

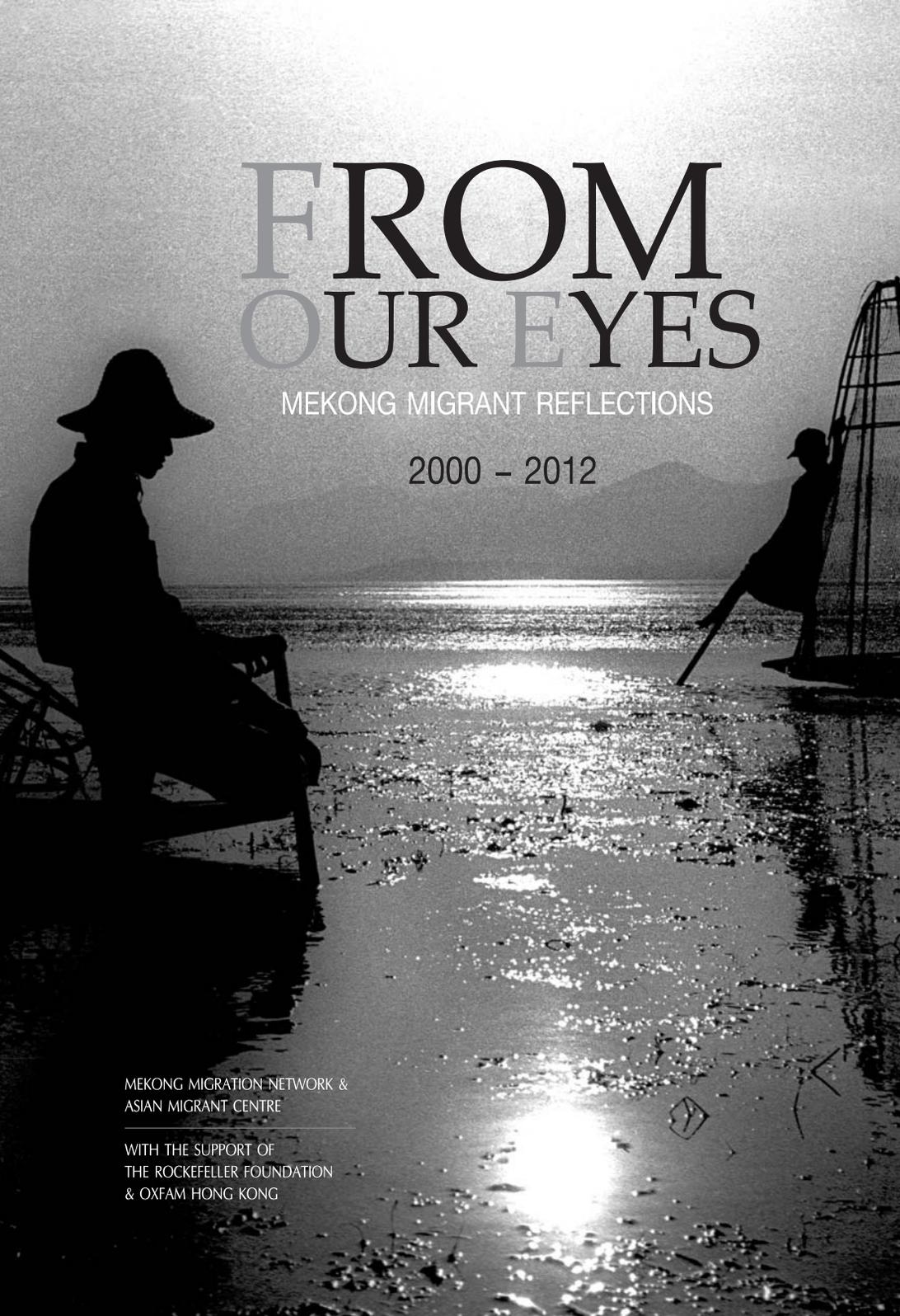
FROM OUR EYES

MEKONG MIGRANT REFLECTIONS

2000 – 2012

MEKONG MIGRATION NETWORK &
ASIAN MIGRANT CENTRE

WITH THE SUPPORT OF
THE ROCKEFELLER FOUNDATION
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From Our Eyes: Mekong Migrant Reflections 2000-2012

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Mekong Migration Network and Asian Migrant Centre
P.O. Box 195, Chiangmai University, Chiang Mai 50202, Thailand
Phone/fax: (66) 53 283 259
Email: info@mekongmigration.org
Web: www.mekongmigration.org
www.asian-migrants.org

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Wichai Leesawatwong

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PREFACE



We are migrants from the Mekong neighbourhood, working and living to support ourselves and our families, with the dream of getting some savings together in order to have some security for the future. We have rarely been asked about our views. We have often been asked for our stories. Others have often interpreted our stories and not always in a way we understand.

We decided to try our hand at expressing our own views on the migration policies, theories, and stories, of which we make up the largest piece of the jigsaw. We decided to tell our stories in relation to the changes in policies and laws and attitudes over the last decade. We decided to tell our stories ourselves, so that maybe you, the reader, can get a real sense of what it means to be a migrant; what it means to be offered or refused health care; what it means to have your child accepted or denied education.

Even though we are migrants, we don't always know much about what is happening in government or policy meetings-about the decisions made regarding us. We try to keep up with the news through listening to radio; and gathering and spreading any information that reaches our community. Often we do not know that what is happening to us is because some new legal initiative has been taken in the upper levels of parliament or even in meetings in far away places such as Geneva.

Therefore in this book, our book, "From Our Eyes," we share fifteen of our stories. We have also included information about laws and policies, which were and are impacting on our lives, sometimes with our knowledge and sometimes without.

Over the past 12 years, millions of people have moved around the Mekong region- looking for work, looking for refuge and safety, looking for somewhere they can fulfil their dreams. We are only fifteen of those people. We hope that our stories do include some of the important views of our sisters and brothers who have migrated. We hope that within these fifteen stories there are common threads, which the reader will understand are common to many, many more of the workers they encounter but do not see or hear. We hope that through our stories the reader will hear that:

- If we could find work and access livelihoods to survive and support our families, most of us would prefer to stay in our home countries.

- We need to be able to move more freely. We do not understand why we have to pay so much to be allowed to travel, to get a passport, and to get a work permit, for security. We see other people—tourists, business people, researchers, and students—all moving without having to pay these costs.
- We want to be able to be responsible members of society. We need to be treated equally and with respect. We face too many obstacles in just living life and taking care of our families. Our children have not always been welcomed into schools, we have not always been able to access health care, and we are often poorly treated at work.
- The Mekong region has multiple languages. We all face difficulties with communication and understanding. We ask for greater acknowledgement of these different languages.
- We do all that we can to follow rules and regulations. We would prefer to be called legal and be paid legal wages and work in legal conditions. But for some of us, there are so many barriers that we have to stay unregulated in order to survive.

We really hope that *From Our Eyes* will let people know that migrants do have opinions and can be invited to share them. We hope that future plans for the development of the region will include the ideas of many more migrants and that Mekong policies will truly be ‘from our eyes’.

Migrant Workers of the Greater Mekong Subregion
August 2012

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We would sincerely like to thank all of the migrants who contributed their valuable time and expertise in reflecting on their experiences over the last 10 years. This book would not have been possible without them.

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- Jackie Pollock and the team from MAP Foundation for providing an NGO reflection and interviewing migrants;
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- Jamey Silveira for producing the map; and
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To those not named above who contributed time, expertise and insight to this project, we give our sincere gratitude. Finally, we would like to thank the Rockefeller Foundation and Oxfam Hong Kong for supporting this publication, and for recognising the importance of the individual stories of migrants.

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INTRODUCTION



We, migrants, have made very significant contributions to the social and economic development of the Greater Mekong Subregion (GMS) over the past ten years, however our positive impact is often overlooked, and our stories are not often heard. Most existing analysis on issues and policies in the field of migration is undertaken by so-called ‘experts’ or researchers. When we are interviewed, our voices are generally considered testimony, and our experiences are summarised into statistics. There is a general lack of recognition that many of us are indeed experts ourselves and are capable of analysing issues that relate to our lives. This book was produced with the hope of making migrants’ analysis of the impact of policy and other changes on their lives become recognised and more publically available.

The countries of the Mekong include some of the poorest and most recently developing countries of the ASEAN. Regional integration is being presented on the one hand as an opportunity to attract skilled labour and increase foreign investment, and on the other hand as a threat to the current migration patterns and labour standards. It is important to ensure that ASEAN countries do not sacrifice workers’ rights for the sake of greed or profit; and to ensure protection of all workers in the region including migrant workers.

There is little to no genuine process at national and regional levels enabling people who are affected by policies to participate in policy debates. Migrants have not been given a chance to take part in any discussions regarding the response of ASEAN states to migration. This is contrary to the spirit of democracy and accountability, and the belief that ASEAN states should ultimately be accountable to us, the ASEAN people. Policy makers are missing out on important opportunities to learn from a resourceful group of people-people who could provide analysis on why some policies are working ineffectively or even contrary to their policy objectives. Creating open policy consultation processes at the regional level is needed as states become increasingly interconnected in the lead up to the integration of the ASEAN Economic Community in 2015.

The idea for this book was born on 31 August 2010, in Chiang Mai, at the workshop on ‘Migration Trends and Responses in the Greater Mekong Subregion (GMS) and Beyond’, co-organised by MMN, MAP Foundation and the Asian Migrant Centre. At the workshop, two migrant worker leaders presented on the impacts of policy changes on migrant lives. Their reflections were insightful and informative, and highlighted the largely untapped value of migrant contributions to policy making. Inspired by the presentations of the migrant leaders, MMN, in

cooperation with members of the migrant community, decided to conduct a project entitled 'From Our Eyes: Migrant Reflection', to record further analyses and perspectives of migrants on changes over the past decade.

In October 2010, MMN organised a project consultation meeting in Bangkok, where project partners collectively developed an implementation methodology. Project partners assisted in contacting migrants who had lived as migrant workers for at least 10 years, who were willing to share their stories and reflections, and contribute in producing and promoting this book.

Key issues arising from the last decade were identified for discussion, and included:

- Regularisation and Registration: for example the 2004 opening up of registration for migrants present in Thailand, allowing migrants to register independently from their employers;
- Identity documents such as the work permit and the migrant workers card;
- Memoranda of Understanding (MOUs) on Employment Cooperation and subsequent policies, including those relating to nationality verification, certificate of identification (CI), temporary passports, regularisation of migrants, recruitment agencies, newly established formal recruitment procedures, and consular services;
- Anti-trafficking laws and policies;
- Restrictive policies relating to national security, crackdowns, arrest, detention, deportation, provincial decrees, and village militia policies;
- Labour exportation policies, for example those policies in Cambodia and Vietnam that promote outward labour migration;
- Labour protection and labour rights: for example when the Thai Ministry of Labour publicly announced in 2003 that 'all people who are recognised as workers are protected by labour laws.';
- Access to healthcare: including the health insurance scheme for work permit holders that commenced in 2000; and the availability of antiretroviral medication;

- Access to justice;
- Education for migrants and migrant children: for example the ‘Education for All’ policy approved by the Thai Cabinet in 2006; and the 2008/9 free education policy;
- Statelessness and status, and issues relating to citizen and nationality laws, marriage registration, and birth certificates;
- Regional and international instruments: including the ASEAN Declaration on Promotion and Protection of the Rights of Migrant Workers; and the ILO Convention on Domestic Workers;
- Natural disasters (such as the 2004 tsunami) and environmental issues;
- Technology and communication: for example access to and use of telephones and the Internet; and
- Stigma and discrimination.

From the end of 2010, to April 2011, in-depth analysis-through interviews and discussions-was provided by migrant contributors, covering topics including: personal background; high and low points in past decade; education and vocational training; health insurance and medical check-ups; pre-departure processes; access to government support; personal identification documentation and travel documentation; rights in the workplace; safety at work and training; rights in society (movement, cultural, property, housing, freedom of speech); access to justice; trafficking and smuggling; arrest, detention and deportation; extortion; social exclusion and prejudice; process of return to home country; major improvements or deterioration; worries and desires; and recommendations.

Migrant reflections were then summarised into the narrative formats in this book. Through the rich and varied experiences found herein, perceptions of policy and other changes are described from the ground level, and recommendations are made for reform. This book contains the following key sections:

- **Background on migration policy in Thailand:** A brief overview of the legal and political backdrop to migration policy in Thailand over the last decade.
- **Migrant reflections:** Personal insight from 15 migrants on their experiences over the last ten years, and their suggestions regarding policy reforms and

implementation. Migrant experiences covered include those of a garment factory worker, construction workers, agricultural workers, sex workers, fishery workers, mining workers, domestic workers, a child labourer and a beggar. Several contributors were returnees to Cambodia who used to work in Thailand or Malaysia. We note that in order to protect the privacy of the individuals, some personal details including names have been changed.

- **NGO reflections:** Commentary from the following five non-government organisations (NGOs) outlining the way in which policy changes have affected their work with migrants: MAP Foundation, Empower Foundation, Legal Support for Children and Women (LSCW), the Foundation for Education and Development (FED) and the Foundation for AIDS Rights (FAR).
- **Did you know:** Dispersed throughout the text, the policy boxes are intended to contextualise the migrant reflections and provide additional information regarding the domestic and international laws and conventions relating to migration, labour, and human rights.

We hope that the reflections in this book create a better understanding of the ways in which migrants experience policy and other changes in the GMS, and highlight the valuable contributions that migrants have made, and continue to make, in the region.

Mekong Migration Network
Asian Migrant Centre
August 2012

BACKGROUND ON MIGRATION POLICY IN THAILAND



Legal framework

The 2007 Constitution of the Kingdom of Thailand explicitly states under Section 4 that, 'the human dignity, right, liberty and equality of the people shall be protected.' Furthermore, Section 30 states that: 'All persons are equal before the law and shall enjoy equal protection under the law.' Part 11 of the 2007 Constitution guarantees freedom of association, the right to form and join a trade union of one's choosing, as well as the right of unions to operate freely and carry out their activities without undue interference.

The Ministry of Labour has asserted that all workers are entitled to equal protection under national labor laws, including the Labour Protection Act 1998 (LPA) and the Labour Relations Act 1975 (LRA). However, according to the LRA union officials must be Thai-born nationals, thus barring migrants from forming new unions or becoming officials in existing ones. Additionally, migrants, particularly migrant women, often work in jobs that are not traditionally unionised, such as domestic work, sex work, construction work and agricultural work. Further, these occupations are often not protected by labour laws, which leaves migrant workers without any form of collective bargaining power. The exclusion of migrant workers from society has been magnified by their exclusion from unionisation.

Many constraints still exist inhibiting migrant workers from joining Thai unions, particularly since only four percent of the Thai workforce in its entirety is unionised. Union coverage is very limited and often practically non-existent in the areas where most of the workers are migrants. Moreover, there are multiple logistical barriers impeding migrants from joining unions, including travel restrictions, language barriers, lack of time off to attend union meetings, and below legal minimum wages, rendering the payment of union fees a burden for migrants. Some Thai unions who are supportive of migrant membership and understand the constraints have encouraged migrants to form their own associations that can then affiliate themselves with the unions.

Migration policies in Thailand

The migrant registration policy in Thailand has been drafted through a series of cabinet resolutions that reflect the differing stance of whichever administration was in power at the time. In 1996, the Thai government implemented a program allowing employers to apply for quotas of migrant workers (from Burma, Cambodia

and Lao PDR). 2004 saw the most open registration policies through which migrants were able to register for a one year temporary ID card (Tor Ror 38/1), free and independent of an employer. Almost 1.3 million migrants registered under this policy. Migrants holding a Tor Ror 38/1 were allowed to apply for a renewable one-year work permit. In addition, dependents of registered migrant workers were also allowed to extend their temporary stay in Thailand. These documents did indeed provide migrants with confidence and protection of certain rights. However, the status of the migrant workers with such temporary ID cards and work permits was considered only semi legal and classified as “illegal entry and work while awaiting deportation”. Documented migrants are not allowed to freely change employers.¹ Every year since the program’s inception, the Thai government has announced before and after each registration period that the authorities will move to strictly enforce the entry and deportation of unregistered migrants.

Moreover, migrants are restricted to employment in so called ‘low or unskilled manual work’, such as agriculture, animal husbandry, construction, fisheries and seafood processing, certain types of factory work, domestic work, basic services and general labour. Sex workers and migrant health assistants (who provide translation services) are not allowed to register for work permits.

After registration, migrants are not authorised to work in different sectors from those in which they were originally registered and employed. If an employer allows a change, migrants with an annual registration must file with the Department of Employment Services and find a new employer within seven days, while those under a Memorandum of Understanding (MOU) are given only three days. If a migrant does not register the change of employer or does so without the employer’s permission, they give up their registration status and become ‘illegal’ migrants in the eyes of policy makers.

MOUs: Verifying nationality

Thailand signed bi-lateral MOUs with Lao PDR in 2002, and with Cambodia and Myanmar/Burma in 2003, on ‘Cooperation in the Employment of Workers’, which aimed to regularise cross-border migrant workers in Thailand. The terms of the MOU reaffirmed that the rights of migrant workers who enter the country under the MOU included the right to enjoy protection in accordance with domestic law in Thailand, and the right to receive the same wages and other benefits as local workers, based on the principle of non-discrimination.

As a way to implement the MOUs, two processes were initiated. One was a nationality verification (NV) scheme for migrant workers who were already working in Thailand, and the other was fresh recruitment of workers from Lao PDR, Cambodia and Burma through newly established recruitment agencies. The purpose of the NV scheme was to change migrant workers' status from 'illegal entry and work while awaiting deportation' to 'legal entry' into Thailand. All migrants who registered for a work permit had to enter the NV process. They would then be able to enter Thailand legally and apply legitimately for a work permit.

Under Cabinet Resolution of 18 December 2007, migrants who entered Thailand without documents, had to successfully complete the NV process by 28 February 2010. If migrants failed to do so, they would face deportation by Thai authorities. NV for Cambodians and Laotians started in 2006, while for Burmese/Myanmar nationals it started in 2009. Reflecting the lengthy process necessary to carry out the NV, the Thai government has extended the deadline to complete the NV several times. Recently in June 2012, Thailand extended the deadline to 14 December 2012.

All migrant workers have to apply for NV during the validation of their work permit. The migrants who have their nationalities verified receive the Temporary Passport or Certificate of Identification and are allowed to stay in Thailand for two years. Migrants who successfully receive a passport under this scheme must apply for a visa and work permit, both valid for two years, and renewable for a further two years. After a period of four years working in Thailand, the migrants must go home and are not allowed to return for a further three years.

Endnotes:

- ¹ Permission is automatic only under extreme conditions such as the closing of the business, the death of the employer, or rights-abuses by the employer.

ACRONYMS

ADHOC	Cambodian Human Rights and Development Association
ASEAN	Association of Southeast Asian Nations
CBO	Community Based Organisation
CMHI	Compulsory Migrant Health Insurance
CRC	Convention on the Rights of the Child
CWCC	Cambodian Women's Crisis Centre
FAR	Foundation for AIDS Rights
FED	Foundation for Education and Development
ILO	International Labour Organization
LPA	Labour Protection Act
LSCW	Legal Support for Children and Women
MOU	Memorandum of Understanding
NGO	Non Governmental Organisation
NV	Nationality Verification
SSS	Social Security Scheme
UN	United Nations

Map of key locations



“We are aware that we are not receiving the rights and benefits that we are entitled to, but we know that we cannot bargain for rights on our own, it requires collective action.”



Burmese workers in a garment factory
Photo courtesy of MAP Foundation

Migrant Reflection: Ma Soe

Garment factory worker from Burma

Interviewed in Mae Sot, Thailand, by MAP Foundation

My name is Ma Soe, I am a thirty two year old married woman living in Thailand. I originally come from a place called Bago in Burma but left to look for work across the border back in 2000. I came here after seeing many people from villages near my home leave for work in Thailand. I left school in the eighth grade, at the age of 13 years old, and spent several years making a living by selling tobacco. Hearing stories of the work people had found in Thailand and the money they were sending home, I gave up my job selling tobacco and followed my neighbours across the border, to find work in Thailand.

I have a friend who works in Mae Sot, in a garment factory there, and she was the person who helped me to find work in Thailand. She came with me from my home in Bago to Myawaddi, on the Thai/Burma border, and, once we crossed the border, her employer brought us to Mae Sot and gave me a job at a garment factory. It was my first time working in a garment factory and I learnt to sew on the job with help from co-workers, supervisors and the manager. I worked as a daily wage worker earning 2,000 baht a month. I would like to have attended some professional tailor training to help improve my sewing but there was never enough free time. A year later I moved to another garment factory. I worked there for two more years until I moved to the factory where I currently work. I earn 4,000 to 5,000 baht a month

here, after deductions for food and accommodation. Then I have to pay for electricity and water and also send money back to my parents in Bago. I used to send between 50,000 and 70,000 kyat to my parents but, even though I earn more now than I did

“Usually the authorities give all the original work documents to the employer to pass on to the workers, but often employers hold on to the documents leaving the workers in a dangerous position without them.”

before, because of the exchange rate I can only afford to send 40,000 to 50,000 kyat back home. I never use bank services. I receive the wages directly from the employer and I send the money back home so I do not need to put the wages in a bank account.

