tends to focus on keeping women and children from falling into immoral lifestyles.⁹ The Anti-Trafficking Coordination Unit of Northern Thailand, TRAFCORD, acts as a medium for provincial government agencies and NGOs working on human trafficking. It is funded by the Asia Foundation, UNICEF, and the US government.¹⁰

In the north-east of Thailand (the region known as Isaan), many NGOs connect anti-trafficking efforts with the promotion of traditional Isaan culture and lifestyles by providing women and children with vocational training and education in such areas as: weaving, basket-making, organic agriculture and fishing. These practices are aimed at stemming domestic migration to the larger cities of Bangkok or Chiang Mai. One such project, the Naresawit Welfare Protection and Vocational Training Centre for Women, takes the stance that a major way to curb human trafficking is to “change the behaviour of the women and child victims” on a case-by-case basis. Most of their activities fall under the protection section on the profile page and include a service of “victim isolation” which is a recurring term on many of the website profiles and seems to imply keeping the person concerned in *de facto* detention.¹¹

Central Thailand is mostly characterised by classic anti-trafficking activities such as brothel raids, family searches, and repatriation. One government agency, the Department of Social Development and Welfare (DSDW), states in its profile that it acts as a “network for woman and child trafficking victims, as well as the leader in problem-solving concerning women and children in the case *where no agency has yet taken the responsibility*”.¹² The DSDW does not specify whether it considers governmental or non-governmental agencies responsible for trafficking victims. The National Commission on Human Rights is also based in the capital. However, its activities and influence were greatly reduced following the September 2006 military coup and the limited time left on its charter. Bangkok also hosts offices of numerous UN branches. Many local NGOs have a main office in Bangkok for repatriation services or lobbying/watchdog/research activities. One organisation, the Thai Action Committee for Democracy in Burma, is listed on UNIAP’s website as an anti-trafficking NGO, but approaches the issue from an awareness raising, policy-pushing, education standpoint to change the way Thailand’s government deals with the Burmese junta as well as the general Thai public’s understanding of labour rights.¹³

Men were not listed as a target group, to any notable extent, in the anti-trafficking services listed by the NGOs in Thailand on the UNIAP mapping site. The most common references were to “women and girls” or “trafficked victims”. Current approaches to trafficking emphasise the importance of criminal justice outcomes. A focus that is primarily directed to the prosecution of traffickers has the potential to ignore or undermine the human rights of

COLLATERAL DAMAGE

those who have been trafficked by failing to protect trafficked women adequately in destination countries.

In terms of the trafficking of Thai people abroad, local NGOs seek to prevent trafficking through pre-departure sessions, counselling and advocacy, and providing services to returnees. The Ministry of Social Development and Human Security has worked to strengthen coordination with Thai NGO networks in destination countries. NGOs from Germany, France, Switzerland, Netherlands and Denmark have joined the Thai Women Network in Europe. There is, however, no such network in Asia, and NGOs in Japan, Macau and Taiwan complain that it is difficult to refer people who are returning to Thailand or find agencies willing to advocate on behalf of detained Thai migrants whether they be over-stayers, trafficked persons or criminals.¹⁴

2. Legal Framework in Thailand

Thailand has developed different legal frameworks to address migration, trafficking, labour and prostitution, both domestically and regionally. This section only examines those cabinet resolutions, MoUs, laws, and mechanisms which have affected people's ability to exercise their human rights.

Cabinet Resolutions on the Employment of Illegal Aliens for temporary employment while awaiting deportation

Since 1996, cabinet resolutions have been passed in Thailand using section 17 of the *Immigration Law* to allow migrant workers entering the country illegally from Burma, Cambodia and Lao PDR to apply for temporary work permits while awaiting deportation. Since 2001, domestic workers have been allowed to register for work permits, but none of the registration policies have allowed entertainment workers to do the same. Registered workers are eligible to access the National Health Service, and are permitted to join existing trade unions, but not form their own. Employers are also required to register and are told to respect the labour laws, including paying minimum wage and not withholding migrants' documentation. Registered migrants, however, are not allowed to travel outside the province where they are registered. While providing some protection, the fact that registrations bind the worker to the employer increases the vulnerability of migrants.¹⁵

Memorandums of Understanding (MoUs) on Cooperation on the Employment of Workers

In an attempt to regularise migration for employment, Thailand signed MoUs with Lao PDR (2002), Burma (2003), and Cambodia (2003). The first step to implementing the MoUs required countries of origin to verify the nationality of migrants already in Thailand and issue Certificates of Identity or temporary 'passports' so migrants could apply for legal visas and work permits in Thailand. Under the MoUs, migrants would be allowed to work in Thailand for two successive two-year periods. At the end of the four-year period, they would not be allowed to return to Thailand for three years.¹⁶

The Labour Protection Act, 1998

The *Labour Protection Act, 1998*, covers all workers in Thailand regardless of their immigration status. It specifies restrictions on the employment of 15 to 18-year-olds in particularly dangerous conditions. It also does

THAILAND

not allow for payments owing to young workers to be given to anyone else or for any deductions to be taken from the young worker's salary. While the *Labour Protection Act* protects all workers regardless of their immigration status, certain categories of work are not covered. These include domestic workers, sex workers, entertainment workers, agricultural workers, seafarers and beggars.

The Prevention and Suppression of Prostitution Act, BE 2539 (1996)

In anti-prostitution legislation prior to 1996, the selling of sex was a serious offence. During consultations (including consultations with sex workers) to draw up the 1996 Act, there was some support for the principle that adult sex workers should not be criminalised and efforts should focus on eliminating child prostitution. In the end, the 'moral lobby' succeeded in including some restrictions on adult sex work. The finalised Act focused on punishing the procurers and customers of sex workers, particularly of those under the age of 18, while making adult sex workers liable to a small fine and offering those convicted a choice of returning home or undertaking vocational training.

In terms of addressing abuses of human rights occurring in the sex industry, section 12 of the Act provided for anyone who confines a person, or causes bodily harm or threatens violence in order to force a person into prostitution to be punished. The culprit is liable to imprisonment for ten to 20 years and a fine of 200,000 to 400,000 baht (US\$ 6,139–\$12,278). The sentence is increased in cases where the offence is committed by an official or where the person is a child.

The Penal Code and the Penal Code Amendment Act (No. 14) BE 2540 (1997)¹⁷

Even without an anti-trafficking law, several of the abuses committed in the process of trafficking are offences under Thailand's Penal Code, which make it an offence to deprive an individual of liberty, or to procure or traffic a man or woman for an indecent sexual purpose (sections 282 and 283).

The Criminal Procedure Amendment Act (No. 20) BE 2542 (1999)

This Act increased the protection of the rights of children who are victims, witnesses or offenders. Section 273 provides for a procedure whereby a witness who may no longer be in the country at the time of a trial to provide witness before leaving the country. The protection of children was further increased by the passing of the *Child Protection Act* (2003), which increased the power of authorities to enter a place where a child was being held illegally or being abused.¹⁸

In terms of specifically addressing trafficking, Thailand has created a fairly comprehensive framework with laws, agreements, policies, committees, and coordinating mechanisms to implement them. In 1996, the National Commission on Women's Affairs headed a committee on combating sexual exploitation of children. Over the years, the mandate of this committee has widened and, in October 2002, a multi-sectoral Sub-Committee to Combat Transnational Trafficking in Children and Women was established under the Ministry of Social Development and Human Security (previously the Ministry of Social Welfare). This Ministry has operated the Kredtrakarn Protection and Occupational Centre since 1960 as a welfare home for women and girls, including trafficked women and girls.

The Measures in Prevention and Suppression of Trafficking in Women and Children Act, BE 2540 (1997)

The Act specifies law enforcement procedures for both prevention and prosecution in cases of trafficking and covers offenders committing crimes, both in Thailand and abroad. It makes conspiracy to traffic women and children an offence. Under the terms of the Act, authorities have the right to ensure that trafficked persons immediately testify against their traffickers. Evidence may be used later in a trial even if the victim is not present. In order to protect the safety of the victim, the Crimes Against Child, Juvenile and Woman Suppression Division (CCSD) of the Royal Thai Police has specialist video recording equipment to record the testimonies of victims in privacy. The Act is focused largely on the prosecution of traffickers, but only contains limited provisions on the longer term needs of the victim. She is only temporarily provided with food and shelter, but the eventual outcome is always repatriation to her country of origin.

Domestic MoUs for Agencies Addressing Trafficking

The implementation of the 1997 *Trafficking in Women and Children Act* proved challenging for the police, social workers and NGOs. In order to improve implementation, Thailand initiated a series of domestic MoUs between *State Agencies and Non-Governmental Organizations (NGOs) Engaged in Addressing Trafficking in Children and Women, 1999* (updated 2003), which covered procedures on rescue and investigation, placement, legal assistance, provision of health, psycho-social assessments, psychological and other support services. A second MoU, *Operational Guidelines for NGOs Engaged in Addressing Trafficking in Children and Women, BE 2546* (2003), was formulated to clarify the role of NGOs in addressing trafficking. In the same year, an MoU on *Common Guidelines of Practices for Agencies Concerned with Cases where Women and Children are Victims of Human Trafficking in the Nine Northern Provinces, BE 2546* (2003) was formulated to respond to the situation in the provinces bordering Lao PDR and Burma. The MoUs define four categories of trafficked victims and clearly states that there can be internal trafficking. The MoUs cover victims who have entered the country legally or illegally, as well as the ethnic minorities of Thailand, many of whom were born in Thailand, but hold coloured identity cards which have various restrictions on the rights of the holders, particularly with regard to employment and travel.¹⁹

3. Regional and International Mechanisms

In April 1999, the IOM initiated a meeting of governments from Asia on migration which concluded with *The Bangkok Declaration on Irregular/Undocumented Migration*. The Declaration proposed that the reduction of illegal migration would help reduce the numbers of people being trafficked and called on the signatories to pass legislation to criminalise people smuggling and trafficking in human beings and cooperate in the prosecution and penalisation of all offenders, especially international organised criminal groups.

The Association of Southeast Asian Nations (ASEAN) first addressed trafficking in a *Declaration Against Trafficking in Persons, Particularly Women and Children* in 2004 which talks about the spirit of the UN *Convention against Transnational Organized Crime* and its associated Protocols on trafficking and people smuggling and calls on member states to address transnational crimes, including trafficking in persons, to the

THAILAND

extent permitted by their respective domestic laws and policies. In terms of assistance, it calls for the identification of the nationality of victims and for services to be provided to victims, particularly medical services and speedy repatriation. Not until three years later did ASEAN address the rights of migrant workers in a *Declaration on the Protection and Promotion of the Rights of Migrant Workers* on 13 January 2007. The preamble of this Declaration exempts countries from taking any action that is not already within their national laws or policies, thus, making any clauses in the Declaration unlikely to be enforced. Within these restricted parameters, it calls on receiving states to provide migrant workers who may be victims of discrimination, abuse, exploitation and violence with adequate access to the legal and judicial services of the receiving states. Sending countries are requested to adopt mechanisms to eliminate recruitment malpractices through legal and valid contracts and to regulate and accredit recruitment agencies and employers and blacklist agencies that are negligent or unlawful.

UNIAP

In the late 1990s, UNIAP spearheaded an initiative to respond to trafficking in the countries of the Greater Mekong Sub-region (GMS) with the support of the Ted Turner Fund. UNIAP works in countries of the Mekong and supports projects by local NGOs. At the governmental level, it supported a process named the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) that aims at creating a sustained and effective system of cross-border cooperation and collaboration to combat human trafficking. The process began in 2004 as an MoU written in Bangkok. Since then COMMIT has held four meetings in various member states. Senior members admit COMMIT is only in its infancy and no concrete movements have yet been made to implement the three-year Sub-Regional Plans of Action in any of the countries.

Bilateral and Multilateral MoUs

In terms of prevention, the MoU between Thailand and Cambodia, *Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking* (May 2003), has clauses on vocational training and education, income generation, and employment and social services. In relation to protection, the MoU states that victims are not to be considered criminals and should not be detained by immigration authorities, but rather by social welfare services. Victims are eligible to claim restitution for any belongings confiscated by authorities and compensation for any damages by the offender. In terms of prosecution, the profit gained by the trafficker is supposed to be confiscated. The victim can claim payment for services rendered and go through due process of the law for criminal charges and recovery of damages. Again, in order to effectively implement the MoU, the *Guidelines on Reintegration of Trafficked Victims for Cambodia and Thailand* set up mechanisms between the two countries to return, repatriate and reintegrate trafficked victims. Cambodia and Thailand also signed an agreement on the extradition of perpetrators and mutual legal provisions to gather evidence at the investigation stage and to take witness testimonies through their respective Ministries of Foreign Affairs. In October 2004, an *MoU on the Cooperation Against Trafficking in Persons in the Greater Mekong Sub-Region* encouraged a common adoption of the UN Trafficking Protocol's definition of trafficking.

The 2005 *MoU Between Thailand and Lao PDR on Cooperation to Combat Trafficking in Persons, Especially Women and Children* stipulates that victims have the right to legal assistance, legal protection, temporary housing, as well as health care for themselves and their families during legal proceedings. However, the MoU also includes conditional clauses such as “in accordance with national law in each country”, which

COLLATERAL DAMAGE

unfortunately provide a loophole for the two governments to do little in practice to fulfil the provisions of this and other MoUs.²⁰

International Initiatives

The International Law Enforcement Academy (ILEA), supported by the US government, was established in Bangkok in 1999 to serve as a regional training centre for law enforcement and provide a formal environment for judicial and other officers to share information on the suppression of transnational crimes.²¹

In 1999, Thailand and Australia addressed the issue of people trafficking in the context of controlling illegal migration at a one-day ministerial economic commission. At the time, Thailand was conducting a campaign to deport 600,000 workers from Burma, while Australia was aiming to hold back the arrival of people on boats from the Middle East. According to a statement issued, the foreign ministers agreed that the authorities of both countries “should coordinate closely on means for strengthening both countries to solve the problem of trafficking and illegal migration” (Australian Associated Press, 1999).

Four years later, Thailand and Australia signed an MoU concerning the Asia Regional Cooperation to Prevent People Trafficking (ARCPPT) project, based in Thailand, under a law enforcement framework.

4. Human Rights Impact of the Implementation of Law and Responses to Trafficking

Implementation of the Immigration Act of 1979

All migrants from Burma, Cambodia and Lao PDR who have entered Thailand illegally are continually vulnerable to arrest and deportation under immigration laws and, at the same time, the police and immigration can exploit this vulnerability by stopping migrants anywhere and demanding money instead of deporting them. Even registered migrants are vulnerable to this harassment and corruption. Many employers withhold the work permits of migrants, only allowing them to hold a receipt that they give them. Many migrants, particularly in border areas, report that on occasions the police tear up these receipts and treat the migrants as ‘illegal’. In other cases, migrants have been arrested by the police for being outside the area where they are registered. In other cases, migrants are arrested for not being at the workplace indicated on their work permit card. This may be because the migrants are working in jobs not covered by the registration policy (entertainment work including sex work, retail work, and restaurant or hotel work), or that their employer has sub-contracted them to another employer or worksite. This latter scenario is common for construction site workers.

During Prime Minister Chuan Leekpai’s administration in the late 1990s, a ‘one-stop’ summary deportation system was initiated, bypassing the court system. This is still in force. Migrants who are arrested for illegal entry are held in a police cell or immigration holding centre to wait for a bus-load and are then deported. The quick exit policy saves migrants the ordeal of being held and humiliated in police or immigration cells, but it also bypasses any form of screening and could result in the deportation of trafficked persons or the *refoulement* of refugees. Migrants and trafficked persons have no clear identification from their country of origin and, in some cases, this has caused mistakes in deporting to the right country of origin (Vungsiriphisal, Auasalung, Chantavanich, undated). The problems are exacerbated by the lack of interpreters and trained counsellors. When asked about the screening

THAILAND

of deportees, an immigration official in Mae Sot said that anyone carrying a UNHCR document for ‘persons of concern’ was released to the UNHCR. Regarding trafficked persons, he said that no one wanted to identify themselves as a victim of trafficking because they knew that many agencies would then become involved, and they would have to go through lengthy procedures before being returned home.