I used to have a work permit, until 2005. My last employer would arrange worker registration for the employees and paid half the cost. It cost 3,800 baht for the worker registration and the health card but it was worth the cost, as it gave me security. I used to feel safe and secure with my work permit, I could speak freely and go around without fear. I could even complain to the authorities if my employer fired me. My current employer doesn't organise worker registration and my work permit has expired. I can't re-register myself, as my employer must be present at the process. Now I don't have the security the permit provided and live in fear of my employer firing me or the authorities deporting me.

Usually the authorities give all the original work documents to the employer to pass on to the workers, but often employers hold on to the documents leaving the workers in a dangerous position without them. In my case I keep hold of my documents and always have them with me, but that's not the case with many migrant workers. Many of the workers at my factory don't have work permits or health cards and the employer keeps hold of their documents. The employer divides the workers between old employees and new employees, giving the new employees lower wages even though they have the same skills as everyone else. Those that do have lower skills are also paid less and the employer has tried to divide the workforce in to the two groups of skilled and unskilled, but the supervisor assigns the work at random so those who earn less do the same work as those that earn more.

A worker's income in garment factories is not fixed, it depends on their skills and abilities but also on the availability of garment orders. The more hours that a worker can do the more money they will earn. The normal working day is from 8am to 5pm but with overtime I work all the way up to midnight or 1am. Sometimes we have to stop working for one or two days because of gaps in garment orders. Not all of the workers get regular work, I am lucky I do get regular work-but not everyone does. Some of my co-workers were dismissed from the factory because of a low volume of garment orders.

We are aware that we are not receiving the rights and benefits that we are entitled to, but we know that we cannot bargain for rights on our own, it requires collective action. As I said, many of the workers don't have work permits and without them the workers are too scared to bargain with the employer, yet without work permits they are exploited and lose more of their rights. At one time the workers in my factory did organise themselves and asked the employer to get them work permits. Worker unity like this is rare, most of the time workers don't stand together, but they need to. Migrant workers should collaborate with NGOs to improve their welfare, they need to discuss issues with NGOs and find out what they should do. I never used to engage with workers' unions or associations but in 2002 and 2003 I represented the workers, at the factory I was working in at the time, in negotiating for reduced hours, permission to seek medical treatment outside, and the fulfilment of individual worker needs. I succeeded in those negotiations because all the workers supported me, we stood together, but also the manager was a good person in this case, who knew me very well.

I met a man in one of the factories I worked in. He was the factory supervisor and we got married about a year and a half after I arrived in Thailand. I went back to Burma in 2002 to register the marriage. I have been back to my home in Bago before, to visit my parents, but I couldn't make it to see them this time because of the poor road conditions. Besides, it's dangerous to pass through the mountains because of the fighting and the police checkpoints. We don't have any children, my husband and I. We have tried twice but lost the child both times. The first child died because of an inherited liver disease. The second birth was twins; we lost them both because of delivery delay. I can't have children anymore because of the c-section delivery, after which I was sterilised. Now we've contacted the Mae Tao clinic and are hoping to adopt. My dream though is to go to Bangkok and start my own business. I think I will be able to save a lot of money if I can do this and also there is less chance of being arrested by Thai police in Bangkok, the police arrest migrant workers all the time in the north, it's safer in Bangkok.

The first time I had a medical check-up since coming to Thailand was in 2003. That was when I found I had hepatitis B. I was kept in hospital for a week for treatment. At the time I had a health card and I paid only 30 baht with no extra costs and I was treated really well by the doctors and nurses. I took medical leave from work for one month without pay and I received no benefits during that month except food and accommodation provided by the factory. The second time I had a medical check-up was in 2004 to test again for hepatitis B and other diseases, that was when I was pregnant, they found no infection this time.

I had neither a health card with my work permit until it expired in 2005, since then I have had health card nor a work permit as I have been unable to re-register. It was really helpful to have a health card when I got sick as I could afford to pay for the consultation, treatment and medicines, only 30 baht. Now I usually go to a private clinic when I am sick and pay between 100 and 150 baht for treatment. I have never been to the private clinic for any major treatment, we always go to the state hospital in emergencies or for any major health issues. My employer never arranges transport to take people to the hospitals, and so we have to make our own way there. The state hospital provides treatment regardless of having a health card and allows us to pay an affordable amount for treatment and medical expenses.

My old employer used to arrange everything in case of an injury or death at work but not where I work now, no arrangements are made at this factory to look after the workers.

In my factory the individual working spaces are not wide enough to move freely. The doors are always closed to prevent an unexpected investigation. There is no occupational safety training in the factory and no safety equipment is provided. Workers are made responsible for their own safety.

I live in the workers' quarters at the factory with many of my co-workers. It is comfortable. The employer provides a TV and a fan for everyone to share, however it's not very clean with everyone living together like that and the employer has to instruct the workers to keep the quarters clean. I used to rent a room outside the factory for 1,500 baht per month, but there is not much difference between living in a room outside or in the workers' quarters really.

I have never used the Internet. I always use the telephone to speak with my parents and brother and sister and also to speak with my friends in Burma and Bangkok. I think communication is important and means of communication are useful in improving the welfare of migrant workers. For example by using the telephone I can get advice from friends and co-workers and I can also contact organisations for advice.

I don't go out very often because I am afraid of being arrested. Most of the workers, like me, don't have a work permit and feel very insecure that they might be arrested at any time while going outside, or even while working at the factory. Normally the employer is warned of a police investigation at the factory in advance; however, very recently the police entered the factory unexpectedly and seized the migrant workers while they were working. This has happened at many

other factories too, not just mine. If I have the worker ID card or temporary passport, I can go around freely.

I am entitled to one day off per month but, as I said, I don't go out much for fear of being arrested. In the past the police have been flexible and I could negotiate travelling from one place to another, today they arrest migrant workers when they find them outside of their working area. When migrant workers are arrested the employer must give a guarantee to the police before they release them, otherwise migrant workers are not released. This is one reason I don't go out very often, I worry that my employer will not provide a guarantee for my release if I am arrested.

I don't have a temporary passport but I have applied for one. I don't think there will be any significant changes by having a temporary passport in terms of increased salary or more benefits. For me a temporary passport means that I can run my own business and therefore I can earn more money. Temporary passports and work permits make life for migrant workers more safe and secure, this I do know but I don't understand the policies and regulations involved in this very well. I have never been to employment agencies, social welfare office or immigration for any information about these things, but I have been to the police station and the labour protection office once. That was three or four years ago, I went because of a dispute between immigration officers and workers from the Chit Tun garment factory. That time the workers were supported by the Yaung Chi Oo Workers Association and they received about 3,000 baht each in compensation.

I have never been involved in any criminal cases such as rape or burglary and I have never been accused of anything by my co-workers. If I ever encounter any of these issues then I will request an NGO to help me. I have never been deported but I have been arrested by the police once, when I was out shopping. They held me for 5 days until my employer provided a guarantee for my release.

I haven't noticed much change over the last ten years. In Mae Sot the old buildings and narrow streets have been replaced with new buildings and wider streets. There are many attractive buildings, bridges and roads. As there are lots of people from Burma living and working in Mae Sot we try to celebrate all our religious ceremonies, especially the New Year and Waso festivals. My previous employer always allowed us to celebrate the religious ceremonies but my current employer doesn't.

I think there are many more job opportunities for migrants workers now than ten years ago, many new factories have opened. I think migrant workers can work in higher positions with higher wages than before. This is because of the changing conditions such as temporary passports, better relations between the two governments, and more factories opening. The temporary passport means workers can travel more freely and migrants are even getting jobs as supervisors and contractors. Many people from Burma are working as supervisors, managers and office staff now.

“One of the biggest changes in the last ten years was that in the past I was afraid to speak openly, I am not afraid anymore. I think this is because of changing conditions like having the temporary passport but also there being more factories to work in and more NGOs to turn to for support.”

I’m not sure about government policies to provide assistance to migrant workers. There are some improvements in the relations between Burma and Thai governments and I have heard that the Thai government issues visas for migrant workers now, which means they can travel the whole country and receive full payment because of the visa. One of the biggest changes in the last ten years was that in the past I was afraid to speak openly, I am not afraid anymore. I think this is because of changing conditions like having the temporary passport but also there being more factories to work in and more NGOs to turn to for support. Also I can speak Thai now so it’s much easier for me to get around.

I have decided to stay in Thailand. I don’t want to go back to Burma anymore. It’s more comfortable to stay in Thailand as there is a regular water supply and regular electricity. It’s not like that in Burma. I think most migrant workers will have the same idea, and there is also their children’s education to consider. They will have a much better education in Thailand. So I have decided to stay in Thailand for as long as I can. I will only go back to Burma when I cannot stay in Thailand anymore.

Did you know...

Minimum wages and overtime

Migrant factory workers are entitled to receive the minimum wage, as are Thai nationals. The Thai government announced after the election in 2011 that it expects to raise the daily minimum wage for workers nationwide to 300 baht (US\$10) as early as January 2012. However, in the wake of the devastating flooding in 2011, the Thai government announced that it would postpone this pay raise until April 2012. According to the law, the minimum wage increase must also apply to migrant workers.

On 1 April 2012 the government's 300 baht daily minimum wage policy took effect in seven provinces—Bangkok, Nonthaburi, Samut Prakan, Samut Sakhon, Nakhon Pathom, Pathum Thani and Phuket. In other provinces, wages rose by 40% but were still lower than 300 baht a day. In Chiang Mai the minimum wage is 251 baht per day, in Tak (Mae Sot) it is 226 baht per day, and in Songkha it is 246 baht per day.

Additionally, the Ministerial Regulation B.E. 2541 states that overtime should not surpass a total of 36 hours per week and Section 61 of the Labour Protection Act B.E. 2541 states that the employer shall pay overtime at the rate of not less than one and a half times the rate of the hourly basic pay earned during normal working hours for the hours of overtime, or not less than one and a half times the rate for each unit of output on a working day for employees who receive basic pay based upon output.

NGO Reflection: MAP Foundation Right to Collectively Bargain

Workers in the Mekong face many obstacles when trying to exercise their labour rights, particularly their right to collectively bargain. The transition from agricultural to industrialised economies in the region has led to the displacement of many people who are moving to take up jobs in transient industries. Legal frameworks to protect the rights of workers have not kept pace with the new forms of employment nor with migration trends, leaving the vast majority of migrant workers in the region with little protection where they exercise their right to collectively bargain.

Thailand, which industrialised ahead of its neighbours, has provided ample work opportunities for migrants from neighbouring countries. The right to form unions is found in several pieces of Thai legislation, including the Labour Relations Act (1975), the Social Security Act (1990), the Workmen's Compensation Act (1994), and the 1997 Constitution (commonly referred to as the People's Constitution). Additionally, in 1998 the Labour Protection Act ("the Act") was passed establishing a set of working condition standards for the country. It was also around this time that Thailand began to set up systems of registration for temporary work permits for workers coming from Myanmar/Burma, Cambodia and Lao PDR without documents.

Initially, migrant workers were entitled to protection under Thai labour laws, since the laws defined workers by their labour and not by their immigration status. However, Ministerial Regulation No 9 under the Act (issued 14 September 1998)¹ excluded domestic workers and agricultural workers from protection, and Ministerial Regulation No 10 (issued 14 September 1998) limited the protections offered to fishermen. Workers in the informal sector are also excluded due to their particular relationship with their employers. The end result is that over half of migrant workers in Thailand are excluded in one way or another from protection under existing labour laws.

Despite the lack of formal protection, several workers' movements have attempted collective action. In the 1990s migrants producing knitwear and other garments for export to East Asia, Europe and the US in the factories of Mae Sot organised spontaneous strikes and walk outs-when conditions became unbearable. These actions resulted in migrants being immediately dismissed, deported and sometimes beaten or threatened. The Young Chi Oo Workers Association stood by the migrants embroiled in these situations but feared for the safety and livelihood of the workers in the event that nothing more sustainable could be achieved. The MAP Foundation then joined forces with Young Chi Oo and began a series of workers education activities to inform and empower the workers.

Although migrant workers in Thailand are not able to form labour unions², under section 13 of the Labour Relations Act (1975), they are able to access a channel for non-union workers to engage in collective bargaining. Section 13 allows for employees to collectively negotiate a working condition agreement, if the represented group is no less than 15% of relevant employees. Section 13 is in some cases used by employers to weaken the power of unions, for example, where 15% of non-union members are secretly supported by

management to make a competitive collective agreement, which may weaken the demands made by the union. However in Mae Sot migrants were able to take advantage of this provision without any detrimental effects on unions.

In 2002, Burmese workers from the Nut Knitting Factory, took the unprecedented step of engaging in this form of collective bargaining. They were ridiculed and harassed, threatened and abused. However they stood firm, with support from Yaung Chi Oo and MAP, winning their case to be reimbursed at minimum wage for the work they had done over the previous 24 months. Two years later, 18 workers received compensation of US\$29,250 in court. Although they only received about half the amount they were due, it was still considered a groundbreaking case.

For the first time, employers and government officials had to recognise that migrants were truly entitled to bargain collectively, and could pursue legal action for breaches of their rights. This was the first time that the Thai Labour Court heard a case involving the collective labour rights of migrant workers with semi-legal status in Thailand (registered migrant workers become undocumented after unfair dismissal). Migrant workers were amazed to know that this was possible. Other Community Based Organisations (CBOs) and NGOs realised that they too could support migrant workers to exercise their legal rights.

Since the Nut Knitting case, thousands of migrants have entered into collective bargaining or individual negotiations, taking complaints to the Labour Protection and Welfare Department or to the Labour Courts, and a few have been supported to take cases of discrimination to international bodies. The migrants proved themselves to be true unionists, even without unions, and the Thai labour movement began to sit up and take notice. The Thai Labour Solidarity Committee formed a sub-committee on migrant workers to develop joint advocacy strategies. The State Enterprise Workers Confederation (SERC) petitioned at the international level on behalf of migrant workers, and individual unions offered to sign migrants up or to work together at the local level.

The history of workers' struggles is however, rarely smooth, and this was certainly the case for migrant workers in Thailand. No sooner did workers better exercise their rights than employers banded together to devise ways to limit their success. Factories moved overnight, employers declared bankruptcy and whole workforces were sacked at the first sign of discontent.

Workers were frustrated in their efforts to bring changes that impacted on larger numbers of workers. They were promised better conditions and the ability to better exercise their rights if they changed their status from undocumented to documented. Over the past ten years, nearly two million migrants have followed the rules and have registered during successive registration periods, gaining first the migrant workers' card and more recently the temporary passport. These are documents that require time, money and effort to acquire legally and correctly. So far, the newly acquired documents have not given migrants the right to form unions nor have they provided protection for migrants exercising collective bargaining to address dismissals or reprisals from employers.

Case Study:

Collective struggle for work rights in Khon Kaen-Dechaphalich fishing net factory

On 8 September 2010, almost 1,000 migrant Burmese workers at the Dechaphalich Fishing Net Factory in Khon Kaen, went on strike. The 948 workers had entered Thailand legally under a bilateral MOU agreement between Thailand and Burma, and had endured bonded labour working conditions at the factory for nine months.

When six workers were fired for taking more than three days leave a month, they requested the return of their personal documents, and found that their passports and Overseas Worker ID cards, issued by the Burmese Government, had been tampered with, and the word 'cancelled' had been written next to their work visas. The plight of the six workers, and their imminent deportation, served as a catalyst for the strike. The workers mobilised in support of their colleagues, and to negotiate resolutions to other long-term grievances.

The workers' major demands called for:

1. the visas of the six workers to be re-instated, and their Overseas Worker ID cards to be verified;
2. all workers to have possession of their personal documents, as required by Thai law; and
3. an immediate end to the system of bonded labour, including proper payment of minimum wage and overtime in compliance with Thai law.³

Despite the fact that the workers were simply asking that their employer comply with Thai law, there was little cooperation from the factory for several days. Other factory workers were employed as security guards to control the protesting workers, and were reportedly armed with knives and guns, and responsible for beatings of their co-workers.⁴

At the time, MAP Foundation expressed concern for the safety of the workers, and stated that, 'the regularisation of migrants through the issuing of passports and visas should provide protection to workers, but it appears to be used as a method of control and further exploit them.'⁵

On 14 September 2010, after one week, the factory conditionally agreed to the workers' demands, and the strike was brought to an end. It was agreed that the workers could hold their documents (passports, overseas worker ID cards, worker permits, health insurance cards and temporary ID cards) on request, and would be responsible for presenting themselves at immigration every 90 days; that the workers would be paid the same as their Thai counterparts (157 baht per day), but could be fired if their work was not of an equal quality to their counterparts; that overtime would be paid but it was up to the employer who would offer overtime; and that there would be no repercussions for the striking workers.

Agreements were signed and witnessed by the Labour Protection Officer, the Department of Employment, Thai Lawyers Society and NGOs. These agreements were only valid for the remainder of the existing employment contracts of the workers, which for most workers, was a further three months.⁶

Since the strike in 2011, the factory has been involved in further controversy, with the reported underpayment of workers in October 2011⁷, and the arrest, detention and deportation of undocumented factory workers in May 2012.⁸

Did you know...

Political climate

Migrant workers do not live in an enabling environment for the exercise of their rights. Since the ousting of the Thaksin Shinawatra as Prime Minister of Thailand, the country has been divided into his supporters and his opponents. Major national disruptions by long-term, sometimes violent occupations of public spaces in the capital by both groups have deflected attention away from promoting the rights of workers. The unions themselves, only a minimal part of the Thai workforce,⁹ are also divided politically, and thus weakened. There is little incentive for employers to comply with labour laws if even after legal action, they will still only be required to pay back less than the minimum wage.

Nevertheless, as we move closer to ASEAN Economic Integration in 2015, and as investors are turning their thoughts to making lucrative profits in a newly opening Myanmar/Burma, workers, and particularly migrant workers, are making the headlines. Companies are competing to exploit the labour market and the natural resources of the Mekong. In doing so, they are engaging in a race to the bottom. However, migrants may be able to use this to their advantage. Their decision to stay or go may give them the power they were lacking to truly exercise collective bargaining.

Case Study:

Individual bargaining with collective support

On 8 December 2011, Sai, a 35-year-old Shan migrant from Myanmar/Burma came to MAP for legal advice and assistance. He had been contracted to complete a construction job in May of the same year. At the completion of the job, he was owed US\$4,763 by his employer, however this had not been paid. From August until December, Sai had repeatedly requested, demanded, and pleaded for his payment, but to no avail. At his wits end, he decided to seek assistance and was recommended by friends to come to MAP. The paralegal team at MAP spent time with Sai explaining the law, his rights and the various labour law mechanisms that he could pursue to retrieve his wages. Armed with this new knowledge and confidence, Sai returned to negotiate with his employer. The employer was quick to recognise that he was now negotiating with a different man, a man who had the law and rights on his side, and this time the employer agreed to pay. The employer still managed to bargain the amount down, but nevertheless within 12 days of coming to MAP, Sai had received US\$3,810, which was 80% of the money owed to him.

Did you know...

2007 Constitution & labour rights

The military coup of 2006 suspended the 1997 constitution and approved a new one in 2007. The 2007 Constitution did not alter the right to enjoy freedom of association (Section 63), or the right to assembly (Section 62). It did however add a new clause regarding labour relations (Section 83(8)), outlining that the state should organise labour relations in a tripartite system in which workers have the right to elect their own representatives. It upheld the provision of social security, and the protection of workers to ensure fair wages, and added a clause about equal treatment in terms of rights, benefits and welfare. For the first time, the 2007 Constitution also guaranteed occupational safety, employment security and security at work, including security during and post employment. (Section 44).¹⁰

Unions & collective agreements

Pursuant to Section 88 of the Thai Labour Relations Act (1975), 'persons who have the right to establish a labour union must be employees working for the same employer, or employees in the same description of work (whether or not they work for the same employer, sui juris and of Thai nationality)'. Non-Thai citizens cannot form unions on their own; and may not be elected to union leadership posts.

Section 98 of the *Thai Labour Relations Act* (1975) provides that labour unions may make demands, conduct negotiations and enter into agreements regarding the activities of its members, may manage and carry out activities for the benefit of its members, may provide information services for its members, can provide advice and welfare services and may collect membership fees for membership of the union.