The articles of the 1979 *Immigration Act* covering the transportation, sheltering and harbouring of illegal entrants, when vigorously enforced, serve to drive illegal migrants underground and leave them without any services or assistance. At various times, law enforcement campaigns have been initiated against employers and landlords. In one such example, on 9 March 2007, pre-dawn raids by over 200 officials on shanty style huts on land in the outskirts of Mae Sot resulted in the arrest and deportation of 1,000 migrants. Having sent the migrants to an unofficial crossing point to Burma, the authorities then announced that they would crackdown on landlords renting to ‘illegal’ migrants as a form of deterrence. Unable to stem the exodus of people from a country of oppression, Thailand attempts to make it impossible for them to stay on its territory. Such night raids on migrants are common, not only on land, but also on sea. This is in sharp contrast to the Thai legal guidelines on raids which specify that raids should only be carried out between sunrise and sunset, unless it is absolutely necessary.

Policies on the Employment of Migrant Workers

The system of allowing the registration of immigrants through annual cabinet resolutions is primarily concerned with controlling migrants, knowing their whereabouts and allowing for the deportation of any migrant who is not registered. In a decade of migration policies, only a few advances have been made in protecting rights through migration policies.

Migrants are required to pay for registration with a particular employer. The registration costs around US\$100, equivalent to a month’s salary of a worker at minimum wage or two or three months’ salary for most migrants, who receive well below the minimum wage. Thus, most migrants do not have enough money to pay for registration and the employer pays the registration fee and then deducts the cost from the migrant’s wages. The migrants then become debt-bonded to the employers, who justify the withholding of migrant cards by claiming that if the migrants were free to leave, they, as employers, would lose their investment in the migrants’ work permits.

Although employers have to register to employ migrant workers, there is no system for the recruitment of migrant workers. When the Thai Labour Solidarity Committee presented a list of recommendations to the Ministry of Labour on 18 December 2006 on behalf of the Action Network for Migrants (Thailand), one of their concerns was about the recruitment process. It was suggested that the Department of Employment should set up a recruitment service as they had for Thai labourers. In reply, the Ministry of Labour expressed the concern that if the Thai authorities were to recruit migrant workers, they could be accused of trafficking by human rights organisations.²²

Migrant workers and NGOs have complained for the last ten years that employers withhold the registration cards of migrants, thus breaking the law and denying migrants the few protections that registration offers. By mid-2007, there had been no prosecution of an employer for confiscating the personal documents of a migrant.

In December 2006, provincial-level restrictions were issued in Phuket, confining migrants to their worksites by imposing a curfew at 8 pm, banning gatherings of more than five migrants and restricting use of mobile phones. In

COLLATERAL DAMAGE

the following months, other provinces followed suit. Migrants were isolated on worksites, completely under the control of the employer with no access or contact with mainstream society. When NGOs complained about the abuse of human rights of migrants caused by these restrictions, the governors of Phuket and Ranong defended the restrictions. The Governor of Ranong, Kanchanapa Khiman, said that mobile phone controls are meant to control human trafficking, explaining that investigations have revealed that members of trafficking gangs use mobiles to communicate with each other and numerous arrests had been made on the basis of phone records (*The Nation*, 2007).

With no other mechanisms adopted to protect the rights of migrant workers, the MoUs on the Cooperation of Employment of Workers do not hold much promise for improving the situation of migrants. During the process of verifying the nationality of migrants, some migrants have effectively become ‘stateless’ when they have not been recognised by their country of origin.

The Labour Protection Act

The Ministry of Labour in Thailand has confirmed that all workers are protected by the country’s labour laws, irrespective of their legal immigration status. Practically, however, it is extremely difficult for unregistered migrants to organise any action to improve their working conditions. As soon as unregistered migrants attempt to negotiate for better wages or working and living conditions, the employer takes action to dismiss the migrants. In some cases, employers inform immigration that there are illegal migrants in the area and immigration officials arrive to arrest and deport the migrants. In other cases, employers have called in thugs to threaten the migrants with violence or physically harm them, including sending armed men into women’s dormitories. Although workers are protected under labour laws, they are only protected while they are working. Therefore, the moment unregistered migrants make a complaint against their employer, they are dismissed and are no longer considered to be working and thus have difficulty accessing protection under the labour laws.

Despite the prevalence of poor working conditions for migrants in Thailand, there have been few prosecutions of employers for non-compliance with the labour laws, occupational health and safety standards, or for confiscation of personal documents. However, there have been an increasing number of cases taken by migrants through the Labour Protection Offices to negotiate with the employers for unpaid wages. Compensation for injuries or deaths in the workplace is most often negotiated informally between the migrant and the employer and is usually well below the legal stipulation. The workers’ welfare compensation fund is difficult for workers to access on a migrant worker card or with no card, although legally it should be possible.

Case 1: The Nut Knitting Factory²³

Workers in the Nut Knitting Factory in Mae Sot had been paid well under the minimum wage for several years. When a group of workers were arrested by immigration, they found the employer had lied to them about making their work permits. After their fellow workers started organising to negotiate for their release and for better wages, the employer brought in thugs to threaten the workers. The workers decided to consult with the local workers association (Yaung Chi Oo Workers Association) which asked MAP Foundation to contact the Labour Protection Office in Tak province. An officer

THAILAND

was sent to Mae Sot after a letter was presented to the Ministry of Labour. Even then, there were many challenges. The officer did not speak Burmese, the complaint form was in Thai only, and there were no interpreters available.

Classification

The workers in the factory understood that they had paid for their work permits. In reality, the employer had registered only some of them and, having deducted money for the entire year, had registered some of the workers for only three or six months. The workers filed a labour case against their employer using the same mechanisms as Thai workers. However, since they had lost their jobs, they became illegal migrants and were liable for deportation. Even while they were filing the case, the employer harassed the workers and immigration officials tried to deport them. After negotiations, they were allowed to complete the filing of their case.

Protection of rights

The workers could not find work elsewhere after they had filed the case, as the Employers Federation had blacklisted them in Mae Sot and, at the time, there was no provision in the law for them to move to another province. They had no legal status to stay and had to cross the border to find work and wait in Burma. The support workers from the migrant workers' association and from the NGO felt threatened during the proceedings after migrants told them that their photographs had been posted in factories and workers had been told not to associate with them. Some migrants feared that the employers had a contract out on them. Thailand's National Human Rights Commission was contacted to ask the local authorities to ensure that the safety of those involved was protected.

Compensation

After the migrants had filed their case, the Labour Protection Office ordered the employer to pay US\$49,110 in compensation of unpaid wages. When the employer did not pay within the stipulated 60 days, the workers took the case to the labour court. Each worker was owed approximately US\$4,911. To attend the court hearings, a group of representatives crossed the border with border passes. At the first court hearing, the employer suggested payment of US\$307 per worker. The judge complained that this was too low and suggested US\$368 per worker. The workers refused this offer and many other such offers over a period of a year-and-a-half of cancellations and delays of court hearings. Eventually, the negotiations were settled in court at between US\$1,842 and US\$2,149 per worker. Although the settlement was well below the original order and the workers had to wait a year-and-a-half, it was a victory for migrant workers to achieve a settlement in court and prove that migrants also had the right to utilise the labour court mechanisms.

At the time migrants were not allowed to have bank accounts in Thailand, so the payment was made to the MAP Foundation, which then made the payments to the migrants in the presence of external witnesses and with photographic and video evidence to confirm that the compensation had been handed over.

COLLATERAL DAMAGE

Prosecution

Only a labour case was brought against the employer, who was not held accountable for violence, threats, withholding work permits, or cheating on work permits.

Repatriation

All the migrants in the case had to cross the border on a one-day border pass to receive their compensation payments. They came with their families as, with no access to bank accounts, the workers had to carry the money in cash. Once they received the money, the migrants and their families quickly crossed back to Burma to make their way home. Some of the workers transferred the money home first via the *hundai*²⁴ system for fear of having it confiscated from them at checkpoints in Burma.

Long-term Impact

Following the settlement in court, many more workers in the area had increased confidence in taking their complaints forward. In the three months following the settlement, US\$15,347 was paid in compensation through negotiations at the Labour Protection Office. Prior to this case, employers were unlikely to negotiate at the Labour Protection Office, confident that no migrant worker would take them to court.

The Ministry of Labour responded to the case by setting up a One-Stop Centre, under the Labour Protection Office in Mae Sot, so migrants could go directly to the centre. As more migrants accessed the centre, it began to employ translators and was upgraded to a Labour Protection Office.