A union's right to have advisors is limited, and must be approved by the Ministry of Labour. Moreover, a union can be dissolved if its membership falls below 25% of the eligible workforce. Only one union can be formed at each enterprise, and state enterprise unions may not affiliate with private sector labour congresses or federations. Loss of employment means loss of union membership. Only unions that represent at least 20% of the workforce may present bargaining demands, which must be voted on at the union's annual meeting.¹¹

Pursuant to Sections 10 and 11 of the *Labour Relations Act*, work places with more than 20 employees may have a 'working condition agreement', in writing that specifies the following:

- (1) employment and working conditions
- (2) working days/hours
- (3) wages
- (4) welfare
- (5) termination of employment
- (6) petition/complaints procedure for employees
- (7) an amendment or renewal procedure

Section 89 states that where a labour union causes a strike for the benefit of its members they shall not be liable for criminal or civil charges.

Right to public assembly

The Thai government passed the Public Assembly Bill on 27 April 2011—a move that will curb people's constitutional right to assembly, and give courts the power to decide whether a protest is legal or not.¹²

International obligations relating to collective bargaining

Thailand has ratified the UN International Covenant on Economic, Social and Cultural rights (ICESCR) (on 5 December 1999), which provides for the 'right of everyone to form trade unions and join the trade union of his choice'. Thailand has also ratified the International Covenant on Civil and Political rights (ICCPR) (on 29 October 1996), which holds that 'everyone shall have the right to freedom of association with others, including the right to form and join trade unions'.

ILO core conventions ratified

Thailand has ratified the following core ILO conventions: 29 on Forced Labour (1930); 100 on Equal Remuneration for Work of Equal Value (1951); 105 on Abolition of Forced Labour (1957); 138 on Minimum Age for Employment (1973); and 182 on Worst Forms of Child Labour Convention (1999).

To date Thailand has not ratified the following two key ILO Conventions; 87 on Freedom of Association and Protection of the Right to Organise; and 98 on the Right to Organise and Collective Bargaining.

However, Thailand recently indicated in its Universal Periodic Review (UPR) national report, submitted to the Human Rights Council in October 2011, that it intends to ratify ILO Conventions 87 and 98.¹³

Endnotes:

- ¹ Thai Labour Protection Act, 1998. Available at <http://www.mol.go.th/sites/default/files/images/jpg/01.pdf> (accessed 08/06/2012)
- ² Section 88 of the Thailand Labour Relations Act, B.E. 2518 (1975) requires any member of a labour union to have Thai nationality
- ³ MAP Foundation, *Over 1000 Workers Continue the 3rd Day of Strike at Fishing Net Factory*, Press Release 10/09/2010. Available at <http://www.mapfoundationcm.org/eng/advocacy/campaign/right-to-justice/59-workers-from-dechapanich-fishing-net-factory-khon-kaen-find-new-jobs-and-remain-fully-documented.html> (accessed 30/05/2012)
- ⁴ MAP Foundation, *4th day of strike at the Dechapanich Fishing Net Factory, Khon Kaen* 11/09/2010. Available at <http://www.mapfoundationcm.org/eng/advocacy/press-release/47-4th-day-of-strike-at-the-dechapanich-fishing-net-factory-khon-kaen.html> (accessed 30/05/2012)
- ⁵ MAP Foundation, *Burmese Workers continue 3rd day of strike* 11/09/2010. Available at <http://www.mapfoundationcm.org/eng/advocacy/campaign/right-to-justice/44-burmese-workers-continue-3rd-day-of-strike.html> (accessed 30/05/2012)
- ⁶ MAP Foundation, *Conditional Success: The Strike Ends in Khon Kaen*, Press Release 14/09/2010. Available at <http://www.mapfoundationcm.org/eng/advocacy/press-release/48-conditional-success-the-strike-ends-in-khon-kaen.html> (accessed 30/05/2012)
- ⁷ MAP Foundation, *Workers from Dechapanich Fishing Net Factory Khon Kaen Find New Jobs and Remain Fully Documented* 05/04/2011. Available at <http://www.mapfoundationcm.org/eng/advocacy/campaign/right-to-justice/59-workers-from-dechapanich-fishing-net-factory-khon-kaen-find-new-jobs-and-remain-fully-documented.html> (accessed 31/05/2012)
- ⁸ Young Chi Oo Workers' Association, *Over 700 migrant workers arrested in Khon Kaen were sent back to Myanmar earlier this morning* 23/05/2012. Available at <http://ycowaeng.blogspot.com/2012/05/over-700-migrant-workers-arrested-in.html> (accessed 08/06/2012)
- ⁹ Only 3.73% of the Thai workforces are unionized according to: Sakdina Chatrakul Na Ayudhya, *Thai Labour Movement: Strength Through Unity*, Thailand: Friedrich-Ebert-Stiftung, October 2010. Available at: http://www.fes-thailand.org/wb/media/documents/The%20Thai%20Labour%20Movement_Sakdina%20Chatrakul%20Na%20Ayudhya.pdf (accessed 31/05/2012)
- ¹⁰ The Solidarity Centre, *Justice For All: The Struggle for Workers Rights in Thailand*, December 2007.
- ¹¹ International Trade Union Confederation, *Annual survey of violation of trade union rights*, 2011
- ¹² Pravit Rojanaphruk, 'Academic voices opposition to public assembly bill' in *The Nation* 28/04/2011. Available at <http://www.nationmultimedia.com/2011/04/26/national/Academic-voices-opposition-to-public-assembly-bill-30153933.html> (accessed 07/06/2012)
- ¹³ National report submitted in accordance with paragraph 15 (a) of the annex to Human Rights Council resolution 5/1, submitted to the Human Rights Council Working Group on the Universal Periodic Review, Twelfth Session, Geneva, 3-14 October 2011, p4. Available at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/THSession12.aspx> (accessed 07/06/2012)

“Migrant workers cannot make their own decisions because of restrictive policies.”



Migrant workers on a construction site
Photo courtesy of MAP Foundation

Migrant Reflection: U Hla **Construction worker from Burma** Interviewed in Phang Nga, Thailand, by the Foundation for Education and Development (FED)

I am U Hla and I am a 60 years old man. I came to Thailand from Belu-Kyune, Mon State, Burma. I have been working here since 2000. I live alone here (Bang Niang, Phang Nga Thailand), but my family live in Burma. I have two children. They are now attending school in Burma. I pay for their school fees, school uniforms, stationery, learning materials and so on. In Burma, I have a Burmese ID card, a citizen's card. It is easy to get the card, if we have the money. If not, it is difficult and we have to wait for a long time, sometimes one year. It also depends on the location. Without it, it is difficult to travel within Burma, even for Burmese.

I decided to come to Thailand since it was difficult to survive on a daily income in Burma. I was a farmer until 1990. I had to sell the farm because the rice price went down while the other commodity prices went up. Then I worked as a fisherman between Ranong and my village. I faced more difficulties being a fisherman than being a farmer because of restrictions and other hardships. In Ranong, my boat was checked and people were arrested often. It made it difficult to work, and it was tiring. Around the year 2000, I heard from my friends who were already working in Thailand that the working situation was better and that it was easy to get there. Even an uneducated person could find a job there, they said.

“We crossed the border on a small boat, 20 feet by three feet. We were all together over 60 people on the boat. We lay down and were covered by blankets.”

I had never heard about the recruitment agencies and pre-departure training or awareness raising provided by the government. I did not have any medical exam before leaving the country. The first time I came, in 1999, I travelled on

a boat from my village to Mawlamyine, together with five villagers. We stayed one night at a hotel in Mawlamyine. Police suspected that we were illegally migrating to Thailand and arrested us. I was detained for 11 days. After that, I went back to my village. One year later, I went to Yangon. I found a big boat, which was going to Kawthaung. I stayed there for 11 days and went to Thailand illegally with some other people.

We crossed the border on a small boat, 20 feet by three feet. We were all together over 60 people on the boat. We lay down and were covered by blankets. The boat drove the whole night from Kawthaung to Ban Nam Khem village in the Takuapa District of Pang Nga province. We arrived around 10 am the next day. It cost 7,500 baht. The broker kept us a few hours in a house and he arranged motorbikes or cars for us, depending on the distance. I went to Sawnma Naung near the Takua Pa Hospital. I had a friend in Sawnma Naung. I paid 50 baht for a motorcycle to go to Sawnma Naung.

In the last decade I have observed a sharp decrease regarding safety. Ten years ago, migrants could travel more freely. Now, there are many checkpoints. The migration processes are very difficult. Nearly all migrants, around 95% I would estimate, come to Thailand illegally with the help of a broker. Sometimes, the brokers exploit the migrants. I recently met a man at my work site. He came to Thailand with a broker. He told me that the broker lost his phone. He thought that one of the Burmese stole it and threatened to burn them. It is more difficult to travel and migrate now, because we need to pay brokers more and more. If I decide to go home, I will go with a broker. Migrant workers ask brokers to arrange their travel back to Burma even when they have a temporary passport. They usually go back to Burma through illegal border crossings. It costs 5,000 baht. We have to pay an additional 1,500 baht to take belongings. We are afraid of being robbed or bribed by police if we go back by official routes.

When I arrived in Sawnma Naung, I contacted the broker to find me a job. I got one in a rubber plantation. They paid me 130 baht a day and I worked there for four months. I moved to Bang Niang and have worked at the construction site since then. Generally, we find out about job vacancies through our own network, for instance, by chatting with others in the community. For the past ten years,

the workers received their wages directly from the employer who paid us according to our working days. Since 2009, we have received the wages from a subcontractor. He deducts money arbitrarily from the wages, and sometimes does not pay at all. We don't know how to complain or how to ask for help. In fact, the migrants fear the broker more than the police.

I earned 160 baht before, and currently receive 270 baht a day. I don't have any holidays. I will not be paid if I take a day off. Before, I worked 25 days a month and now I work 15 days at the most. The worst situation was between 2009 and 2010. I can ask for my salary in advance if I have already worked for 15 or 20 days. Normally, wages are paid at the end of the month. I work eight hours a day, from 8am to 5pm. The employer does not count my lunch hour. I receive no other benefits. There are no differences or improvements compared with my previous jobs or my situation in the last ten years.

Before, when I worked in the rubber plantation I had holidays and worked more independently. We sold the collected rubber and shared the benefits. If there was an emergency, the employer helped the workers willingly. He brought us to the hospital in the event of an emergency. At the construction site this does not happen. For example, I did not receive any help when my thumb was injured. I had to pay the hospital fees. Having a health card helped me a little at that time, but I couldn't work anymore.

"I pay 5,500 baht every year for a work permit and health care card."

I can open a saving account, but I cannot get credit or a loan. I haven't had an agent or signed a contract and have never been laid off. The temporary passport does not contribute to us receiving a higher wage. However, a worker who comes with a passport and visa can get a higher paying job and can receive more benefits. I use a broker to send money to Burma. The broker decides on the currency exchange. I pay the money and the broker contacts my family. There is also a traveller's fee of 100 baht inside Burma.

I have had a work permit since 2002, and I renew it every year. Without it I could be arrested at any time. I can get a job more easily, and live and travel freely within the province. I have more rights than when I was undocumented. That's why I applied for a work permit. I pay 5,500 baht every year for a work permit and health care card.

At the beginning I paid 3,000 baht, and now it has increased to 5,500 baht. My employer arranges for the broker to fill the form in for me. I just have to take a picture and he takes care of the rest of the process. The employer pays the fees to the broker and then deducts repayments from me monthly. I have worked in the same job since 2002, so it is easy for me to do it. I keep the work permit with me. Mostly, worker's permits contain the broker's name. It makes it complicated and impossible for the migrant to complain if they face a problem with their employer.

I think that it is better to have a work permit than a temporary passport. Although we can travel everywhere with a temporary passport, it costs over 10,000 baht. We cannot afford that amount. It is expensive and the procedure is very complicated. The worker's registration costs about 5,000 baht per year. If I want to travel to another province, I have to get a travel permit from the immigration service. It costs 1,000 baht and I can apply for one up to three times per year. The travel permit allows us to visit another province for short periods-a few days only. Sometimes, I cannot get a travel permit so I use a broker to arrange a car for me, for instance, in the event of an emergency visit to a relative in another province.

I have never had my personal documents confiscated. I think that the policies for the work permit and the temporary passport are very good for migrants. It allows them to become legal workers in Thailand. However, the application process is difficult. Workers have difficulties because they don't know the Thai language, and most of them are uneducated. They are not sure whether they will be able to obtain documentation (the work permit/ temporary passport), or not. I think that there are no guarantees with the temporary passport. If I want to find a new job in a different place, I have to purchase a new work permit. Therefore, I will ask the broker to arrange this for me because I am afraid to contact the Thai authorities. I do not understand anything and the broker helps me with the process. I have to pay two to three times higher than the actual cost. I have no access to the Myanmar embassy. In addition, it is difficult to apply for a marriage certificate or birth certificate in Thailand. The NV process is complicated.

At the beginning it was difficult to change work places because the law said that migrant workers could not change employers unless they were dismissed. Recently, many people have been able to obtain temporary passports and work permits so it has become easier. Nonetheless, it is still difficult for workers to complain to their employer, even if they have a temporary passport. Employers need more workers, so they don't care much about the documents owned by the workers. Migrant workers cannot make their own decisions because of

restrictive policies. For example, I have a work permit, but I am not allowed to visit another area. There are many jobs in Phuket. If I could go there, I could get a new job. However, because of the restrictive policies, I cannot decide on my own to go there and get a new job. In addition, corruption makes policy implementation more complicated and less effective.

I have never rented a house. My employer has provided me with a place to live. It is free-including electricity and water-but there is no privacy. However, we can rent a house if we choose to. A Thai person must provide a guarantee in order for us to rent. Now, it is easy to get a mobile phone. I can buy a mobile but there are some restrictions (authorities and employers still want to control them). Before, it was difficult to communicate with my family in Burma. Now I can call any time to my family and friends, even an emergency call. A major change for me now is the increased cost of living. It now costs me an additional 700 to 800 baht for phone call charges, for instance. It is difficult to manage my own business. Migrant workers have no right to own a motorbike. It is also difficult for us to get a driving license, because all the processes are in Thai. All these policies also depend on the province where you live and work.

I have a health care card. I got it when I registered for a work permit in 2002. Health insurance is not part of my work agreement. All employees working with me must have a work permit as well as a health card, but they have to apply for the work permit by themselves. The employer usually refuses to recruit them if they don't have the work permit and health card.

I have been to the hospital three times using the health card. I think that the policy is very good and useful. One visit costs 30 baht. It is not very much. It would be a lot more if I didn't have a work permit. When I went to the hospital, it was not difficult because there were translators from Burmese NGOs. If they had not been there, it would be more complicated to communicate with the doctors. I had a medical check-up when I first applied for health insurance. I have to do it again every year to renew the card. It includes blood, urine, and X-ray tests. I do not know what types of diseases were checked, but I don't think it included TB or HIV tests. I do not know the results. I don't know which diseases make it impossible to obtain insurance. There might be an impact on me, I might be deported. The hospital should inform these people about their results and should suggest an appropriate treatment. People have to understand what's happening to them.

I have no experience of adult education. If there were trainings related to my work, I would be happy to attend them, but I'm used to learning on my own, for instance by talking with other workers.

I have never heard about the employees' association and have never met anyone who is a member of such an association. I don't know the successes of their policies. Many laws protect labour and migrant workers. But the employers break the law often. That's why I don't really believe in it. It is difficult to talk freely about the government, the local authorities or the employers. I can speak about the actual living and working conditions of the workers, but not against the employers. I have never been able to officially join an association or a union in the last 10 years.

I have never been arrested, which is why I don't really know anything about the conditions in prison. I am afraid of being arrested. I know that brokers help Burmese people a lot, even in detention centres.

Sometimes the police come when we are sleeping. We just run away and hide, even if we have legal documents. I have a work permit. I renew it every year because I am afraid. I have experienced police raids at my work place. I wasn't arrested because I had a work permit. I have experienced a raid more than 20 times. Many migrants were arrested by the police after the implementation of the migrant worker registration policies. Since the policies were implemented, the workers are now classified and easily identified as documented and undocumented. When the police arrest undocumented migrant workers, the workers pay money to be released. If they cannot pay, they are deported to the border area. Corruption exists, but most migrant workers are afraid to complain of corruption.

I have never been the victim of a crime. However, people around me have been robbed. Employers or managers sometimes decide to take responsibility, but there is no judicial system for migrants. Most migrant workers are afraid to complain about abuses. In December 2010, I didn't receive my wage from the subcontractor. I did not know where to complain or how to get legal protection, because employers are very powerful. The government and NGOs need to provide assistance during complaints processes.

In the workplace, there is no safety training and no safety equipment is provided. There is a government policy for occupational safety but in reality, employers do not follow the policy. The government should find a way to enforce the law. This would help to reduce injuries on the construction sites. We need more information on how to handle emergency injuries and how to complain if there is a problem. There is no safety procedure and no safety training on construction sites. Migrant workers do not understand most of the laws and policies. Protection of the migrant workers should be improved.

If there were an emergency situation, I would call my employer to arrange transportation. At the time of the tsunami, no one helped the Burmese. The authorities helped first the Thai people and then the foreigners, but not the Burmese. The Burmese had to survive on their own. The police even arrested more Burmese at that time, because they lost their documents in the tsunami. In times of disaster, the government should not discriminate against the migrant workers and should treat all equally.

“The Thai economy wouldn’t be this good without the Burmese workers.”

I don’t really know anything about the anti-trafficking laws and policies. But I think that these kinds of policies would lead to more checkpoints, and less safety for migrants. The Burmese government also needs to evolve. Problems such as corruption and bribery have to be reduced, otherwise legal measures and laws will not be implemented.

The biggest improvements in the last decade are in the education and health sectors. It is not perfect but the situation has improved a lot in 10 years. I think living conditions overall have improved because of this. Yet, I am not satisfied with the protection of migrant workers. For instance, if the employer exploits the migrant worker, they are still afraid to talk about it, and discrimination makes the situation even harder. Thai people discriminate against Burmese people. We never work together, even though we do the same job. In this respect, there has been no improvement over the last 10 years. No social interaction or activities exist between Burmese and Thai people. If the Thai people need support or something like a donation, they will ask the Burmese to participate. The rest of the time they do not involve Burmese people in anything. After the Tsunami, Thai people became more tolerant, but it is still very difficult.

Another improvement is infrastructure development in the area. I think the development of tourism in the region only benefits Thai people. After the economic crisis in 2000, the Thai government decided that all migrant workers have to return to their own countries for the job security of Thai people. However, the employers kept on hiring migrants because they are paid lower wages for the same work. Employers therefore asked the government to allow them to continue hiring the migrant workers.

Life is worse in Burma. So there should be no forced return. The Thai government should therefore develop a better policy for migrant workers. The Thai economy wouldn’t be this good without the Burmese workers. I will not go back to Burma because I don’t have money there. I would have to come back to Thailand again. It doesn’t make sense if I go home.

Regarding transportation, ten years ago, there were only motorbikes and taxis. People used their own individual transportation. Now, there are public bus services, however migrants have difficulties using the public buses, so we use motorbikes taxis. From Khuk Khak to Bang Niang market it costs 40 baht (5-10 minutes trip). It always costs at least 50 baht at night even for a short trip because there are only few taxis at night.

There have not been many improvements to migrants' life through the MOU process. In my opinion, it is a formality that forces migrants to pay more money

“The government should help everyone to get the temporary passport and the application process should be cheaper and less complicated.”

when they want to obtain a temporary passport. Even though having a temporary passport means that migrants can change their jobs more easily, it is not so easy because the time is limited to find a new job. The government should help everyone to

get the temporary passport and the application process should be cheaper and less complicated.

All governments and authorities should respect the human rights and individual rights of migrant workers. I suggest that Thailand and Burma should work to decrease corruption and bribery problems. The laws to protect the migrant workers have to be realistic and effectively implemented. For instance, a law prohibiting migrant workers from using motorbikes is not realistic. In practice, migrant workers actually pay money to the police so that they can use their motorbikes anyway. This is an example of an inappropriate law.

I want to suggest that the Thai government ease their policies and protect migrants during their travel to Thailand. Travelling on a small boat is very dangerous. The Thai government should provide a legal channel for migration.

Did you know...

Compulsory Migrant Health Insurance (CMHI) Scheme and Social Security Scheme (SSS)

In 2001, migrant workers were required to undergo medical check-ups in order to apply for health insurance. The medical checkup was mainly for the purpose of screening for migrants with serious diseases so as to not allow them to obtain a work permit. After being given treatment, they are then deported.

In 2004, the new registration policy allowed migrants and their families to register for a one year temporary ID Card (Tor Ror 38/1), free and independent of an employer. Under this policy, 1,284,920 migrants registered, including 93,082 persons under the age of 15 years and around 10,000 over the age of 60 years.