Migrants not only became more confident about organising themselves, but also shared their experiences with other workers and tried to set up a revolving fund to provide support in taking cases to court. However, on the negative side, employers also became more organised and prepared for such cases and were quicker to have migrants deported. Migrants taking cases to court find little support for the exercise of their rights and are told that Thai workers are willing to accept just 20 per cent of the amount owed to them. They are also informed that, if migrants receive a full minimum wage, Thailand will lose its position in the global export industry and factories will move to China.

Intervention by the Country of Origin

There was no official intervention by the Burmese regime. At times, the workers felt their security was threatened in their home country, as they were seen to be actively organising for their rights in Thailand.

The labour laws have also been used in cases of abuse against seafarers. In one case, 39 Burmese seafarers working on a Thai boat in Indonesian waters died of starvation, their bodies thrown overboard. The 61 survivors told the story of how they had been at sea for 35 months without setting foot on land. They had been told that

THAILAND

they would stay in Indonesian waters on 45-day rotations for a certain number of years. Instead, supply boats brought out fresh water and food, so they did not return to land. When the boat's permit expired, the supply boats no longer came and their supplies ran out. When the rescued survivors returned to Thailand in July 2006, they were given 3,000 baht (US\$80) each. The Legal Rights Protection Network has taken the case to court and the first labour court hearing was on 26 March 2007 (*Gulf Times*, 2007).

The Prevention and Suppression of Prostitution Act

Prior to this Act being passed, anti-prostitution legislation was used to raid brothels and massage parlours where women were selling sex. Once the 1996 Act had been passed, few women were arrested on charges of prostitution, since the Act had fairly lenient penalties for women selling sex. Instead, immigration laws were used to raid brothels and women were charged with illegal entry into Thailand.

In the late 1990s and since 2000, changes have been introduced to improve the condition of sex workers, who had previously been exploited in brothels. Sex workers no longer live on-site, and thus have more freedom of movement and personal space and time. This allows sex workers to meet other women and discuss conditions. If they find they are working in worse conditions than other places, they can choose to move. The changes were partly in response to the HIV/AIDS crisis and statistics that showed women working in brothels had no control over their work and consequently had high rates of HIV (government statistics referred to them as 'direct sex workers'). On the other hand, women working in karaoke or go-go bars could refuse customers, were paid a salary, received better payment for services and could leave their work if they did not like it. They showed similar, if not lower, rates of HIV when compared to the general population. The change was also partly in response to new laws on prostitution and trafficking. The anti-trafficking responses drew attention to migrant sex workers, making it more difficult for migrant women to work in traditional brothels. The process of change took many years and, though some closed and exploitative brothels still exist, they are now the exception, rather than the rule. In 2007, as restrictions on migrants were again increasing, particularly regarding travel and gatherings, it seemed possible that sex workers would once more be forced to live on-site, isolated from other women and services and restricted from exercising their rights.

Between the passing of the *Prevention and Suppression of Prostitution Act* in 1996 and the *Measures for the Prevention and Suppression of Trafficking in Women and Children Act* in 1997, raids on brothels used the *Immigration Act* to arrest and deport women who had entered the country illegally, while women who were considered victims were taken to government shelters for health care and to await deportation or family reunion. In most cases, those who were categorised as victims were children. Only the government could provide this care prior to the *Measures for the Prevention and Suppression of Trafficking in Women and Children Act* and the subsequent MoUs. After the passing of the former, the system was quite similar except that MoUs allowed NGOs to apply for special status to look after victims of trafficking.

Case 2: Women and girls working in Barn Rom Yen brothel in Chiang Mai (2000)²⁵

An American NGO, the International Justice Mission, sent an undercover worker into the Barn Rom Yen brothel in Chiang Mai. From discussions with one woman, he determined that there were underage

COLLATERAL DAMAGE

women in the brothel and that women had been trafficked. The agency contacted the police to organise a raid. The information provided by the international NGO was sufficient for the police to organise a raid at night.

Classification

The women who were released were divided into two groups according to their age, or according to the estimation of their age. Those considered over 18 years old were held in a police cell, while those considered under 18 were taken to a government home in Chiang Mai.

Protection of rights

The women who were over 18 were left in a police cell with no visitors, no information, and no support. The police did not want to keep them in the cell as they considered them to be victims, but had been instructed to do so by the agencies involved. The international NGO had told the local authorities they should be separated otherwise they would influence the younger girls. The underlying message was that the over 18-year-olds were 'bad' women while the under 18 year olds were 'innocent victims'. A makeshift centre was made in the Boys Home in Chiang Mai; at that time there was no shelter for trafficked persons in the city. A government shelter for victims of domestic violence did exist, but the girls from the brothel were not taken to this shelter. While the home attempted to make the conditions as comfortable as possible, the girls appeared depressed. Government authorities called in NGOs with translators and experience in working with girls from Burma. The girls told the NGOs they were worried about their 'older sisters' who had been taken from the brothel with them, but they did not know what had happened to them. When the authorities were asked about the 'older sisters', they said they were being held in the police cell at the request of the International Justice Mission. The NGOs visited the women in the police cell and discussed the situation with police and local authorities. The police said they had no reason to hold the women because they were victims, not criminals. Local authorities agreed to house the women in the Boys Home with the girls. Arrangements were made to collect the possessions of the women only after they complained they had lost all their belongings during the raid.

Compensation

No case for compensation was filed on behalf of the women or girls. Although they were asked many questions and interviewed several times, no one inquired about working conditions and pay. The adult women complained they had lost their wages for the week prior to the raid and had lost their income for the two months they were held in the shelter. If they returned to Thailand after repatriation, they would have to pay a broker to travel back and start all over again.

Prosecution

The manager and the *mamasan* of the brothel (the woman in charge) were put on trial. The women and girls had to attend the trial in the same courtroom as the manager and the *mamasan*. Many of the girls and women cried when the *mamasan* came in, not in fear, but rather upset to see her in shackles. The women were questioned about how they came to Thailand and asked if they were forced. All of them said they had come voluntarily. The women were given an interpreter in court. However, there

THAILAND

were several misunderstandings as the local names of places in Burma's Shan state were unfamiliar to the judges.

Repatriation

Accompanied by the NGOs, the adult women were deported to the border by Thai authorities. On the Burmese side of the border, the women were taken to a local NGO to assist them in returning home. The Thai Immigration expressed displeasure that a particular NGO had been used, suggesting it was used as a centre for brokers. The young women were kept at the government rehabilitation home in Bangkok for over a year, where, in phone conversations with NGOs in Chiang Mai, they explained they were feeling isolated and lonely. They were given lessons in sewing, flower arrangement and massage techniques. They could not leave the rehabilitation home as they were not issued with any documents. The authorities made contact with their families in Burma and they were eventually repatriated.

Long-term Impact

The raid on the brothel, the follow-up treatment, and the differential treatment of women and children caused much debate among NGOs, and between NGOs, international NGOs and government authorities. These discussions led to an MoU between NGOs and the government on cases of trafficking. Before it was signed, the same American NGO (the International Justice Mission) instigated another raid on exactly the same brothel in 2003. Many of the women were regular participants of activities run by a local NGO, called EMPOWER, and complained bitterly about being 'rescued' and then held in a government rehabilitation home against their will.

Although the MoUs have improved coordination between NGOs and government authorities, the problem remains of how to differentiate between trafficked victims and other workers, and how to rescue only those who need rescuing and leave other workers with their jobs and livelihoods. The problem would, of course, not arise if all those involved in raids were given some form of documentation to stay and work in Thailand.

According to the *Cabinet Resolution on the Education of Non-Thai and Non-Documented People*, everyone can access Thai education and be provided with a 10-year ID card, which allows the holder to remain in Thailand, attend an educational establishment and travel for purposes of education. However, it appears that migrant girls or women being cared for in the government establishments are not attending regular Thai educational facilities, nor are they being issued with the necessary temporary ID card.

The following case is illustrative of how legal instruments are sometimes not activated, even in cases of severe exploitation of migrant workers. The *Child Protection Act* permits the police to enter an establishment or private home where it is suspected that children are working. Under Article 30, competent officials have the authority and duty to enter homes, any establishment or vehicle where there is reason to suspect detention or an act of torture committed against a child. The inspection can be done after the competent authority has received notification, witnessed or come to know about such acts of torture (Article 41). In addition, the persons reporting

COLLATERAL DAMAGE

are to receive protection and not be held liable for any civil, criminal or administrative action. However, in reality it is often difficult to enforce and protect the safety of the child. There may be leaks of information beforehand which would lead to the child's removal to another place unknown to the authorities, or the employer may be influential enough to persuade the authorities that no abuse was taking place and the child was being well looked after, or the employer may threaten all those involved.

Case 3: Migrant Child Domestic Worker (2005–06)²⁶

The brother of a girl from Burma being held in abusive conditions as a domestic worker informed a local migrant-support NGO. This NGO had already assisted a woman to leave this exploitative employer and had facilitated her access to compensation for work done. The NGO was aware from her report that anyone working there was not allowed out and no one was allowed to make contact. The NGO therefore referred the case to a body working exclusively on trafficking. The agency collected some basic information, but did not follow up with any intervention. They feared that in trying to build a case against the employer, it could jeopardise the life of the girl. It was considered too sensitive to order an inspection or raid since the employer was influential and there were fears that there may be a leak of information from someone in the local authorities before it could take place. According to the *Child Protection Act* and the *Measures for the Prevention and Suppression of Trafficking in Women and Children Act*, a raid could have been justified on the amount of information available about the conditions the girl was being held in, but the realities of the situation made it unwise to act. The girl continued to exist in the same conditions until the day when the wife of the employer stabbed her. She ran out into the streets and the neighbours informed the authorities.

Classification

The girl had been held for several years and physically and mentally abused under severely abusive working conditions. She could not leave her place of employment and was unable to contact anyone outside the household. Her brother's last contact with her was a tape she had managed to smuggle out two years earlier. When the case reached a government agency in charge of protecting women and child victims of trafficking, she was given dispensation to stay in Thailand under trafficking laws and policies and legally treated as a victim of physical abuse.

Protection of Rights

After the young girl was stabbed by the employer's wife, she was taken to a hospital and given appropriate health care. On being discharged from hospital, she was put in the care of a local NGO which runs a shelter for young girls where she received individual psycho-social care and is well looked after. Her case is managed by the local NGO and the government department.

Compensation

The government agency took the girl's case to the labour court and she was awarded 30,000 baht (US\$921) for her six years of forced labour. The centre was also considering filing a civil suit.

THAILAND

Prosecution

The wife of the employer was sentenced to six months' imprisonment for physical assault. No case was filed against the husband who had held the young girl in captivity for over six years.

Repatriation

The girl has suffered many years of physical and emotional abuse and has had no contact with her mother for many years. She continues to remain in the care of an NGO and her case is reviewed periodically to grant permission for continued stay in Thailand. Her future repatriation or reunion with her family is uncertain, although gradual, cautious contacts are being made with relatives.

Long-term Impact

Since the girl needs privacy and confidentiality in order to recuperate, the case cannot be used to advocate for change in the conditions of domestic workers. The employer has had to pay a meagre amount in compensation, much less than he would have to pay a domestic worker monthly. The wife has already been released, sending a message to the community that stabbing a foreign domestic worker is a minor crime.

Intervention by the Country of Origin

Contact is being made with the family without the need to contact any authorities. Until it can be ascertained that being reunited with the family is in the best interests of the girl, she remains under the guardianship of the Thai authorities.

It must be noted that the most common use of the clause relating to the inspection of workplaces in the *Prevention and Suppression of Trafficking in Women and Children Act* is the inspection and monitoring of entertainment places and occasionally factories, especially sweatshops in Bangkok where Laotian girls have been kept. The absence of powers to inspect private homes is a serious gap for domestic workers held in servitude.

This Act provides limited protection for migrant victims of trafficking. It allows for migrant women and children not to be treated as criminals, and to temporarily have dispensation from being categorised as illegal entrants to Thailand, although there is no provision in the Act to change this status and the eventual outcome is the same as for migrants who entered the country illegally – they are returned to their home country. According to the Act, victims of trafficking are not to be held in an immigration detention centre or other detention centres for criminals or illegal entrants, but are to be provided shelter in a government home or a shelter run by an approved NGO.²⁷

Trafficking survivors are not allowed any freedom once they leave the control of their trafficker. They cannot leave the designated shelters and no documents are issued to trafficked persons to allow them freedom of movement. At the centres, girls and women are provided counselling and are given a limited choice of traditional

COLLATERAL DAMAGE

women's vocations or training courses, such as dress-making, hair-cutting, weaving, making garlands, and foot massage. Not all shelters designated to be holding centres for victims of trafficking have staff who can speak the languages of the victims. Although there are thousands of migrants in the country who have skills or the potential to learn skills required to become interpreters, counsellors, and case managers, there is no provision in the law to employ migrants in such capacities. According to the July 2005 *Cabinet Resolution on the Education of Non-Thai and Non-Documented People*, children and women in shelters should be able to access Thai state education facilities and receive a regular education while they are waiting for a decision on their future. If they wish to attend Thai schools, they should be issued with a temporary ID card for ten years, thus securing their future education. At present, it appears women and children kept in shelters are unable to benefit from this policy decision.

The final legally prescribed outcome through the Act is repatriation. Women and girls who have a safe and secure home with a livelihood for themselves and their families generally want speedy repatriation. However, it is usually several months and, in some cases, years before they are repatriated. Court cases can take several months and tracing families in countries where the population is suspicious of local authorities can be a lengthy procedure. For adult women, who have many responsibilities towards their families, months without an income or freedom are frustrating and disempowering. If only a criminal case against the trafficker is started, the women are likely to return home with no money, possibly still in debt and with no livelihood. Survival for themselves and their families will often depend on their return, once again, to Thailand or another country. If children are separated from their families and communities for a long time, they may become depressed and confused. It is unclear what happens to children whose families cannot be traced or, when traced, are deemed to be responsible for their child being trafficked or otherwise abusive. Although the Immigration Law permits the authorities to give special dispensation to people who have entered the country to be allowed to stay temporarily, the temporary nature of the implementation of this clause means that children cannot have the security and protection to build a new life, but live in a state of limbo. Some adult women also have difficulty returning home, especially those who were trafficked to Thailand when they were very young and have little memory of their homes. In the time they have been in Thailand, their villages have often been forcibly relocated or there is armed conflict in their home areas. Other women may be afraid of traffickers, brokers, or moneylenders to whom they still owe money. Nearly all migrants from Burma, Cambodia and Lao PDR arrive in Thailand without any form of documentation. Some have ID cards in their home countries but left them there for fear of loss or confiscation by Thai authorities. Others do not have any form of legal identity in their home country. This is particularly true for ethnic groups from Burma, Cham, or Cambodians of Vietnamese descent in Cambodia, and the Hmong from Lao PDR. This has been evidenced through responses to trafficking and in attempts to verify the nationality of migrants in Thailand. In these cases, neither the country of origin nor the country of destination claims the migrant or trafficked person and they become stateless, but without any recognition of their statelessness.

During 2006, some cases of highly abusive labour conditions for workers in a seafood processing factory were taken to court using anti-trafficking mechanisms. There were, however, many difficulties in providing protection to the male victims, as men are not covered by anti-trafficking laws, and most were deported immediately after being released from slavery-like conditions, with little recourse to justice. The case of the Ranya-Paew Seafood Factory is illustrative of the issues discussed above.

Case 4: Ranya-Paew Seafood Factory, Samut Sakorn

The exploitative conditions of the Ranya-Paew Seafood Factory were brought to the attention of NGOs by migrant workers who had escaped in previous years. The workers spoke of exploitative conditions and the use of child labour, but the NGOs felt they could not pursue the situation since none of the workers who managed to escape were willing to testify; afraid of the possible repercussions.

Classification

In 2007, when a worker was injured and taken to hospital, she informed her brother of the appalling conditions inside the factory and he, in turn, contacted a local NGO. A team of government and non-government agencies organised a raid on the factory. According to the NGOs present, government authorities were not cooperative and only gave them half a day to screen 288 workers. The workers were then classified as either victims of trafficking, 'illegal aliens', registered migrant workers or child workers (aged 15 and 16 years).

Protection of Rights

The workers identified as trafficked persons were put in government shelters. According to the government report, the three male victims were put in a government home for boys. According to the NGO report, the male victims were deported as there was no legal provision to protect them under the anti-trafficking measures. All the NGOs except one brought in to assist after the raid specialised in children's issues and not workers' issues.