All registered migrants were able to apply for the Compulsory Migrant Health Insurance (CMHI). Migrant workers not registered for the health insurance card had to pay the full amount for the health service fee, including the cost of medicines. The 2004 figures from the Ministry of Public Health show that around 16,898 of the 288,000 migrants eligible for health care reported to state hospitals for treatment, the majority of them from Burma.¹ The health insurance provided benefits for registered migrant workers including treatment, high-cost treatment, accidents or injuries, patient referral process and health protection service and counseling. Migrant workers who registered for yearly health insurance cards were able to access the health care service for 30 baht per visit. However, the serious shortage of interpreters at hospitals presents a significant barrier to accessing the health care service. Further, even registered migrants often faced discrimination within the health system.

Pregnant women have been threatened publicly with deportation. On 29 August 1999, Thailand passed a cabinet resolution banning pregnancy among migrant women, and imposing mandatory deportation for those who become pregnant. The resolution is still in force, however the current policy allows pregnant women to obtain a worker's permit if her employer approves the work permit, although the child is not covered by health insurance. In 2007, the Cabinet agreed to cancel the regulation stipulating that migrant women who applied for work permits had to report their pregnancy status.

In early 2012, the Thai government announced that it would amend the 1990 Social Security Act to expand social security to cover all foreigners residing in Thailand, in line with the ASEAN plan to create a regional free market that will come into operation in 2015-the Asean Economic Community (AEC).² In reality, many migrants who are not deemed 'skilled migrants' have limited or no access to the positive benefits of these reforms.

Since 14 June 2012, migrants must participate in the Social Security Scheme (SSS). Migrants who are eligible for the SSS are those with legal status-either those in formal employment who entered through the licensed channels established under the MOU or those who have completed the NV process and have been granted a valid work permit and passport. Eligible migrant workers will be covered by the benefits under the SSS, except for those in domestic work, seasonal work, agriculture and fishing.³

Under Thai law, an employer must organise registration of their employees under the SSS within 30 days of commencement of employment. Migrant workers and their employers each make a monthly contribution to the scheme, equivalent to five percent of each worker's income. However, in practice if the employer fails to contribute to the fund, the employee will not receive the protections and benefits available under the fund. Further, despite contributing to the scheme, migrants are often not able to enjoy the full benefits provided under the scheme. A case in point is the elderly fund, which social security subscribers have access to when they turn 55: as migrant workers are normally granted a work permit for only two to four years, they are usually unable to receive the benefits of the elderly fund. Additionally, they are unable to access unemployment and maternity leave benefits under the scheme.

As of 2010, Employment Department figures show that 1.1 million migrant workers have registered to work with the Labour Department, 24,800 of whom are covered by the SSS. It is estimated that less than 300,000 migrants are in eligible formal sector employment. It is not clear what health cover all ineligible workers will have after June 14.

In some cases it has been reported that undocumented migrants are entitled to compensation where they have suffered an occupational accident. For instance, on 10 January 2012 *The Nation* reported that a Laotian woman who lost her hand in a workplace accident would receive compensation, despite not being registered as a legal migrant worker, and despite her workplace not being registered under the SSS.⁴ The article also stated that the woman's

unnamed Thai employer, 'would face legal action for failing to register his/her business with the Social Security Office and to register [the Laotian woman] as a legal migrant worker'. Despite such occasional reports, it is likely that the remaining 1-1.5 million migrants who are not registered will have to pay for their own health care. At a government hospital the cost of general health care is affordable, however the cost of on-going treatment and operations are far beyond the means of migrant workers.

Endnotes:

- ¹ Asian Migrant Centre, 'Thailand Country Report', in *Asian Migrant Yearbook 2004*, p291. Available at: http://www.asian-migrants.org/index.php?option=com_docman&task=doc_download&gid=32&mode=view (accessed 20/06/2012)
- ² 'Ministry opens job market, social security to foreigners' in *Bangkok Post* 20/01/2012. Available at <http://www.bangkokpost.com/news/local/275911/ministry-opens-job-market-social-security-to-foreigners> (accessed 08/03/12)
- ³ International Labour Organization, *Ask the experts: Social Security for Migrant Workers in Thailand*, 2012. Available at: <http://apmagnet.ilobkk.or.th/resources/ask-the-experts-answer-2-social-security-for-migrant-workers-in-thailand> (accessed 07/06/12)
- ⁴ 'Full SSO pay-out for Lao worker' in *The Nation* 10/01/2012. Available at <http://www.nationmultimedia.com/national/Full-SSO-pay-out-for-Lao-worker-30173452.html> (accessed 06/03/2012)

“The Government should make sure that Burmese children have equal rights.”



A worker showing how to do rubber tapping
Photo courtesy of Preeyawan Jaipinta

Migrant Reflection: U Aung Aung **Rubber plantation worker from Burma** **Interviewed in Phang Nga, Thailand, by the Foundation** **for Education and Development (FED)**

My name is U Aung Aung and I am a 46-year-old man. I work at the rubber plantation at Phang Nga. I come from Mawlamyine, Mon State, Burma. I have lived in Phang Nga since 1988. I live with my family.

Since I arrived here, I haven't been back to Burma. I have been here for a long time and it's impossible to go back. I really want to live in Burma but it's very difficult to find a job there. It's better to stay in Thailand, especially for my family. I have four children, who are 26, 23, 18 and eight years old. The two elder sons are married. The younger two are at school.

I came to Thailand because it was very difficult to survive in Burma. I was told that I could earn more money in Thailand by doing the same job. I wanted my family to have better living conditions. I contacted my friends who had been working in Thailand, and they contacted the broker to find a job for me. I came to Thailand with my friends who were already working here. In total there were 20 of us from our village. We rented a small boat to get to Mawlamyine and then rented another boat with an engine to go to Kawthaung. We waited there for two days to learn the situation across the border. We then applied for a border

pass to visit Ranong province in Thailand officially. First, we went to my friend's house. He rented a car for us to go to Phang Nga and then to the Takua Thung district. Most of our friends were working there in the rubber plantation.

When I left Burma, there was no recruitment agency, no pre-departure training, no work contracts, no awareness-raising, and no government support or medical exams. I think it would be good if the government provided legal and other support, such as information related to work, living conditions, rights of workers and language, as a pre-departure program for migrant workers.

I migrated to Thailand illegally because there was no accessible formal migration process at that time. It was easy and not complicated to come from my hometown. If I came in a formal way, I would have to do many complicated things like apply for a passport and visa, buy a flight ticket and so on. It would cost me a lot. It was very difficult for me, as I did not understand the procedures. I decided to come to Thailand through the informal way. I never heard of an agent or a work contract. I only had oral agreements with my employer. I met the employers and asked them directly for a job.

I had some work experience on a rubber plantation. I was able to choose my job. However, it all depends on the employer, situation and availability of the work. First, I worked in a rubber plantation company where I earned 65 baht a day for tipping rubber. Three years later, I earned 180 baht a day at the same company. I am now working for a local employer. They pay me according to the percentage of rubber sold. The percentage is fixed by an agreement with my employer. I receive 10,000 baht per month depending on the rubber price. The price is good now. Since I've been working at the rubber plantation, I have had no interest in changing jobs. I am worried about being fired or making mistakes that would cost me my job. I am in a more stable situation than before and wish to stay in this stable situation for as long as possible. I feel that I now have more of a right to make decisions about migration and travelling. For instance, I am able to decide where to live. I feel that I can work freely and I am more certain now that I will get a salary for my work.

It is more difficult to find a new job now than before. The type of work available for migrants is the same as before, but tourist industries and shopping centres are now hiring more Burmese people than before. There is no opportunity for migrants to run their own business.

"I have a work permit but I can't apply for a temporary passport. It is expensive and I can't afford to pay."

My employer does not always help us when problems occur, for example, in case of robberies at the plantation, or rape or threats by gangs in the area. Some employers exploit migrants by

forcing them to work overtime without giving them proper wages. They pay different wages for Thai workers. There is no official day off for rubber plantation workers. Some employers in the rubber sector ask for money from the workers before they hire them. The amount varies and can be up to 30,000 baht. They do not give the money back to the workers when they leave the job. I didn't experience this because I was able to negotiate with my employers. I know of some people who are forced to stay and work. If they try to escape, their employer will not pay them or will give their details to the police to arrest them.

In my opinion, working conditions have not changed a lot. Most of the migrant workers ignore their rights and benefits even though they know about them. They are afraid to complain because they can't speak Thai fluently. Besides, employers are powerful people in the area, and the police are not very helpful.

I have never joined a worker's association or union. I have bargained for my rights by myself. I have participated in meetings in order to improve working conditions. Workers from the construction sector joined the meeting. The workers have a chance to learn about human rights because the Foundation for Education and Development (FED) provides education about human rights. They are now able to act, when they face human rights violations.

Migrants should have a guarantee however if they lose their jobs. They should know where they can go to ask for help regarding their work. The government should enforce law and implement policy. Laws and workers' rights should be translated into the Burmese language so that they are easily accessible to migrant workers. This way, migrants will have a clear idea of their rights at work and, in turn, employers will have more respect for migrants' rights.

I have a work permit but I can't apply for a temporary passport. It is expensive and I can't afford to pay. I applied for my work permit in 1995. At that time, my employer paid all the fees for my family and I, and deducted about 1,000 baht monthly from my wages. I know that I am allowed to keep the work permit but my manager keeps it. He did not give it back to me when I moved to another place in 2004. I had to apply for a new work permit for my wife and I in 2006. I contacted a broker to take care of the process. It was very difficult for me to pay all of the costs at one time.

I have a national ID card in Burma. Without an ID card I cannot travel in the country and can get arrested by immigration or soldiers. I cannot apply for a Thai national ID because the law does not allow it, even though I have been living in Thailand for a very long time.

I can apply for a birth certificate and marriage certificate back in Burma. In Thailand, the application process is very difficult because I am a migrant worker. My two sons are married but they don't have marriage certificates. I think if a child is born in a Thai hospital, their parents can request a birth certificate, but I am not sure. My two children were born here in a Thai hospital. I don't have their birth certificates and do not know how to apply for them. The process has become easier after the Tsunami, but my children were born before it.

The work permit registration card should be valid for more than one year. It is not easy to renew every year. In my case, the broker has been asking for more and more money every year and our family is now in debt. The work permits for my entire family have to be renewed even though I am the only person who works.

Previously, I got 65 baht a day, and the living cost was about 15 baht a day. Now, I get about 300 baht a day, and food costs around 100 baht. Although I earn more than before, I think the previous situation was better because of the cost of living was low. I don't really know about the situation in the bank. Generally migrant workers do not have bank accounts. They send money directly to Burma.

It is more difficult to find a job when the economy is not good. However, I noticed that in the rubber plantation sector, the employers prefer Burmese migrants to work for them, so I have not experienced any discrimination.

Having worker's registration now enables Burmese migrants to have access to medical care. In the past, people did not dare to go to the hospital because they were afraid of being arrested. They took medicine wherever they could find some, which was dangerous for their health. I have had a health card since 1995. All of my family have the health card, except my youngest son. I don't know how much I had to pay exactly for health card at the time, because I paid 5,000 baht in total for the worker registration and health card.

I can go to the state hospital or public clinic with the health card and only pay 30 baht for each visit. However, the staff members do not treat Burmese migrants equally. They favour the Thai nationals and give them priority. Migrants have to wait a long time to receive treatment. At the state hospital or public clinic, there is no translator to help us to receive treatment and to consult with the doctors.

Most of the migrants, including my family, go to private clinics where we don't have to wait for a long time. The patient who arrives first will receive treatment first. I have to pay 200 to 500 baht, depending on the illness. Sometimes we ask one of our friends who can speak Thai to go with us and help with translation. Most of us do not use the health card for common illnesses; we just go to the private clinic. If the clinic cannot provide the treatment, then we go to the hospital. I would say that it would be better to promote equal treatment of Thais and migrants in the hospitals and public clinics.

“There are many difficulties in accessing Thai schooling because of the fees such as uniforms, transportation, stationery and food. We also worry about the discrimination in Thai schools.”

Health insurance is not part of our agreement with the employer. All of us had to apply for health cards through local Thai brokers. The employer first paid the entire fee and then deducted monthly from my wages. The health card does not cover some accidents or some particular diseases. I don't know exactly which diseases are not covered by it. We should be informed of the medical treatments not covered by the health card, so that people understand when they can use the health card.

My two elder sons never went to school in Thailand. At that time, Thai schools did not accept Burmese children. Before the Tsunami, it was difficult for Burmese migrant children to attend the school in Phang Nga. After the Tsunami, the situation has improved. Most Burmese children can now attend schools run by NGOs or Thai government schools. My two younger children are attending a school run by a Burmese NGO in Thailand.

There are many difficulties in accessing Thai schooling because of the fees such as uniforms, transportation, stationery and food. We also worry about the discrimination in Thai schools. For example, Thai children have a student card but Burmese children do not have access to one yet. There is no discrimination in migrant schools because all the children are Burmese.

For the NGO supported school, I pay 500 baht monthly for my two children. I don't need to worry about uniforms, transportation, and stationery because the NGO provides these things. We can pay the school fees if we have a regular income, but I don't have an income during the rainy season. Therefore, I have to negotiate with the school to have the fees waived.

I am worried that the migrant school will not be there in the long term. Also, migrant workers move from one place to another frequently so we don't stay in one place for a long time, and when we move, our children have to move with us. I am worried that my children will not be able to attend the school to continue their long-term education.

“Thai schools should accept children regardless of their family status—documented or undocumented.”

The main improvement in the last 10 years is that migrant children now have the opportunity to study in Thai schools. This possibility arose only a few years ago through a change in government policy. It is good that children are able to obtain the official certificate according to their grade as proof of attending Thai government schools, whereas migrant schools do not provide official certificates. However, attending a Thai school does not provide the opportunity to study the Burmese language, whereas migrant schools provide classes in both Thai and Burmese languages.

It would be good to increase collaboration between Thai schools and Burmese migrant schools to improve education. The Government should make sure that Burmese children have equal rights. They should recognise Burmese children's right to receive an official certificate when they attend migrant schools. The Government also needs to design and implement better policies regarding long-term education. Thai schools should accept children regardless of their family status—documented or undocumented.

I would like to attend adult education classes or vocational training if possible and would be willing to pay a fee. I think it would be useful to learn more about safety regulations, as well as learning how to be more professional in my work and improving my skills. I haven't noticed any changes in the last 10 years related to this kind of adult education for Burmese migrants. It would be good to have adult education or vocational training for migrants. If the Government provides such training, it should make translators available because most migrants cannot speak and read Thai or English.

Migrants are afraid to organise religious ceremonies because they think that police could arrest them or ask for a bribe. However, this situation has improved since the Tsunami. I have been a part of an organisation for three years. It takes care of burial ceremonies and religious events. I work together with the workers to improve the organisation of religious functions. My motivation in joining this organisation is my desire to practise Buddhism freely. We have organised religious

activities in villages before. The activities included donations for monks. At such activities, Thai men, who were probably drunk, entered the monastery and hit the Burmese monks.

It was easier to organise workers in the past since people wanted to know each other better. Migrants from Burma normally came individually and wanted to communicate with other migrant workers. Now, migrant workers already know people in Thailand when they arrive so they are not interested in meeting other migrant workers like before. The numbers of migrant workers have increased and migrants are therefore more difficult to organise. Documentation status has some affect with regards to organising workers. If a worker does not have legal documents, he or she cannot travel freely and is afraid to form an organisation with other workers.

There are many NGOs since the Tsunami. They encourage us to organise ceremonies. Therefore, our ability to speak freely has improved. Freedom of movement has improved as well as communication. I have lived in the same area since I first arrived in Thailand, but I know that the right to move is better now. The transportation system is quite the same as before, but the roads are better and more numerous so I can travel more easily. There are now more channels for migrant workers to access the law. For example, while I am working in the rubber plantation at night I can call my family for help. I feel that I can live more freely now, without being afraid of others. I feel more comfortable in my daily life. I think the process of returning to Burma is safe now, because people have temporary passports and the Burmese government investigate less than they did before. I know people who did return to Burma. I think the situation is easier now, whereas in the past we always used a broker.

I have never been to the Myanmar embassy and I don't have much information about the embassy. I would like to receive some help from the embassy, but I am not sure that Burmese migrants would be able to get it. Burmese migrants should all know emergency hotline numbers in order to get help and different emergency departments should also assist without any discrimination.

I have not met people from an employers' association. I have never been to the driving licence department, birth certificate or marriage certificate issuing department, employment service office, police office or the Myanmar embassy. I have been to the labour office and forestry department to attend training. I went to Takua Pa district office to attend an information session on temporary passports, which was provided by NGOs. I went to the immigration office when some of my relatives were arrested, to visit them. I have had some contact with

the head of villages, about every three years. They helped me and gave me the authorisation to organise events like birthdays or meetings-events that they then attended.

Fifteen years ago, it was safe to walk around in the rubber plantation. Recently, there have been many cases of robberies in workers' houses, especially during the night. It was better after the Tsunami because my employer asked the police to investigate robberies. I experienced and survived the Tsunami. The people who survived should help each other, and Thai and Burmese people should help each other.

I was arrested once, in 1995, after six years in Thailand. I did not have legal documents. The police came to the rubber plantation and arrested me. I was detained for one month at the detention centre in Phang Nga by the immigration police. Then I was sent to Ranong and asked whether I want to stay in Thailand or not. I paid money because I wanted to stay in Thailand.

Corruption seems to have become worse over the years. Migrant workers now frequently give money to the police in order to avoid being sent to detention centres or being deported. Thai motorcycle drivers are often associated with bribery cases, as they sometimes report Burmese migrants who ask for their services, and then share the bribe money with the police.

Migrants are less afraid now, as they know they can negotiate and avoid police arrests. I noticed that in the past, no one could access the law as the Burmese migrants were afraid of Thai police. They did not complain because they were afraid of police bad treatment. Now, the situation has improved since the Burmese know more about the law. I would advise migrant workers to not be afraid to complain in front of the police. Some NGOs can now visit detention centres, which wasn't possible before. I think their support is useful indeed.

I observed that even though the government initiated policies to reduce trafficking, in reality there has been little change. Even if a migrant has a passport, he or she will generally need to contact a broker.

I recommend that the Thai government implement the migrant worker registration policy in order for migrants to live and work in Thailand. The number of police arrests and corruption would thereby be reduced. The work permit provides opportunities for migrant workers to get a job more easily. Laws and policies regarding labour rights, human rights, migrants' rights and many other laws can be read in the Burmese language because of the many NGOs that exist after the Tsunami. There are more opportunities for migrants to gather together for social

and other activities such as international days. The NV scheme and temporary passports provide more protection for migrants' rights.

However, there are also some negative issues related to the policy changes. Employers often hold their workers' original work permit documentation. The workers then do not have the work permit on them when the police ask them for it. Therefore, it causes the police to continue arresting migrants and asking for money. Sometimes, the employer does not want to pay the wages, so he calls the police to arrest the workers. Despite the improvements in protection, the situation is still difficult for Burmese migrants.

Did you know...

Education for all

Thailand is party to the United Nations Convention on the Rights of the Child, which advocates for access to education for all children regardless of legality. In July 2005, the Cabinet approved the education of undocumented and non-Thai persons in Thai public schools, passing the Cabinet Resolution of Education for Unregistered Persons. It provides the right to education at all levels for all children in Thailand that have no legal status. Accordingly, such children can enroll at public schools certified by the Ministry of Education.¹ A budget for non-Thai children-at the same rate as Thai students-is allocated on a per-student basis to each school. The students are issued with a 13-digit personal identity number and are given travel passes in order to allow them to travel to school. The Ministry of Education, under a UNICEF Thailand supported project, is operating schools in remote areas and campaigning to raise awareness about the right to education of unregistered children.²

As of August 2004, 1,269 undocumented and non-Thai children were registered in Thai schools. During the 2004 registration period, it was estimated that 60,000 child dependents of migrants registered. In addition, there may be up to another 100,000 children who are not registered. On 10 June 2010 there were an estimated 77,491 migrant children studying in Thai schools (40,521 Burmese, 4,215 Cambodian, 4,165 Chinese, 2,730 Laotian, and 13,884 children of unidentified nationality).³

***NGO Reflection: The Foundation for Education
and Development (FED)
Education Rights for Migrant Children***

In providing educational services for migrants, I consider the Cabinet Resolution adopted by the Thai government in July 2005-permitting the children of migrants to attend Thai public schools, regardless of registration status-to be the most important policy change in Thailand in the last ten years. Before this policy came into effect, the children of migrants were not allowed to attend Thai public schools.

Due to the July 2005 Cabinet Resolution, many migrant children can register in Thai schools. In some areas in Phang-Nga, our organisation has successfully managed to help migrant children enrol at local public schools. However, many migrant children have been refused access by the school management in other areas in Phang-Nga. This is often due to the refusal of the local students' parents or school administration committee members, who are also an important part of the decision making body in the school administration system, along with the headmasters, teachers and the government officials. So this policy is in theory good for migrant children's education, but I think that policy implementation is quite weak and not very effective.