Compensation

258 of the workers were promised back wages at a total of 558,269 baht (US\$18,057) for the first half of September 2006 (an average of US\$69 per worker). Other compensation claims were continuing in mid-2007.

Sixty-six victims of trafficking also filed a case against the company in the labour court asking for a total sum of 70,353,529 baht (US\$2,159,431), covering salaries, overtime pay and holiday pay. The court ordered the employer to give testimony on 14 December 2006 and then postponed it to 26 January 2007. The employer offered to pay 10,000 baht (US\$307) per year, per worker, but the victims have not accepted the offer and the case was continuing in 2007.

Prosecution

Local police pressed charges against the company owner and three others for sheltering illegal entrants, possessing weapons and depriving a person of their liberty. At the same time, the Ministry of Labour pressed charges of violation of the *Labour Protection Act* and issued an order for a fine to be paid of 68,000 baht (US\$2,087).

Repatriation

Workers who did not have work permits were deported. The employer and broker tried to persuade all the other workers with work permits to stay and continue working. They offered payment of wages and a cancellation of debts for those who would agree to remain. Workers were given the choice by the Department of Employment to stay with the same employer or be taken to the border.

Long-term Impact

The court case had not finished in mid-2007, so it was not possible to assess the long-term impact. However, the immediate message to workers in the area was that non-registered migrants have no rights. Although both registered and non-registered workers suffered the same highly exploitative conditions, non-registered migrants were immediately deported. It will be interesting to monitor whether those who return to the same factory will be able to organise themselves to ensure they experience better working conditions in the future, especially once the case is no longer in the limelight. The overall message to workers was that being classified as 'trafficked' gave them more financial benefits than being categorised as a victim of other forms of abuse. But the trafficked victims have been taken out of the workers movement, classified not as workers, but as 'victims', and it was unclear in mid-2007 if they would be able to return to work after the case was settled.

Intervention by the Country of Origin

In an unprecedented move for victims of labour exploitation, the Burmese authorities came to Thailand to interview the victims and the case was extensively reported in the *New Light of Myanmar*, official mouthpiece of the regime in Burma. The authorities interviewed the workers who said they were trafficked to find out more information about the trafficker/broker who brought them to the factory (*New Light of Myanmar*, 2007).

As a comparison to this case of migrant workers in a situation of exploitative working conditions, it is pertinent at this point to explore the situation of Thai workers overseas who have faced similar problems and to compare the outcomes for Thai workers overseas and migrant workers in Thailand.

Case 5: Thai Welders²⁸

Trans Bay Steel of Napa (in the US) approached Kota Manpower Inc., an employment agency, to recruit ten welders from Thailand to help manufacture piles and hinge beams for the Oakland Bay Bridge in the US. The agreement was that Trans Bay would pay US\$18.80 per hour to Kota for each worker, who would, in turn, be responsible for paying the welders directly. The Thai workers paid a US\$12,500 recruitment fee to the employment agency. The agency then used the Trans Bay documentation without their knowledge to bring in additional workers under the US legal guest worker programme.

THAILAND

When the workers arrived, the employment agency did not pay the workers as specified and Trans Bay terminated the relationship. Forty-eight workers were moved to renovate a Thai restaurant in Long Beach and then work in the restaurant. They worked long hours, had their passports confiscated, lived in appalling conditions with no gas, electricity or furniture and were threatened with deportation to Thailand with huge debts if they complained. For three months of fulltime work, they were paid a total of US\$220. The Thai Community Development Center in Los Angeles took up the case for the workers.

Classification

The case, settled by the US Equal Employment Opportunity Commission and Trans Bay Steel Corporation of Napa, represents what the US Department of Health and Human Services calls the least known but most widely used method of enslaving people today: migrant labourers legally recruited but forced into servitude to repay enormous loans.

Protection of Rights

Apart from monetary settlement, the workers in the case were allocated housing, relocation, education, and other expenses. The case took four years to come to a settlement. Trans Bay also hired 22 of the welders and offered jobs to the others after getting work visas.

Compensation

The 48 welders were given a US\$1.4 million settlement, with each of the workers given between US\$5,000 and US\$7,500 by Trans Bay, who had employed them originally through an employment agency.

Prosecution

Trans Bay denies any wrongdoing, saying it was duped by an employment agency into sponsoring more workers than needed, who were then diverted to the Long Beach restaurant without the steel company's knowledge or permission. Trans Bay is suing the agency, Kota Manpower Inc. of Thailand and Los Angeles, for alleged fraud. The Equal Employment Opportunity Commission also made efforts to pursue charges against Kota, which had closed its Los Angeles office.

Repatriation

Seventeen of the workers were also granted a special visa for victims of trafficking under a 2000 US federal law that allows them to stay in the US for three years and then apply for legal permanent residency. Under these provisions, the workers could bring their families to join them in the US. Visa applications were pending for 22 of the other trafficked workers.

Long term Impact

The Trans Bay settlement provides an example of a firm taking responsibility for fraudulent recruitment practices, even when it may not have been fully aware of the abuses being committed. Trans Bay warned other businesses to investigate any potential employment agency thoroughly. Without a clear prosecution of the employment agency, however, the law is unlikely to send a strong message to employment agencies that commit fraud.

5. Conclusion

National initiatives regarding trafficking began in Thailand for reasons outlined at the beginning of this chapter: as a response to issues of child labour, HIV/AIDS and a general international focus on the sex industry in Thailand. Later influences include the comments of the Committee on the Rights of the Child in 2006, when the Committee noted the trafficking of children for both sexual exploitation and forced labour and also referred to cases of internal trafficking, particularly of tribal peoples.

Despite these various initiatives and the focus that trafficking has attracted in Thailand, the actual evidence of cases of trafficking remains minimal. According to statistics provided by the government for the US Department of State's Trafficking in Persons Report, there were only 504 trafficking-related arrests in 2002, 211 in 2003, 307 in 2004 and 352 in 2005. Prosecutions and convictions were even smaller, with only 42 trafficking-related prosecutions in 2002, 86 in 2003 and 66 in 2004. There were 21 trafficking-related convictions in 2002 and 20 in 2003. In 2004, there were 12 convictions of small operators for crimes associated with trafficking. In 2005, there were 74 convictions from cases filed in 2003 and 2004. Only one of 18 police officers dismissed in 2003 for complicity with traffickers was prosecuted, convicted and sentenced to ten years' imprisonment. In 2004, the US TIP Report stated that 11 other officers were under active investigation. Most sentences for trafficking cases were around three years' imprisonment. However, there were a few cases with sentences between ten and 50 years.¹ In early March 2005, a Cambodian woman was convicted in a Thai court for trafficking eight Cambodian girls to Thailand and Malaysia and sentenced to 85 years' imprisonment. Between July 2004 and March 2005, 137 Cambodian people found to be 'victims of human trafficking' in Thailand were deported or repatriated (MoSVY, 2005). During same period, the Thai government repatriated a total of 1,192 victims of trafficking to their countries of origin and a further 274 were awaiting repatriation. Another 614 persons were reported as being in assistance programmes, had escaped during the time awaiting repatriation, or had died (ILO, 2005).

The number of cases of labour exploitation of migrant workers being taken through the legal mechanisms has increased over the last three years. This is reflected, to some extent, although with a different focus, in the 2006 US TIP Report. The report focuses on Thailand's lack of protection for victims of forced or bonded labour, particularly for men in the construction, agriculture, and fishing industries. The report refers to this as "labour trafficking", making it a distinct category from women trafficked into sex work but possibly deflecting attention from the general poor working conditions of migrant workers and categorising labour exploitation as a transnational crime rather than what it is, a breach of labour rights with transnational elements.

THAILAND

While Thailand and the immediate region have initiated many interventions, policies, laws and MoUs regarding trafficking, there has been no equivalent progress in protecting the rights of trafficked persons. The basic tenet established by the first trafficking initiatives, that is to say that the trafficked person is to be considered a victim and not a criminal, has not been developed to establish that the trafficked victim is entitled to long-term rights and is to be considered a victim of neglect of her or his country of origin. While the MoUs have tried to protect the rights of the trafficked persons in the context of the implementation of the law, they have been bound by the law which gives priority to enforcing the law against trafficker and repatriating the victim. The case of the Thai welders is an example of a more comprehensive response to trafficking, with the offer of long-term stay and citizenship. In 2007, Australia too was granting new visas to victims of trafficking and an Australian immigration officer was scheduled to be stationed full time in Bangkok to deal exclusively with such matters (*The Nation*, 2007). If trafficked persons in Thailand were able to apply for long-term stay in Thailand, they might be much more willing to go through the legal processes to give evidence against traffickers and ensure their arrest. The issuing of permanent visas to victims of trafficking or bonded labour allows migrants opportunity to rebuild their lives, have a proper livelihood without fear of repercussions from loan sharks, and be reunited with their families. Many of the more recent initiatives in Thailand have tried to take a more comprehensive approach of not merely arresting the trafficker but also pursuing reparations through the labour and civil courts for the victims. At the same time, there is currently no equivalent to the action of the Trans Bay company, which took responsibility as one of the partners in the actions that led to the abuse of the workers.

The issue of where responsibility lies in cases of trafficking has yet to be addressed in Thailand, as it does in relation to responsibility for tolerating (and failing to stop) cases of exploitation. If the labour mechanisms continue to allow Thailand's labour laws to be ignored for migrant workers and if the judicial system continues to be lax on ensuring that exploited migrants can access justice in all types of abuse cases, then the laws on trafficking will remain impossible to enforce, as an environment of acceptance, of abuse and impunity for abusers will prevail. At present, the mechanisms and laws that deal with trafficking and migration or labour do not overlap; instead, these issues are dealt with separately. As this chapter shows, migration, all forms of labour (including sex work), and trafficking need to be addressed holistically and all responses must be designed and implemented with the participation of migrants themselves.

COLLATERAL DAMAGE

ENDNOTES

- ¹ Statement by H.E. Mr Sora-at Klingpratoom, Minister of Social Development and Human Security, Royal Thai Government at Coordinated Mekong Ministerial Initiative Against Trafficking: COMMIT, Yangon, Union of Myanmar, 29 October 2004. Available at www.no-trafficking/content/web/30commit_process/SOM2IMM/h_e_mr_soraat_statement.doc+%22Memorandums+of+Understanding%22+%2B+Thailand+%2B+Lao+PDR&hl=th&ct=clnk&cd=1&gl=th.
- ² Personal meeting between the author and Albina du Boisrouvray, Director of Association François-Xavier Bagnoud (AFXB) in Kengtung, Burma and later visit to the AFXB home in Rangoon, 1992.
- ³ According to FXB website, one of Albina du Boisrouvray's most pioneering activities, to date, was a rescue mission she led in 1992 for 95 young Burmese women involved in the Thai sex trade. The repatriation of the young women back to Yangon was followed by a comprehensive reintegration program. For more detail, see <http://www.fxb.org/country/Myanmar.html>.
- ⁴ Interview, Liz Cameron, Coordinator, EMPOWER, Chiang Mai, 11 November 2006.
- ⁵ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=5876.
- ⁶ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6102.
- ⁷ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6088.
- ⁸ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6141.
- ⁹ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6157.
- ¹⁰ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6064.
- ¹¹ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6124.
- ¹² See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6180 (accessed on 18 January 2007).
- ¹³ See UNIAP agency profile at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6150.
- ¹⁴ This section was written with the assistance of Elisabeth Lucas, intern with MAP Foundation, Chiang Mai.
- ¹⁵ Only one registration in 2004 allowed migrants to register independently of their employers. For more detail on all migrant registration policies, see *No Human Being is Illegal 1996–2006. No Migrant Worker is Illegal*, MAP Foundation, December 2006.
- ¹⁶ For English translations of the MoUs, see *Resource Book: Migration in the Greater Mekong Subregion (Second Edition)*, Mekong Migration Network and Asian Migrant Centre with the support of the Rockefeller Foundation, November 2005.
- ¹⁷ The Act was published in the Royal Gazette, volume 114, Chapter 72 A (Kor), dated 16 November 1997 and entered into force on 17 November 1997.

THAILAND

- ¹⁸ Other laws which impact on law enforcement in cases of trafficking include: *The Act on Prevention and Suppression of Money Laundering* (1999) and the *Witness Protection Act, BE 2546* (2003). In terms of impact on prevention, the July 2005 *Cabinet Resolution on Education of Non-Thai and Non-Documented Persons* allows for all children (except camp-based refugees) to attend Thai schools and education establishments and be documented for ten years.
- ¹⁹ For more detail on the individual MOUs see: *Thailand's Country Paper on "Policy Mainstreaming: The Labour and Employment Perspective in Taking Action against Human Trafficking"* 2005 at <http://www.ilo.org/public/english/region/asro/bangkok/child/trafficking/downloads/thaicountrypaper-eng.pdf>.
- ²⁰ For more detail see www.humantrafficking.org/updates/96 (accessed 10 April 2007).
- ²¹ For more detail see www.thaiembdc.org/socials/actionwc.html.
- ²² Source: Unpublished letter of reply from the Ministry of Labour to the Thai Labour Solidarity Committee January 2007.
- ²³ Sources: *No Human Being is Illegal 1996-2006. No Migrant Worker is Illegal*, MAP Foundation, December 2006; and *Trafficking News Monthly*, October 2004: Migrant Worker Developments in Thailand at <http://www.antislavery.org/homepage/traffic%20news/october2004.htm#4>.
- ²⁴ *Hundai* refers to a system whereby migrants deliver money to a broker who then makes a phone call to the destination and the money is paid to the recipient.
- ²⁵ Source: Interviews with agencies involved: GAATW, MAP Foundation, EMPOWER Chiang Mai.
- ²⁶ All identifying factors in this case study have been deleted in order to protect the identity of the girl involved. Sources: Interviews with the agencies involved.
- ²⁷ The Thai government operates 97 shelters throughout the country for abused women and children: six regional shelters exclusively for foreign victims of trafficking, and a central shelter outside Bangkok, with capacity for over 500 foreign victims of trafficking. In some areas, the shelters for trafficking are also used for migrant victims of rape, usually children, who would otherwise be at risk of further abuse.
- ²⁸ Sources: "Thai Workers Get Money, Visas in Los Angeles Human Trafficking Settlement", *International Herald Tribune*, 9 December 2006; *Los Angeles Times* articles, 8 December, 2006, accessed at http://migration.ucdavis.edu/mn/more.php?id=3260_0_3_0
<http://www.traffickinginpersons.org/Articles.html>
http://www.iht.com/articles/ap/2006/12/08/america/NA_GEN_US_Thailand_Slavery_Settlement.php
- ²⁹ For more detail on the US Department of State's Trafficking in Persons (TIP) Report see <http://www.state.gov>

BIBLIOGRAPHY

Reports and government documents

Asian Migrant Centre. *Migration Needs, Issues and Responses in the Greater Mekong Subregion – A Resource Book*. Hong Kong, 2002 (reprinted 2005). Accessed at www.rockmekong.org/pubs/publications_2002.htm.

Asian Research Center for Migration (ARCM). “Summary: Status and Indicators of Migrant Children in Especially Difficult Circumstances in Thailand.” *Migrant Children in Especially Difficult Circumstances in Thailand*, ARCM, Institute of Asian Studies, Chulalongkorn University, undated.

Bertile and Hseng Young Litner. “AIDS moves freely over the Thai-Burma border.” *Far Eastern Economic Review*, 20 February 1992.

Burma Issues Annual Report. “Part 5: The Burmese Prostitution Industry in Thailand.” *Burma Issues Annual Report*, 1992. Available at <http://burmalibrary.org/reg.burma/archives/199401/msg00049.html>.

Chantavanich, Supang. *Thai Migrant Workers in East and South East Asia: The Prospects of Thailand’s Migration Policy in the Light of the Regional Economic Recession: Returnees to Thailand*. Asian Research Centre for Migration (ARCM), Institute of Asian Studies, Chulalongkorn University, 2001, at <http://www.arcm.ias.chula.ac.th/English/modules.php?name=Content&pa=showpage&pid=59>.

Chantavanich, Supang; Germershausen, Andreas and Beesey, Allan (eds). *Thai Migrant Workers in East and Southeast Asia 1996–1997*. The Asian Research Center for Migration (ARCM), Institute of Asian Studies, Chulalongkorn University, Bangkok, 2000.