Despite this policy, in reality, the FED still needs to operate migrant schools and provide education for many migrant children, which requires a significant amount of funding and resources. However, since there is no system for these migrant schools to be formally registered, nor are they recognised by the Thai government, we cannot provide any legal supporting document or certificate for the migrant children when they graduate.

Since 2005, the FED operates eight migrant schools, two of which are pre-schools, in Phang-Nga province. To date, we have over 600 students, over 100 of whom attend Thai public schools. We face many difficulties when we try to enrol the rest of our students at the local public schools. The schools have their own acceptance requirements, such as age limitation and entrance exams for language fluency. They refuse to accept migrant children who are over nine years old, and also those who meet the age requirement but are not very fluent in the Thai language.

I acknowledge that the official policy helps the FED to a great extent to have better negotiations with the Thai authority and the schools management, however there remain difficulties for the FED. For instance, prior to adoption of this policy, donors acknowledged the need to provide education for Burmese migrants and were willing to financially support migrant schools; but when this policy came into effect, they became less supportive of migrant schools. It has become quite difficult for the FED to raise funding for its migrant schools, as many donors are convinced that migrant children can now access the Thai public school system.

Another example is that although the policy clearly states that migrant children who are registered in Thai public schools will be entitled to the 10 year identification card, in reality, despite our efforts to negotiate even with the provincial level government officials, many of our students still do not get this card. As a result, when they move to other areas or provinces, there is no guarantee that they will be able to attend the respective local public schools.

Endnotes:

- ¹ Social Division, Department of International Organizations, Ministry of Foreign Affairs, Kingdom of Thailand, *Right to education for migrants, refugees and asylum seekers*, 2011. Available at http://www.mfa.go.th/humanrights/index.php?option=com_content&view=article&id=72:right-to-education-for-migrants-refugees-and-asylum-seekers-&catid=35:un-resolution&Itemid=73 (accessed 13/06/2012)
- ² Department of International Organizations, Ministry of Foreign Affairs, Kingdom of Thailand, *Human Rights Contributions and Pledges of the Kingdom of Thailand Human Rights Council Election 2010*, 2009. Available at http://www.mfa.go.th/humanrights/images/stories/final_full_pledges.pdf. (accessed 13/06/2012)
- ³ Office of the Basic Education Commission, *Presentation: Challenges in driving policy for migrant children education*, June 2010.

*“Going out is a risk
and I don’t have any
confidence to travel.”*



Agriculture worker on a farm
Photo courtesy of MAP Foundation

Migrant Reflection: Sai Tay Za **Agriculture worker from Burma** Interviewed in Pong Yin Village, Mae Rim, Chiang Mai, Thailand, by MAP Foundation

I am Sai Tay Za and I am a 32-year-old man. I come from Lai Kha, Shan State, Burma. I arrived in Thailand in 1990. I live together with my wife and two children. My parents still live in Lai Kha.

I have been back to Lai Kha three times since I left. The most difficult challenge on the way home was negotiating with Burmese authorities at the checkpoints. I had to pay Burmese soldiers and police when passing through the checkpoints. At the border, Thai soldiers checked our packages for prohibited things. The brokers were very powerful on both sides. They threatened us by saying that they would ask the police to arrest us. I paid about 4,000 baht to go back to Burma. Although I live in a village, I cannot go out at night. The military authorities did not allow the villagers to go out after 8 pm. I would like to be able to go home and come back freely, without being threatened by the brokers.

I came to Chiang Mai from the border-crossing ‘Border Post 1’ (BP1). I stayed in Wiang Haeng district, Chiang Mai province for one year. I paid 300 baht to the broker at the Thai soldier waiting point. I have been in Mae Rim hill tribe since

1999. I paid 1,500 baht to the head of the village and district officer. I can't travel to other districts and provinces in Thailand.

At present, I am working at a chilli farm at Pong Ying village, Mae Rim district, Chiang Mai province. My wife also works at the same farm. My family earns about 9,000 baht a month, but we spend more on daily expenses. When one of my family members is sick, I have to pay all the expenses by myself. My employer does not pay the cost. I have requested my employer to increase the wages. He replied to me that he does not get much profit from selling the product (chilli) so he can't increase the wages. I send some money to my parents-about 3,000 to 4,000 baht a year. I send less money back to my parents since having two children.

Before I worked on the chilli farm, I worked at a restaurant in Hang Dong district for nine months. The employer did not treat the workers well. I worked from 6 am. until midnight. He paid only 5,000 baht for both of us, my wife and me. He paid us late every month. One day, Sai Kham, one of the workers, asked for 500 baht from his salary to go to Wat Pa Pao (a Shan festival). The employer did not pay him. Instead, the worker was accused of stealing the money when he came back from the festival. The employer punched and beat him in front of the customers with the help of a Thai worker, from the northeastern Isaan region. They then brought him to San Pa Tong police Station. However, the police did not arrest him. The employer saw him passing through the restaurant later that day, and again went to the Hang Dong police station and asked them to arrest him. But the police did not believe the story.

The employer told us that he would keep our salaries because of the lost money. When the amount increased month after month, the employer did not want to pay the wages. It was very difficult to get our wages from the employer. He owed us about 10,000 baht. When we ask, he shouted in front of many customers and said, 'Why should I be afraid of owing you money?' Later, we decided to run away from that restaurant and look for a new job. At that time, we did not know where to complain or how to ask an NGO or CBO to help us.

I have had a hill tribe ID card since 1999. It was issued by the Mae Rim district office. My employers never keep my hill tribe card. My two sons were born in Nakornping hospital and I have their birth certificates. I have no experience with a marriage certificate and know nothing about it. The process of obtaining a hill tribe ID requires waiting and preparing documents and checking the blood of family members. I received the hill tribe ID when it was introduced. Our ID is useless to show police because they don't recognise it. My employer at the

restaurant told us that the police did not recognise the hill tribe card. The village community heard the rumour about our ID. Some people burned their hill tribe card and some keep it at home and never bring it out with them.

I am still the same from the past-no money, no home and prohibited from travelling to outside areas. However, our employer has extended the chilli farm area and is getting richer and richer. In the future, I will be happy if my hill tribe ID allows me to work freely wherever and doing whatever I want. I want to rent land to grow for ourselves. A good employer would allow us to move to a new employer freely, allow us to buy land and allow us to sell the produce.

"I want to request the government to give permission for migrants to work in all sectors in Thailand."

I am impatient to go to the Mae Rim district office to ask permission to travel to outside areas. Now, according to an announcement, the authorities from the district office say that we are not allowed to go to outside areas and other provinces. I want to request the government to give permission for migrants to work in all sectors in Thailand.

I don't know about the cooperation of the Thai and Myanmar governments. I have heard about the temporary passport for migrant workers. Most of us migrants do not want to apply because it costs 6,000 to 7,000 baht. It does not include the cost for a work permit. It is a lot of money. The workers do not want to pay. I want to ask agents and the government to lower the cost.

My family has health insurance (*bat tong*), but I am not certain about the rights and benefits of health insurance or what kinds of diseases and treatments are covered under the insurance. I was confused about the medical expenses when my wife delivered our second child last year. The doctor said I did not need to pay the expenses because I had health insurance, but the nurse from the financial department said I had to pay because the hill tribes were not entitled to health insurance. I paid over 10,000 baht for all of the expenses. Two months later, the government authorities announced that hill tribe card holders were entitled to health insurance.

My elder son is studying at a local government school. I have to pay for the clothes, fan, cleaning and pocket money-more than 1,000 baht a month. I think my son's teacher is not interested in teaching. She is not a very good teacher. My son does not study at the school. He comes home with more homework than before. If possible, he wants every migrant child to have a chance to study their mother

“Although my friends and I want to gather at the public hall (Saa laa), we don’t have confidence among Thais.”

“Although I have no experience of police arrest, I want police and authorities to focus on the victim but not on all Shan migrants.”

language and thinks that the school should have this subject.

I attend the nearest NGO school together with my friend to study Thai. I did not have the chance to study Thai at the government school when I was in Shan State.

Although my friends and I want to gather at the public hall (Saa laa), we don’t have confidence among Thais. We

want to gather for social occasions such as funerals, birthdays, workshops and cultural events. We sometimes organise worker gatherings for cultural activities and special events. We have never organised a Poi Sang Long (Buddhist) ceremony here. Speaking Shan is ok among the Northern Thai.

Going out is a risk and I don’t have any confidence to travel. For example, I am afraid of police checking me while driving a motorbike. The police intentionally arrest migrant workers and ask for money. I want these problems and corruption to be addressed.

In 2009, two migrant workers raped and murdered a Thai student from Mae Joe University. Police arrested many Shan migrant workers in Chiang Mai. This incident affected Shan migrants who lived at Pongyang village. When our employer told us that the criminal had fled to Pongyang village, we had to hide in the valley for a few days. The whole family was scared of being arrested, even though we had hill tribe cards. Some of us went back for a while to cook and then came back to the valley. We had many difficulties staying in the valley and jungle. Although I have no experience of police arrest, I want police and authorities to focus on the victim but not on all Shan migrants.

I went to Pongyang primary school when my son lost his shoes, the teacher did not treat me very well. The transportation office was ok when I went for my driving license. I have never asked for help or contacted the Myanmar Embassy for information and in case of an emergency. In relation to the issue of trafficking, I want to say that it happens because of brokers.

Did you know...

Mobility restrictions

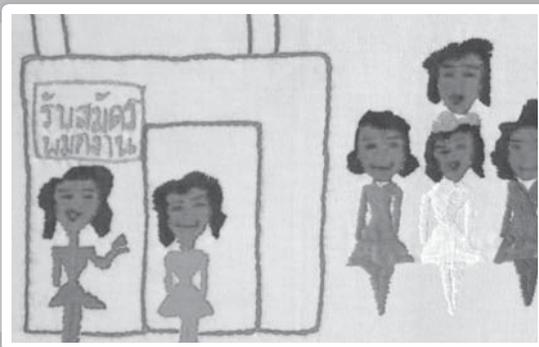
Migrants who registered for the temporary migrant workers' card are not allowed to travel outside of the area where they registered. This is a violation of the fundamental human right to freedom of movement. It also creates an artificial situation within the country. Unable to move freely to where there is work, seasonal workers stay in place even when the season is over, creating an over-supply of workers in certain areas during out-of-season periods, and thus further pushing down wages. The restriction of movement placed on migrants within Thailand also creates situations where migrants are liable to arrest and deportation, even where they have registered. If a migrant is subcontracted to another area, or travels to another area for leisure or personal business, the police may arrest and deport the migrant. If a migrant needs to travel to another area they can only do so clandestinely. The suffocation of migrants hiding in trucks while being transported from one area to another has been a direct, tragic consequence of this restriction.¹

Even though migrants who hold a temporary passport are allowed to travel outside of their area they need to have their original passport with them when they travel, which in many cases is impossible because employers frequently hold on to migrants' original documents.

Endnotes:

- ¹ Jackie Pollock, Ruth Pearson & Kyoko Kusakabe, *Policy Brief and Recommendation on Undocumented Labour Migration in Thailand*. Available at: <http://www.polis.leeds.ac.uk/assets/files/research/policy-brief-recommendation-undocumented-labour-migration-thailand.pdf>

*“It wasn’t a question of ‘if’
I would go to Thailand
but rather ‘when’
I would go. Going
to work in Thailand
is a normal custom
in a Shan woman’s life.”*



“These images are part of an embroidered tapestry sewn by migrant sex workers in Thailand to share their experience of living and working in Thailand.”

Photo courtesy of Empower Foundation

Migrant Reflection: Nuan **Sex Worker from Burma** Interviewed in Chiang Mai, Thailand, by Empower Foundation

I’m Nuan, a Tai Yai woman from near Keng Tung, Shan State, Burma. I am now 30 years old. I was 21 years old when I came to Thailand in 2002.

In those days, it took six days to travel from Keng Tung to Mae Sai. Mostly, it was on foot, hiding from soldiers, sleeping in the jungle at night with the mosquitoes. Nowadays, it is a 4 to 5 hour trip. I wasn’t the first woman in my family or my village to go to Thailand. I waited longer than some others because the rumors about Thailand scared me. There were stories about girls being raped by dogs and many other horror tales.

I knew that one day I would go there. I wanted a normal life: a family, a house, some land area, and security. I would have owned none of these in my life if I stayed in Burma. It wasn’t a question of ‘if’ I would go to Thailand but rather ‘when’ I would go. Going to work in Thailand is a normal custom in a Shan woman’s life. That hasn’t changed but now so many people watch Thai TV shows. So they know some Thai language and learn more about the country, instead of just rumors.

The border pass I got when I crossed the bridge was 50 baht and lasted just one week, after that I was breaking the law. For many people as soon as they cross the border they are committing the crime of entering the country illegally. Police, immigration and other authorities were everywhere. In those days lots of people had no documents, including many of the Thai hill tribe peoples, so you could move around and change jobs more easily. Nowadays the authorities expect you to have some kind of government document or card. Now the line between people who have papers and people who don't is clearer.

My friends who had arrived before me recommended that I could apply to a traditional Thai massage parlor. Even though I had no documentation, no qualifications, no education and no capital, whatever work I did, I planned

“For example coming late we were fined 5 baht a minute, for taking a day off we paid 500 baht, and so on.”

to earn enough money to look after myself and to support the three other people in my family. We really didn't have any idea of where we were going to work. We just wanted a job, any job. The only jobs available for migrant workers were manual labor jobs that Thai people didn't want to do. The three most popular jobs for women were domestic worker, construction worker (especially painters which men or women could do) and sex worker.

I went to the massage parlor to work. The owner said he would give me a week's trial. He told me the work conditions but there was no special contract. Customers paid 100 baht for an hour massage. I got 40 baht of this and 60 baht went to the parlor. The employer kept the record of our earnings and paid us every week after taking out money for utilities, police bribes and other fines. For example coming late we were fined 5 baht a minute, for taking a day off we paid 500 baht, and so on.

At first, I didn't know that I could earn more money by going privately with the customers. I found that out after a few weeks when a customer asked me to go with him. He paid directly to the boss and I got 40% as usual. This made me mad as I was doing the work and we did not use the boss's place or anything. He was getting more money than me for doing nothing. After about three months, the owner told us that he was going to make migrant worker cards for us. We all owed him 4,000 baht each because of that. It was a card for a domestic worker. This was the first time I'd heard about these cards. He kept the card even though I paid the cost.

The card was useless to me so I decided to go to Chiang Mai where my friends said I could earn more money. Then, I just left it behind. I paid 3,000 baht from my savings for the drive to Chiang Mai. It was a private car. We weren't stopped as I think the police and immigration were on lunch break. In Chiang Mai, I stayed with a friend for the first week and she lent me 3,000 baht. Another friend took me to a karaoke bar in Ton Poe area to work. No one mentioned anything about cards or ID.

The working hours were 7 pm until 5 am with no days off. If we took a night off we paid 1,000 baht. Customers paid 600 baht directly to the manager for our services when we went with them and we were supposed to get 300 baht. If we lived on the premises they would deduct another 100 baht per customer for bed and board and we paid extra for electricity and water. We also paid police bribes but I don't know how much. I was a good worker and had at least one customer a shift. I should have got about 15,000-20,000 baht a month but when they paid my salary I only got about 8,000 at the most. After 3 months, I was fed up with them cheating me.

I moved to another Karaoke bar in Chiang Mai. They also didn't ask about ID and most of the other workers were Thai. The working hours were similar but the customers paid 1,500-2,500 baht and I received 1,100-2,000 baht from this. I had two days off per month. I paid 100 baht a day for police plus the usual fines and salary cuts for lateness, singing badly, whatever. Still I earned about 30,000-40,000 baht a month, sometimes more but rarely less. I sent about 15,000 baht home and my family was comfortable and secure. Prices have gone up both in Thailand and Burma over the last 10 years. I think they have gone up in Thailand more than Burma, especially rice and fuel. Our earnings have also gone up. Now in Mae Sai customers pay 300 baht and workers get 150 of this.

One day, my friends invited me to work in Singapore. I took my savings and went to Rangoon to apply for a passport. It cost me about 100,000 baht including the living and accommodation charges for more than one month. However, I did not get a visa because I had no employer guarantee. Then, I came back to Thailand and went to Koh Tao Island instead. I was afraid. The people there were different from the North, both the Thai and Burmese, so I came back to Chiang Mai and got my old job back.

In the Karaoke bars we work according to the boss's whims. The rules are fairly standard and haven't changed that much in the last 10 years. The customer is God and you will be fined or sacked if you have any problem with them. There is no over time or sick leave or days off or holidays. The boss didn't teach me about safety either. He just said 'use condoms'. I didn't know anything about condoms.

Luckily, the other women gave me a quick lesson before I went with a customer. Anyway, the customer was very kind and patient. You must show that your pink STI health book is stamped by the doctor before you get your salary. In some places you are weighed before you get paid and your salary is cut 100 baht for every kilo you weigh over 50 kgs.

The salary is usually paid at the end of every month. We only have the right to work, no other rights. We work with no protection at all. When things are good like they are for me now all is OK, but if there is a big problem at home, or a disaster here we have no one but ourselves to rely on.

“You must show that your pink STI health book is stamped by the doctor before you get your salary. In some places you are weighed before you get paid and your salary is cut 100 baht for every kilo you weigh over 50 kgs.”

In the last 10 years I have had a Burma ID card, a migrant worker card, a Burmese passport and I currently have a Hill Tribe Card. My passport expired and it's too expensive to extend it. I met one of the village headmen who signed the paper, which mentioned that we, my son and I, were from that village. This is the card I have. I hope that one day I will be able to get Thai ID but nothing is sure. I have had no chance to apply for another migrant worker card and I don't want another one again. They are too difficult for sex workers to get. It's hard to find someone to be the employer and it needs to be renewed every year. I don't see any benefit to getting a migrant worker card because it doesn't give me the right to work in karaoke or massage. I can't travel freely. I have to pay the police.

It's good to have a hill tribe card in that we can avoid some of the prejudice against Burmese in Thai society. It was always there but I think it has gotten worse over the last 10 years. I hear a lot of bad talk and disrespectful things said by customers at work, on public transport, and at the market. The worst treatment is at government services like health services, municipal councils, police or immigration services.

Before, none of us spoke our language in public because we were afraid of being identified and arrested. However, now so many people have a legal right to be here, you hear Tai Yai, Burmese and other languages on the street all the time. This has made the Thai people realise how many of us there are, and they feel afraid and resentful of why we are here. Because they are afraid and resentful they say bad things about us and try to make rules that keep us down and under control.

"I always wanted a chance to study and I want to know everything the same as other people so they won't look down on me."

The cost of getting smuggled goes up and down depending on how much competition there is, how much risk and how desperate people are to move. For example my sister just paid 4,000

baht to go back to Mae Sai from Chiang Mai but the week before it cost 7,000 baht. The prices of bribes have gone up generally. Take the Mae Chan checkpoint: the police there demand about 10,000 baht from anyone without a card and threaten us with 10-20 years jail for illegal entry into the Kingdom.

I have always paid for my own health care in Thailand and for my son too. Every month I have to go to the STI clinic and get a checkup. We have to pay 30 baht for an internal exam, 200 baht for blood tests plus more if I need treatment. If we don't go we don't get our salary. It's hard for workers with HIV. They have to show they had a HIV test but the doctor won't test them because they already tested positive. They have to move work places about every four months. It is no different for Thai or migrant sex workers, except Thai workers can get some medicine free or cheaper than we do.

I always wanted a chance to study and I want to know everything the same as other people so they won't look down on me. I also wanted to learn to help my son with his homework. I study at Empower school. At first, I learned Thai literacy and English language but now I have started non-formal education too.

My son lived in Burma with my mum and now he stays here together with me. He is now six years old. I send him to a Thai government school. There are many migrant children from Burma. The teachers treat all the kids the same. It costs 1,700 baht a term plus school uniforms, and extras. It's not expensive for me.

I have been burgled once and conned out of money twice. The first time, I was told that my mother was in hospital. She needed money for an emergency operation. I gave the money without thinking but it was all a fraud! The second time, I was in Chiang Mai. The man told us that they would apply for ID cards for us. Many of us paid over 100,000 baht each to them. They took our money and disappeared. Although we were afraid, we reported this to the police. However, they were not interested and nothing came of it.

Another time I had taken 60,000 baht out of the bank and kept the money at home. My place was broken into and the money stolen. I know it had to be someone who knew me. I didn't report it because I was afraid of being arrested. Would the police care? Once I was taken off from the bus because I had no ID

card. The police found my ATM card and demanded my pin number. I had 30,000 baht in my account. They went to the machine and withdrew 25,000 baht. They shared it between themselves. In contrast, nine years ago 1,500 baht was about the top limit they demanded.