Human Rights Watch. “Chapter 4: Burmese Women and Girls Trafficked into Thailand.” In *Trafficking of Women and Girls into Forced Prostitution and Coerced Marriage, Global Report on Women’s Human Rights*. August 1995, at <http://www.hrw.org/about/projects/womrep/index.htm#TopOfPage>.

Human Rights Watch. *Thailand: Human Rights Developments*. Available at <http://www.hrw.org/reports/1994/WR94/Asia-11.htm>.

Human Rights Watch (Asia Watch and the Women’s Rights Watch Project). *A Modern Form of Slavery, Trafficking of Burmese Women and Girls into Brothels in Thailand*. New York, 1993, at www.hrw.org/reports/1993/thailand/.

International Labour Organization (ILO). *Thailand’s Country Paper on “Policy Mainstreaming: The Labour and Employment Perspective in Taking Action against Human Trafficking”*. 2005. Available at <http://www.ilo.org/public/english/region/asro/bangkok/child/trafficking/downloads/thaicountrypaper-eng.pdf>.

Laodumrongchai, Samarn. “Thai Migrant Workers in Taiwan.” *Thai Migrant Workers in East and Southeast Asia 1996–1997*. Supang Chantavanich, Andreas Germershausen and Allan Beesey (eds), 159–176. Asia Research Center for Migration (ACRM), Institute of Asian Studies, Chulalongkorn University, Bangkok, 2000.

MAP Foundation. *No Human Being is Illegal 1996–2006, No Migrant Worker is Illegal*. December 2006. Available at www.mapfoundationcm.org.

Mekong Migration Network and Asian Migrant Centre (AMC). *Resource Book. Migration in the Greater Mekong Subregion (Second Edition)*. November 2005. Available at www.rockmekong.org/pubs/Year2005/Migration_Mekong/coverpage%20and%20content.pdf (accessed 14 September 2007).

Ministry of Social Affairs, Veterans and Youth Rehabilitation (MoSVY). *The Return and Reintegration of victims of Trafficking from Thailand to Cambodia 1 July 2004–30 March 2005 and Repatriation from Cambodia to Vietnam of Vietnamese Victims of Trafficking from 15 May 1999–30 March 2005*. Compiled by MoSVY staff based at the Anti-trafficking and

THAILAND

Reintegration Office, supported by the Coordination and Documentation Project, IOM Mission in Cambodia, 2005. Available at <http://www.no-trafficking.org/content/pdf/mosvy%20reintegration%20and%20repatriation%20report.pdf>.

Royal Gazette. Volume 114, Chapter 72 A (Kor). 16 November 1997.

Sathirathai, Surakiart. Intervention by H.E. Dr. Surakiart Sathirathai (Minister of Foreign Affairs of Thailand) at the Fourth ASEM Foreign Ministers' Meeting, Item: 4.2. *The New International Security Situation*. Madrid, Spain, 7 June 2002. Available at <http://yuwathut.mfa.go.th/web/35.php?id=2056>.

United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). *Report of the Expert Group Meeting on Promotion and Implementation of the Convention on The Elimination of All Forms of Discrimination Against Women (CEDAW), Trafficking in Women and Violence Against Women, 3-5 October, 2005*. Bangkok, Thailand. Available at <http://www.unescap.org/esid/gad/Issues/Trafficking/EGM2005.asp>.

US Department of State. "Thailand." *Trafficking in Persons Reports*. Washington DC, 2002–2007.

Vungsiriphisal, Premjai; Auasalong, Siwaporn and Supang Chantivanich. *Migrant Children in Difficult Circumstances in Thailand*. Asian Research Centre for Migration (ARCM), Institute of Asian Studies, Chulalongkorn University (supported by UNICEF), 1998. Available at http://www.childsdream.org/en/documents/Chula_StudyMigrantChildrenworkinginThailand_000.pdf.

Wickramasekara, Piyasiri. *Rights of Migrant Workers in Asia: Any Light at the End of the Tunnel?* International Migration Papers 75, Social Protection Sector, International Migration Programme, International Labour Office. Geneva, 2004. Available at <http://www.ilo.org/public/english/protection/migrant/new/2004.htm>.

Newspaper and web articles

Corben, Ron. "Australia to combat people trafficking." *Australian Associated Press*, Bangkok, 17 November 1999.

Gulf Times. "Survivors of Thai death ships sue firm owner." 27 March 2007, at www.gulf-times.com/site/topics/article.asp?cu_no=2&item_no=140333&version=1&template_id=45&parent_id=25.

Migration News. "Southeast Asia." Vol. 14(1), January 2007, at http://migration.ucdavis.edu/mn/more.php?id=3260_0_3_0.

New Light of Myanmar. "Some Illegal Myanmar Workers in Thailand facing labour exploitation." 22 February 2007 at <http://myanmargeneva.org/NLM2007/eng/2Feb/n070222.pdf>.

Pollard, Jim. "Australia Tips in with Bt250m to Help with People Trafficking in ASEAN." *The Nation*, 18 December 2003, at www.nationmultimedia.com/search/page.arcview.php?clid=4&id=90696.

The Associated Press. "Thai workers get money, visas in LA human trafficking settlement." *International Herald Tribune*, 8 December 2006, at http://www.iht.com/articles/ap/2006/12/08/america/NA_GEN_US_Thailand_Slavery_Settlement.php.

The Nation. "Warm welcome for tourists doesn't extend to workers." Phuket, 1 May 2007, at www.nationmultimedia.com/2007/05/01/national/national_30033090.php.

The Nation. "Cyanide Jab Reports Halt Deporting of Burmese Girls." 2 April 1992.

Trafficking News Monthly. "Migrant Worker Developments in Thailand." October 2004 at <http://www.antislavery.org/homepage/traffic%20news/october2004.htm#4>.

See UNIAP agency profile (Agir Pour Les Femmes En Situation Precaire, Action for Women in Precarious Situations – AFESIP) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=5876.

See UNIAP agency profile (Anti-Trafficking Coordination Unit Northern Thailand, TRAFCORD) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6064.

COLLATERAL DAMAGE

See UNIAP agency profile (Thai Action Committee for Democracy in Burma) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6150.

UNIAP agency profile (Department of Social Development and Welfare DSDW) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6180 (accessed on 18 January 2007).

See UNIAP agency profile (EMPOWER, Chiang Mai) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6088.

See UNIAP agency profile (Nareesawat Welfare Protection and Vocational Training Centre for Women) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6124.

See UNIAP agency profile (Save the Children, UK) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6141.

See UNIAP agency profile (The Mirror Art Group Foundation, Chiang Rai) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6157.

See UNIAP agency profile (World Vision Foundation of Thailand) at http://www.no-trafficking.org/uniap_frontend/project_detail.aspx?AgencyProfileID=6102.

Watanabe, Teresa. "Trafficking case ends for 48 Thai welders. A firm settles claims of immigrants who arrived on work visas and were forced into near-slavery." *Los Angeles Times*, 8 December 2006, at www.latimes.com/news/local/la-me-thai8dec08.0.3354904.story?page=1&coll=la-home-local.

Yahoo! Asia News. "Child labourers toil in Thai seafood factories." *Reuters*, 26 April 2007, at asia.news.yahoo.com/070425/3/30vr5.html.

Other web sites

For information on the Mekong Migration Network, see www.asian-migrants.org.

For more information on Burma, see www.burmalibrary.org/, particularly *Trafficking and Forced Prostitution of Burmese Women in Thailand*. October, 1994 at www.burmalibrary.org/reg.burma/archives/199508/msg00007.html.

Ministry of Labour, Thailand website: www.eng.mol.go.th.

EMPOWER Foundation website: www.empowerfoundation.org.

Association François-Xavier Bagnoud (AFXB), Myanmar website: www.fxb.org/country/Myanmar.html.

Human trafficking.org website: www.humantrafficking.org/updates/96.

United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-Region (UNIAP) website at www.no-trafficking.org.

For more detail on the US Department of State's Trafficking in Persons (TIP) Report see <http://www.state.gov>.

For information on Thailand's actions for prevention of trafficking in women and children see www.thaiembdc.org/socials/actionwc.html.

Asian Human Rights Commission, Thailand website: <http://thailand.ahrchk.net/>.

The Body: The Complete HIV/AIDS Resource website at www.thebody.org/content/art32999.html.

Articles on "News Related to Human Trafficking" at www.traffickinginpersons.org/Articles.html.