I have been in a raid at my workplace six times in nine years. Five times, I paid and never reached the police station. The only justice for sex workers is money that we paid to escape from being arrested. Once, I was arrested for prostitution and having no Thai ID card. During that time, we were arrested and deported. They treated us badly, both physically and mentally, like we weren't human.

Usually police and sex workers go together like bees and honey (or naam prik ong and minced pork). I was working in a combined traditional massage and karaoke lounge in Nonthaburi. We paid 500 baht every 15 days to the police. They would come by to collect their money from us, often stay for a drink and we'd entertain them like any other customer. They were local police and we hardly heard of raiding or arresting women until the new director arrived.

On a Wednesday night around 8 pm. on 3 January 2008, two polices from the local station came in and sat down for a drink. This was unusual to all of us. Even our boss remarked "It's alright they're ours." All of us, sex workers, just thought it was time to pay again because it was close to New Years or another festivity when the police would demand extra money. However, this time was not a normal visit. They came to check all over the place and secretly counted how many women were working that night. We soon noticed that something was going to happen. Because the police walked around, then sat down and walked again, and so on. We were muttering to each other. But we did not leave the place as the fine for taking off early was 1,500 baht.

The two police drank their beers when another six or seven police stormed in with the new director in tow. They ordered us, "All of you stay where you are". They counted us again and said, "Where is the other one? Where is she?" They searched everywhere. The police director seemed only interested in the one that got away! None of us knew when and where she went. This made him mad and he yelled, "Show your cards!" We found out later that a policeman had called her to get out of the place before the raid. Four of us had documents, two had Thai ID, one had a migrant worker card and I had my hill tribe card plus permission to be out of my area. Another six had no documents at all. They checked the Thai cards and handed them straight back. The police held the other two cards and my permission to work. The director, local police and the boss all got in the police van to talk. The four Thai women were released but eight of us were taken to the police station.

“A minivan came and took us to immigration. We were moving from a little cage to a big cage but hoped to get free on the way.”

All around the world people were at home, spending the holidays with their families and celebrating the New Year. It turned out that we had to spend our time locked in the police cells all

because our boss hadn't sent New Year money and gifts to some of the police. The police were offended and we were arrested. But the owner didn't worry too much as the bar could still open and he had around 50 women working for him. It was written on the charge sheet as alien workers entering the country illegally arrested in a public place. The local police threatened us and made false threats to force us to sign a confession to the charges. Two of us with cards really didn't want to sign. They said,

“Go on sign it and you'll be free tomorrow. You won't have to go to court. We'll just send you to the border and you can wait and come back again. If you want, I will pick you up. We'll just take you to Mae Sai. When you come back if you have other place to stay you can stay and work at my bar if you want. Don't make it harder than it needs to be. If you are sent to the court, it will take even longer. Although you have cards, you were working in the wrong occupation. So you're still illegal and will be deported anyway.”

We were put back in the cells although we signed. We still thought we may be let go. There were two cells for women and we slept four women in a cell. We were like sardines in a can and none of us slept more than a minute or two all night. The next morning, we were sure that we would be released and we called our boss even before 7 am. to come and get us out. He came and signed for us. He paid 500 baht each as “tea money”. The police asked to wait for the director. They let two of us who had cards go outside with the owner and we waited under a tree, feeling so glad to be free. The director yelled at us as soon as he arrived, “Who let these aliens out? Lock them up!” We were back in the cells and very confused. The police couldn't help us at all. We were sent to immigration detention at Suan Phlu. The boss reassured us: “Don't worry I'll get you released soon, don't worry”.

A minivan came and took us to immigration. We were moving from a little cage to a big cage but hoped to get free on the way. The boss came to give us our wages and everything owed to us. We were exhausted and fell asleep inside the van because it was cool and comfortable. We had just woken up when the van reached immigration. We looked out and saw thousands of arrested migrants. You could say it was an international gathering. There were Korean, Chinese, Hong Kong, American and Pakistani too. We still thought we would get out. The staff looked at our cards and the boss showed his papers. We were called into the office. They

asked us about our work, “Hey pretty girl, can you massage well? Show me your skills”. Before we left the office, the staff ordered us to line and to squat down. They asked us how we came and where we were from. After that we were put into cells. The cell was four metres by five metres and was divided into two sections, one for women, and one for men. There were about 200 women in the cell. We were all migrant workers from three countries: Cambodia, Burma and Laos.

Inside the cell, there was a small store selling toiletries and snacks in front of the bathroom. It was very expensive. The price was double what you would pay in the market, for example, mama noodles were five baht but in the detention they were 10 baht. Milk was 20 instead of 10 baht. I don’t know who owned the store but the seller was also a prisoner. Aside from selling, it was her job to tell us to wash our feet, count and check us, and look after the cleanliness of the place. I thought to myself, “Wow, even when we’re in jail they still use us migrant workers to do the dirty work!”

The first evening meal was a shock! It was hard rice, a thin tomato soup with chicken rib bones and as a special treat, one boiled egg! The food never got any better than that. We were given one plastic spoon that we had to keep and use for the rest of our time there. We were called to stand in rows. We were about 500 in total, men and women. One Cambodian woman was about 5-6 months pregnant. She simply took a moment to look around for her husband but WHACK! The staff slapped her face, “Get in line! Don’t you understand? Stupid #%\$*”. We were put in rows to make a suspect card and filled in the data: name, route to be sent home, a number, photo. A female staff member searched our bodies and confiscated our possessions: cell phones, money and even the smallest makeup mirror or teaspoon. We went upstairs where an American store manager met us. “Go, wash our feet and come get your card!” said the American in Thai with a funny accent. We had to pay 20 baht each for our cards. There was a pile of blankets but not enough for everyone, so two shared a blanket. All together there were 215 women not counting the kids. It was difficult to sleep because we used to work at night and sleep about 4 am, but not at 8 pm.

The next morning one of us managed to get on the van going to Mae Sai. It was limited to 55 people. So we were left behind. We heard that the bus went to Mae Sai every Friday if there were 55 people to be deported. This gave us hope that we would have our freedom by next Friday. Freedom was the most important thing to us. During the weekend, no one moved because of the holiday. Many migrants had family visit and they bought precious food and snacks that we all fought over. Next week, we saw Chinese, Lao, Cambodian and others leave,

wishing it was us but happy for them. The Pakistani group was presented with their air tickets and their grins lit up the cells. The Burmese migrants sat together, whether we were from Mae Sot or Mae Sai. The guards would read out the names of who would go. It was a time of tears and smiles. Sometimes families broke up. Some begged the guards to go.

Every morning, the three Pakistani children were sent to the school and returned at the end of the day. One day early morning about 4 am, the Pakistani woman was crying for help as her six month old baby had a high temperature. We all grabbed our metal trays and banged them on the doors making a big racket. It took about 15 minutes for the staff to come. They took the mother and the baby away. About 7 am, we were so happy to see that the baby was peacefully being nursed by his mum. We were so proud that even though we were from different countries, we could help each other. Sometimes there were fights and thefts, but we came together to help each other.

Every Wednesday, a doctor from one of the NGOs visited and checked if anyone was ill. He examined and gave medicine to those who needed it. He asked many questions, for example: where were you arrested; where is your home; has anyone been violent to you; do you need any help? At first, we thought it was good but he just listened and left. Why does he ask if he isn't going to help? It was just false hope. Another 33 people were arrested and waiting to go to Mae Sai. We thought for sure the number would reach 55 by this Friday. Every Thursday, we went out to do exercise and walk around the yard, buy snacks, use the phone if we had money. Perhaps the happiest time was to meet with the Korean family who were in a separate cell. We saw each other once a week. At 6 am, we woke up and got ready to be called to go.

We showered, packed and waited for 7 pm. We knew if we didn't go today, we would be there another week. We sat and watched the clock waiting for darkness. At last the guard came and opened the door. We lined up in our rows as usual. The guard announced that two groups would go. We had to give fingerprints and they rechecked our identity. There were five rows of 55-57 people. The guards returned our phones and other possessions. We sat back down to wait for the truck until 9 pm. Then, they told us, "Last chance to go the toilet. There is no stop on the way!" We were marched outside and the truck arrived. Usually it had two benches but tonight they added two more benches and each bench sat 14-15 people. There were 57 people, men and women, on the truck going to Mae Sai. Even though we were crushed against each other, no one complained about it because we were going home. It was cold season but we didn't care at first. People began to get car sick and soon the noise of wretch and the stench of vomit was everywhere. When we reached Kampeng Phet, about five hours drive from

“Laws should protect people and not push them away from protection.”

Bangkok, the driver got down and came round the back. He looked about then took a piss beside the truck. We hoped we'd get a break but the staff repeated that there was no stop until Mae Sai. Around 5 am we passed through Phaoa. We were cramped, cold, and busting for the toilet. I felt that Mae Sai was still far away. Eventually we reached Mae Chan. Usually, police inspects everyone and take our money but this time we were VIPs and not checked.

We reached Mae Sai at 7:30 am, about eleven hours later. We were not allowed to get off from the truck for another hour as the police did their paperwork. We were lined up in rows of 10 to use the toilet but some people couldn't bear it and raced in. It became a big mess and the guards finally ordered us to get back on the truck, whether we got to the toilet or not. We waited to be interviewed, fingerprinted and photographed again before being locked inside the cells to wait for deportation. It was now Saturday, a holiday, so we would be locked up for another two nights. We paid 1,000 baht, if we wanted to be released today, tomorrow 500 baht, and Monday no charge. I paid 1,000 baht to be released in Mae Sai with a letter from immigration. My hill tribe card was sent to the local council office where I had to go and claim it. Some people didn't show their cards because they were scared.

They were all deported at Bridge 2, Baan Huay Din Dam-that is the place to come in illegally and to be deported. It's the safest place but you have to pay: boat fee 40 baht, fee to step into Burma 500 baht, motorcycle taxi to the road 500 baht, plus another 300 baht to Tachilek, Burma. If you come from another place then you have to pay for accommodation and food until you get ready to go back to Thailand.

It would be better if everyone could get papers with permission to stay for a two to three month period to let them travel around and find a job. Then when you find a job you go to the local district office ('amphur') and get a card to say who you are and where you work. Laws should protect people and not push them away from protection. We should be treated the same as others.

Well, I have a word for the ladies who want to work in Thailand. They must look for a good job, good working conditions. They should not accept any job that they find first. Ask friends and customers. They should not be afraid to change places. There is always a job available for you. You have to work for a long time. It's important to look after your health. If something sounds good, then it probably is. Always trust yourself more than anyone else and take your time to get to know people.

Did you know...

Background on sex work

Sex workers make a huge economic and social contribution to the Greater Mekong Subregion (GMS) countries. In line with the common definitions of “work” in the GMS—sex work is work. Sex workers have an employer, an income, a workplace, work hours, a work uniform, work tools and work duties. None of the GMS labour laws specifically exclude sex workers. This means there is already a space in the existing labour regulation framework to include sex workers, providing the same protections and benefits afforded to other workers.

Since 2009, the UN, led by Secretary General Ban Ki Moon, has urged countries to repeal laws that criminalise sex work. The ILO Recommendation 200 on HIV and Work issued in 2010 does not exclude sex workers, recognising sex workers as workers with equal rights to the same benefits and protections as all other workers.

Opposition to sex work

The Prevention and Suppression of Prostitution Act BE 2539 (1996) is Thailand’s first law criminalising sex work. It was enacted in 1960 during a moral cleansing campaign, and amended in 1996. Prostitution is defined under the law as, ‘sexual intercourse, or any other act... in order to gratify the sexual desire of another person in a promiscuous manner in return for earning or any other benefit’ (section 4). ‘In a promiscuous manner’ is defined as being with more than one man. It was defined in this manner so that men could retain their mistresses and minor wives without legal repercussion.

Prostitution is deemed an offence whenever there is evidence of soliciting, advertising, recruiting others or arranging the prostitution of others for self-profit (articles 5,6,7,9). The maximum penalty for a sex worker is a 1,000 baht fine (US\$30), or one month in jail. There are provisions for mandatory rehabilitation for adults but this is very rarely invoked in current times. The law itself is reasonably lenient but the consequences of being judged a criminal are severe.

Migrant sex workers' rights

The Alien Worker Act BE 2551 (2008) further restricts migrant sex workers by prohibiting undocumented migrants from working in Thailand without registration. Supporting Cabinet Resolutions limit the occupations that are eligible for registration to domestic work, factory work, construction work, agricultural labour, fishing industry work and general labour. Working in a karaoke bar or giving massages are not criminal activities in themselves, and migrant women make up a large part of the workforce in these sectors of the industry. However, they are unable to join the registration process and are thus forced to work unregistered, or falsely register in other occupations.¹

Migrant sex workers are restricted by an extra set of laws governing their immigration status. *The Immigration Act*, B.E.2522 (1979) prohibits all undocumented and unskilled migrants from entering Thailand for work.

Migrants are entitled to recognition under all other laws and to protection of their human rights. Migrants have legal protection under domestic and international law. If migrants are affected by a crime they are eligible for the same legal protection and redress as any other person under Thai law. (For example the Thai Penal Code provides protections for all women against rape and sexual abuse (Thai Penal Code Section 277)).

Legitimising the entertainment industry

The Entertainment Place Act BE 2503/2547 (1966) (amended 2003) was originally enacted during the Vietnam War when US armed forces used Thailand as a rest and rehabilitation (R&R) destination. *The Entertainment Place Act* allows for the registration of entertainment places where there is any kind of dancing, or any massage service provided (for example, massage parlours, bars, night-clubs, and go-go bars) and allows the hiring of “service employees” (for example, waitresses, masseurs, and dancers). The Act provides entertainment place owners with an opportunity to legitimise their business through registration or licensing. Under the Act owners must register their venues and employees with the police. This involves workers providing the police with a detailed family history, fingerprints and photos. In 2006 the National Human Rights Commission found that the police were recording workers’ histories on criminal suspect forms, which was a breach of the human rights of workers. There are no provisions for working conditions, labour rights or occupational health and safety (OH&S) standards under the Act. It is estimated that only a third of entertainment places have ever registered under the Act.

NGO Reflection: Empower Foundation

Migrant Sex Workers

“We would like the government to understand that we come here to work-and dont want to cause anybody any trouble. We also dont want to be ripped off. We would like you to have a simple clear system that is the same for eveyone, so we dont have to pay so much for transport, for police bribes, and other things.”

Message from Migrant Sex Workers

Most migrant sex workers in Thailand come from Burma, Laos, China and Cambodia. All of these countries-even Burma, where there has been decades of economic mismanagement, environmental destruction and institutionalised oppression-have developed over the last 10 years. Improved transport and communications infrastructure has allowed women migrating to Thailand to do sex work to come more independently and with more information than their sisters did 10 years ago. Access to Thai TV in many areas has given access to basic language skills and some knowledge of what living and working in Thailand may mean.

Most migrant sex workers have worked in other jobs before applying to work in an entertainment place. The majority apply for work in small karaoke bars or massage parlours. They work for 6-8 hours, usually with just one day off a month. Some will be paid a salary, usually below the minimum wage but many also work on a commission basis. They earn 60% of the price a customer pays for a drink for them and usually 50% of the earnings for massage or sexual services. Migrant sex workers report that they regularly earn up to 3 times the minimum wage. A decade ago there were still many highly exploitative workplaces with some still practising forced labour and debt bondage. Nowadays those old style conditions are very much the exception rather than the rule.

Many entertainment place owners rely on migrant workers to staff their karaoke bars and massage parlours. However they are yet to petition the government to include entertainment work as a category open for migrant workers. This means migrant sex workers remain outside the migrant registration processes, and any benefits or protections. Corrupt authorities are able to exploit this by extorting money and/or arresting migrant sex workers to satisfy their arrest quotas, the public or their superiors. Over the past decade

those without documents and without the means to access them have become all but invisible in advocacy efforts as labour groups struggle to ensure the State upholds its commitments to documented migrant workers.

The hysteria surrounding human trafficking over the last 10 years has added to the stigma migrant sex workers face and puts them under constant threat of rights abuses encountered via raid, rescue rehabilitation and deportation.

However, over the last decade migrant sex workers have also increased their confidence and are building spaces in society where they can organise and speak out. Migrant sex worker leaders have emerged and the culture of daring is gaining strength.

Did you know...

Trafficking

Human trafficking refers to the movement of people by means of deception or coercion, for the purpose of exploitation. The profit comes not from the movement itself, but rather from the sale of their labour in the country of destination. The trafficked person may be physically prevented from leaving, or bound to their new employer by debts or threats.

Human smuggling

Human smuggling refers to the act of moving migrants illegally across international borders, usually in situations where it is impossible for migrants to use official channels. The smuggler facilitates the movement for profit, the migrants who are smuggled want to cross the border and hire the assistance of the smuggler.

Anti-trafficking laws in Thailand

The Suppression and Prevention of Human Trafficking Act BE 2551 is an amendment to the 1997 anti trafficking law to include the recognition of trafficking of men and boys.

Trafficking is defined as (1) the movement or 'trading' of human beings with (2) the use of force or deceit for (3) the purpose of exploitation. If the victim of trafficking is a minor (under 18 years old) there is no need to consider the issue of consent or deceit to qualify as trafficking (Sections 4 and 6).

Act BE 2551 provides a range of protections and rights for trafficked persons including but not limited to: appropriate accommodations in government approved shelters, legal and timely aid, free legal representation in a court of law to persecute traffickers, the right to temporary stay and work in Thailand while awaiting outcomes of prosecution, privacy so that photos or information about such persons can not be circulated via media or other channels, and safe and timely return home to families and communities.

In the time since Act BE 2551 was implemented in June 2008, until June 2011, there have been 253 actual convictions for trafficking, with 159 successful convictions for trafficking for the exploitation of prostitution.

Given the intense focus on the sex industry and the size of the migrant workforce, the data from 2008 to 2011 may indicate that trafficking into the sex industry is over estimated and that it is the exception rather than the rule.

Endnotes:

- ¹ Empower Foundation, Thailand, *Hit and Run, The Impact of Anti-trafficking Policy and Practice on Sex Workers Human Rights in Thailand*, Thailand: EMPOWER Foundation, 2012.

“I gave up drugs and was trained to become a peer educator. I raised awareness on drug addiction and HIV/AIDS through peer-to-peer training at various brothels and karaoke shops in Poipet.”



Sex workers and Empower members marking International Women’s Day in Chiang Mai in 2007
Photo courtesy of Mekong Migration Network

Migrant Reflection: Daing Thy Phoeung **Sex worker from Cambodia**

Interviewed in Cambodia by the Cambodian Women’s Crisis Center (CWCC)

I am a 28-year-old Vietnamese woman, and my name is Daing Thy Phoeung. I was born in Fang Ngay province, Vietnam. I now live in Poipet city, Cambodia. I have 13 siblings and I am the youngest one. As a child, I lived with my mother and stepfather. My stepfather was a violent man. He always beat my mother and I. One day, he tried to rape me. My family was very poor and in debt. The moneylender came to ask my mother for money almost every day.

I left Vietnam in 1991. At the time, I was eight years old. I met a female Vietnamese broker who told me that I could earn more money in Thailand. So I went to Thailand together with my sister, uncle and four other neighbours without telling my mother. After a few days in Cambodia we went to Poipet, which is about two kilometres from the Cambodia-Thailand border. There were now 10 people in the group: six Vietnamese and four Cambodians from Phnom Penh. We all stayed at a guesthouse at Loem Nguon and waited for my sister. I believe that the broker sold my sister to an entertainment place in Poipet. I lost contact with my sister and haven’t been in contact since then. The broker brought the ticket to pass the Poipet International border. We entered at the Rong Kluer market near the border

with the ticket. We walked across the forest to reach Srakaew province, Thailand, where a pickup was waiting to drive us to Nakhonpathom province.

I was very young and did what the broker/trafficker told me. The purpose of my migration was to earn money. I paid two thousand dollars, before interest, to the broker for the trip to Thailand.

The trafficker forced us to do begging work. The beggars had terrible wounds on their hands and legs because the traffickers mixed acids and detergent and poured it on their hands and legs in order to have the wounds and so that people might take pity and give us money. I was lucky that they did not pour the mixture on my legs. I had slipped on the floor in the bathroom and fallen into the toilet hole making my leg seriously injured. So since it was already injured, I did not have to make it wounded like the others. Under the close and strict supervision of the traffickers, I begged at several places in Nakhornpathom province and earned around 500 to 1,000 Thai baht a day. However, I received nothing but meals since the traffickers took all the money. If we had hidden the money, we would have been punished, beaten up and given no meals. I begged for two years until I was told to sell flowers on the street because the traffickers realised that police recognised me so I could be arrested.

I sold flowers at restaurants but still the traffickers took the money. There were around 50 people under the control of the same traffickers. I was lucky to never have any serious illness besides just common colds or fevers. The traffickers were responsible for buying medicine for me. One day, the police arrested the trafficker's wife. The trafficker paid 60,000 baht to them to release his wife. Then they moved to another place. I decided to escape and stay with a Vietnamese migrant family. I knew that family because their child was also a beggar. So I moved to Bangkok with that family and rented a house.

In Bangkok, I was free but had no work besides begging, since I was just 15. I spent a year begging at various markets and corners in Bangkok and gave all the money to the Vietnamese family to save for me. But the Vietnamese family moved to another place while I was asleep and took all the money. I could speak some Thai words at that time, so I begged for help from the house's owner who gave me 2,000 baht. Having no place to stay, I decided to ask to stay at a house owned by a couple, a Thai husband and Vietnamese wife. That house had three floors. The wife stayed on the second floor, her husband on the ground floor and I was on the first floor. After about a week, the husband flirted and invited me for sex by giving me some money to stay at the house without paying. After staying about a month, the husband gave up having sex with me. A Vietnamese woman who

stayed at the same house knew about this and told me to work at a karaoke shop in Pattani to earn more money. It took a day and a night to reach Pattani province through Hatyai in the south of Thailand, with that Vietnamese woman.

I worked in a karaoke bar as a sex worker. 50% of the fee was deducted by the shop owner and I received the rest. I was sold to the karaoke shop by the Vietnamese woman. The shop owner told me that the deduction was made because she gave money to the Vietnamese woman. However, the shop owner would not tell me the amount. I worked in that karaoke shop for almost three months before the police raided it. I was arrested and detained at the prison in Sadao, Songkhla, for a month.

“In the prison, I had sex with the prison guards and got some money. I bought some food for other prisoners.”

In the prison, I had sex with the prison guards and got some money. I bought some food for other prisoners. They doubted where the money to buy food for them came from. I laughed. While in prison, the police asked me to verify if I was Cambodian or Vietnamese. I said Cambodian, and that I lived in Poipet and had migrated to Thailand when I was very young-That’s why I could not sing the Khmer national anthem that the police ordered me to sing. I was afraid to say that I was Vietnamese. If they knew that I was Vietnamese I would’ve been in the prison without release.

Later on, they sent me to Thai immigration and deported me to Cambodia through the Poipet-Aranyaprathet international border. On the two days it took to reach the international border for the deportation process, I was released on guarantee by a female Vietnamese broker who I did not know. The amount was a bit higher than for Cambodian nationals.

Having stayed a few days in Poipet, I paid 1,000 Thai baht to the Vietnamese woman who guaranteed my release and decided to go to Malaysia through Thailand. A Vietnamese trafficker in Poipet convinced me to work in Malaysia. At this time, I bought a 1,000 riel ticket to cross the Cambodia-Thailand international border and went straight to Bangkok. The trafficker paid 3,000 baht to the Thai-national taxi driver to go to Bangkok. We were not checked by the police at the checkpoints. I stayed five days in Bangkok then travelled to Yala province before crossing the Thai-Malaysia border by train. The traffickers paid money to the Malaysia border police. There a car picked us up and drove to a brothel in Kuala Lumpur. There were altogether eight girls in the same car, four from Cambodia.

I could earn an average of 150 Malaysian ringgits for each customer. I worked in that brothel for months and was pregnant by a Vietnamese man who was my beloved customer. In 2000, I delivered a baby boy at a Malaysian hospital, borrowing US\$500 from the brothel owner to pay for the delivery. The baby was very cute and people wanted to pay me US\$1,000 to buy him but I refused. My baby was later kidnapped by someone.

One day, the brothel was raided by the police and I was arrested and sent to jail for six months. I was asked to go to court three times. In Malaysia it was very difficult in court since I had no lawyer to represent me. I still owed the trafficker US\$500. I earned some money even when I was in the jail by massaging guards in the jail who gave me five Malaysian ringgits each time. I pretended that I was a Cambodian citizen, so I was finally deported back to Cambodia through Thailand. I repeatedly migrated to Thailand for work, most of the times to Bangkok, but I was repeatedly arrested, detained and deported back to Cambodia.

In late 2001, I decided for the first time to work at a massage parlour in Poipet, Cambodia, as a sex worker. I borrowed some money from the owner before working there. I was scolded by the owner very often and finally decided to go back to Thailand. I went by myself to work as a sex worker at Sanamluang in Thailand, but three months later, I was arrested and deported back to Cambodia. I hesitated to go back to Thailand because I had been arrested, detained and deported back to Cambodia many times. I felt very bored with my life and I had no choice but to go and work again for the previous massage parlour. I worked there for about six months and then moved to a brothel in Poipet where I stayed for about two years as a sex worker.

I visited my parents in Vietnam with help of the first trafficker who took me from my hometown. The trafficker brought me to the Cambodia-Vietnam border and then left me to cross the border alone by boat. I finally found my home and parents. After staying for about a week, I decided to go back to Cambodia for work and to look for my sister. At the Cambodia-Vietnam border, the police asked me where I was going. I said I was going to Phnom Penh to sell clothes at Kandal market. I then continued travelling by myself from Phnom Penh to Poipet. I was told that my sister was a sex worker who lived with a drug-addicted man in Poipet. Finally I found her. She was in huge debt, so in 2007 I decided to go to Thailand to find money for my sister and to pay off her debt.

I wore Islamic clothes and went to Thailand with help from a trafficker. I went to Hatyai for sex work. The money I earned I sent to my sister to pay off her debt and an additional US\$500 to return home. Thinking that my sister was out of

debt, I returned back to Poipet and brought an additional 10,000 baht for my sister to go home. But my sister had moved to another part of Poipet, Procheathoam village and had two children with a drug-addicted man. Her husband was a gang man and very cruel. So, I decided not to worry about her anymore.

I worked at a brothel in Poipet for the next two years until I met a trainer from the Poor Family Development organization (PFD) who visited me and other sex workers to educate us about HIV/AIDS and drug addiction. At that time, I was a sex worker and drug-addicted. I was seriously addicted. Drugs helped me to deal with many customers each day although I knew that I would get affected by the drugs. I used around 10 capsules of amphetamine per day. The money I earned from sex work I wasted on amphetamines.

I had never received education in Cambodia, Thailand or Malaysia. However, I had studied grade three when I was in Vietnam. I did not receive any training before my departure. The only thing that I was told before I left was that there were many options of work to do in Thailand such as begging, selling flowers, stealing money from people's pockets, and sex work.

The PFD educated sex workers about the negative consequences of drug addiction and invited any volunteers to act as a drug-addicted person. No one was brave to do the role-play except me. PFD invited me to be a peer and I told the trainer that I could speak the Khmer language only but could not read. The trainer said it was not a problem, so I agreed. I gave up drugs and was trained to become a peer educator. I raised awareness on drug addiction and HIV/AIDS through peer-to-peer training at various brothels and karaoke shops in Poipet for four hours a day. I was given some monthly stipends for my voluntary work with PFD. From that year until now, I have worked for a karaoke shop in Poipet at a monthly wage of 2,500 baht excluding bonuses I get from the customers. I still stayed in touch with my sister even though I was angry with her before.

I lived more easily in Cambodia compared to my more-than-a-decade-long stay in Thailand and Malaysia. I obtained living cards three times in Thailand with help from a house owner who paid 4,500 baht to obtain that card. The card had to be re-validated when it expired and I had to pay 1,500 baht for validation.

It was easy to access health care in Cambodia. I paid 15,000 Khmer riels (US\$3.5) to get a health check at the hospital. I suggest to the government of Cambodia that each hospital should have enough facilities to save the lives of people. I know of an old lady who was seriously sick and needed oxygen but there was no oxygen left at the hospital in Poipet. She died while being transferred to the provincial referral hospital.

“Police discriminated against me because I was a sex worker and because I was Vietnamese.”

The situation at the brothels before and now is different. Before, the sex workers competed each other to get customers but now the customers are given space to decide on their own who they want

to be with. Also, brothels were everywhere in the last decade but now in Cambodia, they have been closed by the government, and strict laws against sex work have been adopted. I have never been dismissed from work. The work that I gave up was due to my arrest. I suggest to the government of Cambodia to not arrest me and other sex workers. We were all very frightened when any raid happened.

I felt very sad and uncomfortable living in Cambodia. I sent money to my mother and sister to pay off debts while my siblings contributed nothing in paying off their debts. I lived in Cambodia for more than a decade but I was still afraid of being arrested and deported because I had no Cambodian identity card and no family record book. The sex work I did was not easy. Some brothels were very awful because the owners were cruel. In addition, I suffered from discrimination in the last decade. When I went to the market, people rudely said words like ‘Vietnamese sex worker’. The discrimination against me as a Vietnamese sex worker also happened to the other sex workers who worked with me. Police discriminated against me because I was a sex worker and because I was Vietnamese.

Now I am happy to live along with others as discrimination against human beings is almost over. I think I can be protected by the police, shop owners, Vietnamese association, and non-governmental organizations. With regard to rights to participate in society, I receive a number of invitations to participate in wedding parties and I enjoy my time with other Cambodian people during the Khmer New Year, death festival, boat racing festival and Chinese New Year.

I have bought a mobile phone but not a motorbike, land or a house, as I have no money to buy those things. However, I have no idea if I could buy a piece of land or a house in Cambodia once I have enough money. I always send remittances to my mother by private money exchangers from Poipet to Phnom Penh where my god sister is. Then she sends those remittances to my mother directly. I also used this way to send remittances from Thailand to my sister in Poipet but it was not as secure as sending from Cambodia to Vietnam. My wages and earnings are lower than the previous decade but I can save some money from it. It is not like in the past when I could earn an average of 10,000 baht Thai baht a month but couldn’t save as I used it to pay for illicit drugs.

I used to be arrested many times but I was always released after paying some money to be released or granted bail. I realised that in Cambodia I could be released if I was charged with a common charge but not if I was charged with criminal offences like drug trafficking/selling and illegal business. I sued a brothel owner in Cambodia who did not pay my wages. Instead of justice, I was arrested by the police who received a complaint from the brothel owner claiming that I owed her US\$200. I was released with the assistance of PFD. Ten years ago I did not have the courage to sue someone. I was careful about my personal security, but now I am brave enough to report any incidents to the police, police military or non-governmental organizations for help.

The brokers/traffickers in the last decade found it very easy to do business because there were no laws dealing with migration, and law enforcement was not as serious as it is today. I used to live with Vietnamese human traffickers (one I called my godmother) who always trafficked young Vietnamese girls and boys from Vietnam to sell in Malaysia through Cambodia. The price for each young girl ranged from US\$2,000 to US\$3,000. I did not know that human trafficking was a serious crime, I realised that it was a serious crime after twice being detained in Cambodia for involvement in human trafficking and smuggling. The first time, I was detained in 2005-2006 when I took care of four Vietnamese kids (two females) brought by my godmother from Vietnam to be sold in Malaysia. The process of trafficking was to stay in Phnom Penh for a few days, then to go to Koh Kong province and then from there to Malaysia through Thailand. The police arrested me while I was taking care of the kids. Someone brought food for me at the detention centre. I think that my godmother arranged my release. The four kids were trafficked by my godmother to Malaysia after my release.

The second time, I was in Banteay Meanchey province when my godmother attempted to smuggle two young girls from Vietnam to Malaysia through Poipet and Thailand. I was arrested while taking care of the two girls. I was sent to a detention centre for two days for interrogation and I confessed everything. I was granted bail of US\$1,500, which my godmother paid. I heard that the girls would be sold for the purpose of adoption and selling their hearts to rich people.

My godmother invited me for the third time to traffic kids from Vietnam but I refused because I knew that human trafficking was a serious crime. However, I heard that my godmother trafficked eight young girls that time and that my godmother had sold six girls to Malaysia. She also sold two girls to Thailand to be beggars because they were HIV-infected. All trafficked kids had to get blood tests. Despite my involvement in human trafficking, I rescued two Vietnamese girls from being sexually trafficked in Thailand. The two girls held fake passports

(US\$500 for each passport when made). I contacted a guy to walk and guide the two girls across the alternative way toward the border. The brothel owner realised that they had escaped and ordered gangsters to chase them. They would have been killed if they had been found. Once we arrived in Poipet, we all stayed overnight at a guesthouse before their trip to Vietnam. I accompanied the two girls until they met their family in Vietnam and their family profoundly thanked me. It was exciting because I had done a good thing.

Although infrastructure, roads and bridges have been developed in this decade, migration is not as easy as it was in the last decade. The government of Cambodia should find jobs for people. They should not look down on me. Instead, they should grant me and other migrant workers ID cards or family record books.

I suggest to those who want to migrate that they should not trust brokers. They should check the status of the broker first. They should have a passport and other legal documents and be sure that they will have something to do at the destination countries, as well as a clear written contract before they migrate. Also, in cases of arrest of illegal migrant workers, the governments of the receiving countries should not harm them and should instead facilitate their return to their home country.

Did you know...

Vocational training & skills development

Section 36 of the *Thai Labour Protection Act* stipulates that an employee is entitled to 'take leave for training or development of his knowledge and skills in accordance with the rules and procedures prescribed by Ministerial Regulations'.

Section 21 of the *Skill Development Promotion Act* provides that during training courses, 'the training provider who is also the employer still has to abide by the law, rules, and employment contract'. Furthermore, Section 21 states: 'In case the training activity is held with the request of the employee and in written agreement, the employer may arrange training after the employee's regular working hours or on holidays with wages paid not less than the regular wage rate according to the actual number of hours spent in such training'.

“I had many difficulties during those days on the sea.”



Fishermen pulling in fishing nets
Photo courtesy of FAR

Migrant Reflection: Chor Savron

Returnee fishery worker from Cambodia

Interviewed in Cambodia by the Cambodian Human Rights and Development Association (ADHOC)

I am Chor Savron from Cambodia. I left without my family and came to Thailand in 1995. Now, I am back in my home country, Cambodia. I went to Thailand to find a job since there were no jobs in Cambodia. I wanted to work and earn more money. I heard that the broker could find a job for me. I contacted the broker before I went.

It was very difficult to find a job and I could not make much money in Cambodia. I did not know about recruitment companies, so I used a broker to find a job for me. When we went to Thailand, we were 11 people altogether. The broker told us that we had to walk through the forest for about 10 km to reach the railway station at Aranyaprathet, Srakaew Province, Thailand. When we arrived at the railway station, the broker told us to hide inside the train toilet, at around three am, a group of gangsters with swords knocked on the toilet door and asked for money from the broker. Again, around 3:30 am., Thai soldiers threatened us and demanded money from the broker. He gave money to them. Later, they came back again and put gas into the toilet. We were inside the toilet and had to run from the toilet to escape. We went into the forest and we met a hunter. He took us to the broker's house. The broker had a connection with the broker from

"I had to work overtime always, because there were many things to do. There were no days off."

Cambodia. He told us to wait for three days and then the car brought us to Samut Prakan province.

I did not receive pre-departure training, awareness raising training or preparation to work in Thailand. I did not attend any adult education or vocational training classes.

The broker found a job for me when I arrived in Thailand. I worked on a fishing boat. I worked there for about 10 days without pay and then I got the job. I have never signed a contract and have never been laid off. I have never accessed banking services. I worked and lived on the fishing boat, so I did not know how to use bank services.

I had to work overtime always, because there were many things to do. There were no days off. I had many difficulties during those days on the sea. I did not have enough food to eat. Sometimes, I felt seasick. The working conditions were not so good. I did not receive enough wages. The manager gave me some portion of my wages, but not all the wages. I had to work for long hours and I only had a short break. The manager did not respect the workers. It will be better for the migrant workers, if managers respect the workers' rights.

I have not had any medical examination or medical check-up. Besides, I do not have health insurance. I think it's good to have medical check-ups and health insurance. I had to pay all the expenses when I got sick. I was always on the boat and I had no chance to receive treatment from the hospital. I took medicine to feel better and it was difficult to access proper treatment.

I had some documentation with me. I have an identification card from Cambodia. If I don't have the card, I could be arrested and accused of being a criminal or drug trafficker. It was very difficult to obtain the card. I had to pay a lot of money to get it. But, if I did not have the card, they would arrest me and send me to prison. I had a birth certificate but I did not have a marriage certificate.

I tried to speak Thai a little bit, about how to take the bus and the numbers of the buses, so that I could go back to Cambodia. When I had a chance, I went to the bus station and went back home, to Cambodia. At the checkpoint, I was reading a book on the bus. I did not say a word and pretended to be deaf. It was not so easy for me. I paid some money to the person who could take me to the village. I came back to Cambodia at my own expense.

According to my experiences so far, I saw there was no security or safety. When our people found out that we were migrants from Cambodia, they did not want to speak with us. If the police found out that we were migrants, they would send us to prison. I did not know about NGO visits to the detention centres and the effect on migrants. But, I know that migrants were still arrested.

I have never heard about the MOU because I was working on a fishing boat. I think the cooperation between Thai Government and Cambodia government has increased. However, it has not improved the life of migrants. My life has not changed and I am still struggling. I think if I could find a job in my country it would be better. I think if I got the job in Cambodia, I would receive the same amount as here, but I have freedom in my country. In relation to the government, I have never been to the Cambodian embassy or any of the offices. I have never met anyone from the employer's association.

I observed that the safety of migrants has increased but I think the policies on anti-trafficking laws have not changed. Well, what I want to mention about the response to trafficking is that the brokers are traffickers. Illegal border crossing should be stopped.

I could say that as a migrant worker, there were no improvements and no changes in my life. I have no rights to speak and no freedom. For example, when I felt sick, I was afraid to go to the hospital. I have tried to work and find a way to earn more money in Thailand. Nevertheless, I have returned to Cambodia without money although I have been working in Thailand since 1995.

I would suggest to my friends not to go to Thailand. Although you have a passport, you will face risks and incidents. I heard that some of the migrants sold their land, but the company cheated them and took their money. I could tell you from my own experiences, working in Cambodia is better than working in Thailand. If you do not consider the amount of money earned, you could stay with your family, your wife and children. In addition, if you do not speak Thai, it might be difficult for you to communicate. But in Cambodia, you could communicate easily. Again, I would like to say, don't migrate!

The government should promote and educate migrants to know more about migrants' rights and benefits. Furthermore, the government should advocate safe migration to the public through the media.

Did you know...

Fishery industry

Thailand is one of the biggest sea-food exporting countries in Southeast Asia, and the fishing industry requires the cheap labor of migrant workers. Most Thai workers shun work in this sector because of the perilous working environment and lack of privacy. Thailand's fishing industry is an important part of the economy and hundreds of thousands of migrant workers from neighboring countries are working in this sector. Migrants from Burma (Myanmar) and Cambodia, many undocumented, provide Thai companies with cheap, unregulated labor.

The conditions for fishermen are very poor, and they do not have suitable eating or sleeping times because they have to work in six hours cycles over a 24-hour workday. Sickness, poor nutrition, abuse and death at sea are common.

These workers are the highest single group of human trafficking victims in Thailand. Many are virtually abducted and forced out to sea after having been promised other jobs. Some of these victims have to work at sea for months at a time, without even being allowed a short shore visit. Child labor in this sector is rife. The industry even prefers children for certain tasks, partly due to the lower costs.

Because of the notoriety of the sector among migrants, fishing operators are facing labor shortages. The National Fisheries Association of Thailand (NFAT) admitted that they need 140,000 workers, but could find only half of them in 2011. Even though the Thai government's new registration process had finished in 14 July 2011, fishing operators were given until August 13 to register alien workers.

The *Labour Protection Act* of 1998 (LPA) sets out minimum standards for wages and working conditions, however the Ministry of Labour's (MOL's) Ministerial Regulation 10 under the LPA provides that wages and working conditions can be based on individual terms of agreement between employers and employees. The practical effect of Ministerial Regulation 10 is that more than 90% of the fishing industry is not covered by the provisions of the LPA.¹

The only sections of the LPA that explicitly apply to marine fishing relate to matters such as the provision requiring "guarantee money" (in case of possible damage caused by an employee); administrative items, such as the power of

labour inspectors to inspect and issue orders; and the right of employees to file complaints with the MOL Department of Labour Protection and Welfare (DLPW) for unpaid wages.

A further exclusion exists under the LPA and Ministerial Regulation 10 for marine fishing boats with less than 20 employees, and boats that 'perform their operations regularly outside the Kingdom of Thailand continuously for at least one year or more', thereby excluding small and medium-sized Thai fishing boats and vessels operating in non-territorial waters.

Additional provisions in Ministerial Regulation 10 prohibit the employment of children under 15 on fishing boats and require the maintenance of crew lists. Ministerial Regulation 10 also obliges employers to pay the repatriation expenses for fishermen returning to their homes in the event that workers 'are in danger or ill due to their performance of their work', face early termination of their contract by the employer, or where there are problems with the fishing vessel. Employees are also entitled to 13 days annual leave, and to sick leave of not more than 30 days per year.

Trafficking into the fishery industry

There is increasing recognition of male victims of trafficking. The harsh working conditions and informal recruiting processes of the fishing industry in Thailand often promote an environment conducive to human trafficking-whereby workers are sold to fishing boats and must pay off their 'purchase price', often by working for months or years without pay.²

Trafficking in persons (TIP) in Thailand is covered by the *Anti-trafficking in Persons (ATIP) Act B.E. 2551 (2008)*, which severely penalises the trafficking of both men and women for all purposes, including those forced to work on fishing boats. There are several important sections of the ATIP Act that deal with organised criminal activities, offences occurring outside of Thailand, penalties, victim assistance, witness protection and the right of victims to work while involved (as a witness or otherwise) in the criminal investigation or prosecution of traffickers.³

**NGO Reflection: Legal Support for Children and Women (LSCW)
Migration from Cambodia**

The most important change in Cambodia over the last ten years has been the development of domestic laws and policies that focus on labour migration-in terms of sending Cambodian migrants abroad. This has had a positive impact in terms of establishing a legal framework and creating clearer guidelines from which NGOs and government ministries alike can work. While official discussion on undocumented migration had been limited and sensitive in the past, the countries in Asia and Pacific Region got together in 1999 to discuss the issue and signed the Bangkok Declaration on Irregular Migration. Thailand and Cambodia continued a bilateral discussion over the issues of Cambodian migrants working in Thailand, which eventually led to signing of the bilateral Memorandum of Understanding (MOU) on Cooperation in the Employment of Workers.

It is easier for LSCW to provide services now because the legal framework is in place, but at the same time several challenges remain. Firstly, the enforcement of these policies remains weak and limited, which is due in large part to a widespread lack of capacity amongst law enforcers.

The second challenge is a lack of budget-the Cambodian government has not allocated enough in the budget to enforce these policies.

Thirdly, the government has not paid enough attention specifically to migration issues, instead choosing to focus more generally on development, human rights, and trafficking. Migration is not mentioned in the national development plan.

If you look at migration and the movement of people from Cambodia, Cambodians are still doing the dangerous and difficult jobs in Thailand that Thai citizens do not want to do. The government needs to concentrate more on this issue by providing vocational training and capacity building of migrants prior to departure, in order to assist them to avoid these types of jobs.

The MOU is in place to make it easier to control migrants, not to help them. The Thai government continues to discriminate against migrants despite the MOU. They only want to reap the benefits of having migrant workers in the country, not protect their rights. Therefore, while it is good that the legal framework has been put in place, there is still a way to go in order to properly protect the rights of migrant workers.

Endnotes:

- ¹ International Organization for Migration, *Trafficking of Fishermen in Thailand*, 14/01/2011, p11. Available at <http://www.iom.int/jahia/webdav/shared/shared/mainsite/activities/countries/docs/thailand/Trafficking-of-Fishermen-Thailand.pdf> (accessed 20/06/2012)
- ² *Ibid.* p7.
- ³ See also: page 65

“I think no one wants to be an undocumented migrant.”



Workers on a fishing boat
Photo courtesy of FAR

Migrant Reflection: Ko Piak **Fishery worker from Cambodia**

Interviewed in Rayong, Thailand, by the Foundation for AIDS Rights (FAR)

My name is Ko Piak. I am thirty-one years old, I am married to a Cambodian woman and I have one son. We live together in Thailand. I was born in Vietnam and later moved to Battambang, Cambodia. At the moment my mother and my brother still live in Vietnam where we own a small pig farm. My father and my other brother are construction workers in Battambang, although they also occasionally sell food at traditional festivals. I left Cambodia to look for work in Thailand fifteen years ago. I came to Thailand together with my friend through the Klong Son checkpoint in Trat province.

I decided to come to Thailand because I was told I would earn good money here and it was difficult to survive on my daily income in Cambodia, even though I lived alone. I thought going to work in Thailand might be better than working in Cambodia as I heard that migrants who work in Thailand were able to build their own houses. I left Cambodia after I collected enough money for travelling.

I did not receive pre-departure training from the government. When I left Cambodia, there was no recruitment agency, no skills training and no work contract. I just followed the way other people behaved. The information I had, particularly relating to work and living conditions, was from my friends and other

migrants working in Thailand. I did not pay a broker for travelling to Thailand because I was accompanied by a friend who had work in Rayong. When I arrived in Thailand, in Klong Son, I was taken by boat to Rayong province without any problems.

I work at the Kang Waan fish pier (Pae Kang Waan) in Rayong province. I work approximately 10-20 days in the trawl boat with little light. I was informed in Cambodia that when I came to Thailand I would work as a fishery worker. I did not sign an employment contract; it was only a verbal contract. Since I have been working on the fishing boats in Thailand, I have not experienced a serious occupational injury. I think no one wants an occupational accident to happen while working because they lose time to make money, but it does happen. I never received work instructions or work safety training, I just learned by doing and observing. I am generally responsible for laying the fishnet, after that I just help my colleagues and do what I can, so far I have never experienced being laid off.

I do not get paid a regularly salary, but I receive approximately 7,000-9,000 THB each time I go out fishing.

Meanwhile, I go squid fishing and sell to a middleman for extra money. Over the last 10 years, I found that the money I earned is gradually decreasing in relation to the number of fishing trips. In the past, I could easily catch fish and receive a good selling price in the market, but now it's difficult to catch the fish, while daily expenses are more expensive. I send money home through an agent. I pay the service fee of 300 baht for every 10,000 baht sent. I think that I can earn more money working in Thailand than I can earn by working even in the capital city of Cambodia.

Now I rent a small apartment in Rayong province and stay together with my family. I pay approximately 2,000 baht per month including the rental fee of 1,500 baht, electricity fee and water supply fee. Even though my apartment does not have a living room and personal space I am happy, as there is a lack of rooms available to rent due to the increasing number of migrants in Rayong province.

I am not a member of a union. In fact, I have not heard about any association or union here. I only know we came to Thailand for a better income. If possible I prefer to work on land rather than on a fishing boat because the weather, more or less, is good. Over the last ten years, I think the lowest point as a migrant worker was being forced to work on the fishing boat. It is well known that fishing is one of the most dangerous of professions, and it also requires intensive labour.

I have heard about the fisheries association in Thailand, but I have not followed up on what this association is working for. However, I have contacted some of the employers who are on the committee of this association.

I currently do not have a work permit. I have a personal identification document from the registration process in 2003 (temporary stay registration or Tor Raw 38/1). During 2003-2006, I applied for a work permit, but I did not receive the original copy or card. My work permit is generally kept by my employer. I have only been able to hold a photocopy of my work permit or supporting documents related to the work permit such as Tor Ror 38/1, as a receipt of work permit registration, but I received the original copy of my health insurance. I later faced money shortages so I decided not to renew the work permit, and because I did not receive the original copy of the work permit as well. Presently, I think having the work permit is convenient especially for travelling, such as to travel elsewhere in Thailand or going to the border to go back home. I think maybe because of the increasing number of migrant workers and their dependents in Thailand, the local authority have to strictly check documents when we migrant workers travel.

Since 2006, I have been undocumented, with no work permit and no emergency card. I do not have health insurance because I do not have enough money. It costs approximately 1,800 baht to renew the hospital card, and costs up to 3,000 baht for the whole process. In addition, to hire an agent/broker the costs for registration will be 5000-6000 baht. However, I have renewed the migrant worker health insurance issued by Rayong province hospital for my family every year.

I have experienced confiscation of personal documents by employers. I have had my documents returned sometimes when our fishing boat returns to the pier or during payment. I feel sympathy for the employer as they have the responsibility of paying in advance when applying for work permits. So the employer should keep the documents in order to ensure that the employee does not leave.

I have some documents in my home country including a birth certificate and a marriage certificate. I don't have a temporary passport or ID card so I rarely visit my hometown. My last trip to Cambodia was five years ago.

I had a medical check-up when I first registered to get the work permit and during the renewal process. However, as I am undocumented I have not had a medical check-up since. I rarely used the health insurance service, but I have never had any trouble. I think having the hospital card is convenient because I only pay 30 baht for the service fee and I get the same service as Thai people.

I have only one son. My son was born in Thailand, but does not have a birth certificate. My employer helped to get my son enrolled in a school. I paid the school 25,000-28,000 baht for the admission fee. My son is studying at grade three level in the Thai curriculum at the Tessaban Pak Klong School. My son told me that he has been teased by his classmates by being called a “Black Cambodian’s child”.

“My son told me that he has been teased by his classmates by being called a “Black Cambodian’s child.”

Since then, my son tries to study hard so that eventually he will be able to get along with his friends. If I am not away fishing, I accompany my son to school by motorbike. Sometimes my son goes to school by himself by bicycle. Presently, my son is appointed to be the school representative and performs as the mandarin of the monkey army in the Ramayana epic (a school play, in Thai language called “KHON”), because he is quite small but active. In all performances my son has received much appreciation from the audience. My wife and I are very proud of him.

I hardly get to practise my religion, but I do attend cultural and religious activities. I am poor, and poor people cannot spend as much time going to the temple or giving offerings to the monks. I need to invest my time for work as much as possible in order to support my family.

I have been extorted by the police. I do not know about making a complaint or how to access support provided by the Cambodian embassy and relevant authorities. In case of an emergency such as health problem, I will just go to the private hospital. I have not experienced human trafficking. I think people who travel to Thailand now have more risk compared with the past as I noticed people need to stay overnight in the jungle especially those who come to Thailand through an agent/broker.

"I think the authority should enforce the laws, especially to respect the rights of migrant workers and stop discrimination against migrant workers."

I think that policy makers should provide a travel document that can be used in both Thailand and Cambodia. They should also provide public transportation for migrant workers who want to return home and allow them to buy a ticket

legally. In addition, I think the government should provide a new registration process to allow undocumented migrants to be able to apply for a work permit to stay safely in Thailand. I think no one wants to be an undocumented migrant. I want to re-apply for the work permit as well. I think the authority should enforce the laws, especially to respect the rights of migrant workers and stop discrimination against migrant workers.

Did you know...

Confiscation of documents

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted in 1990 protects migrant workers from the confiscation of documents. According to Article 21 of the Convention,

"It shall be unlawful for anyone, other than a public official duly authorised by law, to confiscate, destroy or attempt to destroy identity documents, documents authorizing entry to or stay, residence or establishment in the national territory or work permits. No authorised confiscation of such documents shall take place without delivery of a detailed receipt. In no case shall it be permitted to destroy the passport or equivalent document of a migrant worker or a member of his or her family."

Additionally, according to Thailand Penal Code (Title XII offence against property, Chapter 5 offence of misappropriation), Article 352 states that a work permit is the property of the worker and confiscation by an employer amounts to misappropriation.

Birth certification

The Nationality Act B.E. 2508 grants citizenship to children of migrant's born within Thailand, but exceptions exist, for example:

"...a person born within the Thai Kingdom of alien parents does not acquire Thai nationality if at the time of his birth...his mother was: (1) the person having been given leniency for temporary residence in Kingdom as a special case; (2) the person having been permitted to stay temporarily in the Kingdom; (3) the person having entered and resided in the Thai Kingdom without permission under the law on immigration."¹

Therefore many of the children born to undocumented migrants face statelessness, are vulnerable to exploitation, and lack access to basic services like education.

Although Thailand ratified the International Covenant of Civil and Political Rights (ICCPR) in 1996, Thailand's domestic laws restrict and deny citizenship to migrant children. Article 24 of the ICCPR stipulates that children have the right to be registered immediately after birth, the right to have a name, and the right to acquire a nationality. Thus, it is argued, Thailand is legally bound to distribute birth records and to register migrant children.²

Endnotes:

¹ Section 7, Nationality Act, B.E. 2508 (1992)

² Bryant Yuan Fu Yang, 'Life and Death away from the Golden land: the Plight of Burmese migrant workers in Thailand', in *Thailand Journal of Law and Policy* 2009, Spring Issue 1 Volume 12. Available at: <http://www.thailawforum.com/articles/Burmese-Migrants-in-Thailand-7.html> (accessed 08/06/2012)

“Most of the migrant workers do not know how to work safely and use the equipment properly, including explosives.”



Workers at a gold mine in Burma
Photo courtesy of John Hulme

Migrant Reflection: Ko Ba Din

Mining worker from Burma

**Interviewed in Southern Thailand by the Foundation
for Education and Development (FED)**

I am Ko Ba Din, I am a 38-year-old married man. I have one child. I lived in Taung Thone Lon village, Dawei in Burma. When I was in Burma, I drove a taxi for my living. I earned about 5,000 kyats a day. However, police and soldiers demanded money and I drove for them free of charge. I could not earn enough money for my family although I worked every day. I left for Thailand to work and to earn more money.

I came to Thailand with my friends through Bawdi-Kanchanaburi. I paid about 2,500 baht to my friend for transportation. I did not have much difficulty in reaching Thailand and finding a job because my friend helped me. I arrived Thailand in 1990. I have been working as a mineworker since then.

My first job was to drill rock using a drill machine. My friends showed me how to use the drill machine while we were working. They did not provide proper training. There is no vocational training provided. I learned to operate heavy machinery at my own expense. I think employers should provide vocational training for the workers. I am now a skilled labourer because of my long-term experience in this job. I am able to operate heavy machinery and work as a

“There have been many serious accidents in my workplace.”

machine operator. My wages also increased from 100 baht to 320 baht. I receive full payment always. I have never experienced exploitation. My employer likes Burmese workers because we can work better than Thai workers. He wants to hire Burmese workers. However, we have conflicts among Thai workers and Burmese workers. At times, I have been in charge of all the workers. I was called a Worker-In-Charge. At those times, I had some problems in dealing with Thai workers.

I remember my compatriot who was a former worker-in-charge. His name was Ko Aung Naing from Bang Kruai. He treated Thai and Burmese workers equally. One day, he deducted the salary from one of the Thai mineworkers who was absent from work. The Thai worker was so angry because of the deduction that he shot him dead during the lunch break. He attacked all the workers who tried to stop him. Finally, he was sent to jail. We have similar stories of Burmese migrant workers being attacked by Thai workers, but I could not express them all in detail.

I do not know whether or not I am entitled to rights and benefits. I notice that our job is very dangerous. I have seen many injuries and deaths because of accidents at work. But I do not know whether we are entitled to insurance or not. There have been many serious accidents in my workplace.

Sometimes, lightning struck the explosives while the workers were placing the explosives. Sometimes, the remaining explosives exploded unexpectedly. Workers have been hit by rocks when they detonated a huge rock. In addition to the dangerous explosions, workers have slipped and fallen from the mountain slope while they were drilling. They used the safety wire, however, they did not use the wire properly, causing their death. I am aware of ten workers who have died in workplace accidents. They receive very little or no compensation. The compensation was paid according to the employer's kindness but not according to their rights. A worker who lost his eye because of an accident did not receive any compensation. I know only three workers who received the highest compensation for their death. It was 50,000 baht. So, we thought that the compensation for the loss of one life is 50,000 baht. However, sometimes, they paid about 20,000 to 30,000 baht. I think we should receive compensation according to our rights.

Our job is very dangerous, as we have to handle explosives and work alongside the mountain slope, but there is no occupational safety training for us. A Thai Worker-In-Charge told us about the explosives while we were working. The

“They need money and accept the job although they know the risks.”

employer should provide occupational safety training and training on the handling of equipment and explosives. Accidents will be reduced with training.

Most of the migrant workers do not know how to work safely and use the equipment properly, including explosives. They need money and accept the job although they know the risks.

I underwent worker’s registration in 1990 in Ratchaburi province. But, I did not validate the registration regularly. I have returned to Burma three times. I stayed there for about two years each visit. I went home by my own arrangements. I have never contacted a broker because it would cost a lot, about 5,000-6,000 baht. I walked from my village to Shin Phyu Tai jetty then I took the boat. It took one day to reach the Thai border. Again, I walked for half a day to the city and took the bus. I was not able to revalidate the worker’s registration when I returned to Burma. I revalidated the registration when I arrived in Thailand. I was afraid to work without a work permit. Besides, it would be quite difficult to find a job without a work permit. Mostly, employers do not hire us migrants, if we do not have a work permit. The government should arrange worker registration every year, so that new migrant workers will be able to register and get a health card.

I have a temporary passport. I applied for the temporary passport because I was afraid that I could not revalidate my worker registration in the future. I guess the temporary passport will help me to stay in Thailand more comfortably. I applied for it through a broker, not from my employer because he might cheat me. It cost 7,000 baht. It would be better if the government reduced the registration fees and visa fees, and created better jobs for Burmese migrant workers. Merchants want to apply for a temporary passport, but migrant workers do not want to apply for a temporary passport because of the cost and the fear of providing their personal details to the government. We are required to provide our personal information at the time of our temporary passport application. We are afraid to provide our personal information to the Burmese government because we arrived here illegally. Moreover, we are afraid that the government would collect taxes or ask for money from our families who live in Burma. However, my family has not paid any taxes or money to the Burmese government up until now.

I have a Burmese national ID card, because without this card, I could not travel from one place to another. I would have had to pay money to the police and immigration if I did not have the ID card. When I went to Burma and stayed in my village, the police asked for money, about 50,000 kyats, because they knew that I worked in Thailand.

I don't have an ATM card. I never use bank services. It is good to save money at the bank because of robberies. I don't have money to save at the Bank. I want to borrow money from the bank but they do not allow Burmese migrant workers to borrow money. I think they don't trust migrant workers. We have to borrow money from private moneylenders with 20-percentage interest rates.

"I worry about being unemployed. I worry about my old age because I don't own a house for my future."

I have noticed that daily expenses have increased. We used to spend 500 baht for food and get enough food for one week. But now, we spend double on food. The prices have increased while fewer jobs are available for migrant workers. My employer calls me when he needs me. Sometimes, I have nothing to do and no income for that day. My employer is a good person and I can request an advanced payment if I need it. I worry about being unemployed. I worry about my old age because I don't own a house for my future. I have to pay money to the authorities if I want to stay in Burma because I have been working in Thailand for quite a long time.

I have one child. He is about 10 years old now. He attends school in Burma. I know that my child can attend a Thai school and obtain his educational rights, but we cannot send him to Thai school as we are working and can't take care of him.

I have been involved in student associations, especially in sports, and religious activities for seven years now, but I have never been involved in a worker's unions or a workers association. Here, I have freedom of religion and freedom to carry out religious activities. I can speak freely because I have been living here quite a long time and this place is like my hometown now. My employer allows me to stay here as long as I work for him. I have freedom of job selection and decision making power in job selection. My employer would allow me to move another job if I didn't want to work here anymore.

We can buy a motorcycle, house, and land by using a Thai citizen's name. I have to pay some amount of money to use his/her name. But I don't trust them to buy the house and land because it is not officially allowed. I have been using my own cell phone for five years now so I can communicate with my family in Burma and other friends. If I have an urgent issue, I just call my family and talk with them. I do not need to go home for every single issue. It is very convenient for me to have a cell phone.

In 1994, I was arrested by the police and detained for 11 days in Lopburi province. The wardens in charge did the body search and took whatever they found that was good. They provided lunch and dinner but the food was insufficient. There were about 50 people inside one room so it was crowded and uncomfortable. The women's room was beside the men's room, so Thai men disrespected the women by touching their bodies from the side. The police ignored us when we complained about this. Sometimes, they beat and shouted at us. Sometimes, they asked us to massage them. But I refused their orders because my employer is also a policeman and he visited us at that time. I wanted to say that they should keep the room for men and women separate in detention centres. Besides, they should keep Thai and Burmese in separate rooms. If we have money, we can buy food. It would be better if they provided enough food and special arrangements for different religions. Later on, we were sent to the border for deportation. Our group included 11 people: nine men and two women. My employer and my friends secured my release when I arrived at the border immigration police station. My employer did not ask for money back from me. He did not deduct it from my wages either, but I heard that it cost about seven or eight thousand baht to release me.

I have experienced police coming into the workplace and arresting people, but we escaped arrest. The employer had been doing the exploration without permission: illegal mining. I heard that there were some police arrests because workers did not have work permits and were outside of their work area.

In case of an emergency, Thai workers help us if we need their assistance in understanding laws and regulations. It would be better if we could speak the Thai language so that we could explain in detail about the problem. We don't know Thai, so we cannot explain the situation properly. Sometimes, they thought we were wrong, although we were right. We cannot get interpreters everywhere. In some cases, we have requested assistance from police departments and government offices. I have never contacted the Myanmar embassy in an emergency. I don't think the embassy would be able to assist us.

I have heard about human trafficking. They rely on brokers to find a job and for the trip to Thailand. So, some brokers are involved in human trafficking. I have heard that sometimes, they commit rape.

It is better for me to work in Thailand. I can even save money sometimes. There are some improvements in my life within these ten years especially in daily interactions. I can speak Thai more fluently. It is good that we have work permits and health cards. I have requested assistance from the labour office and they

have helped me. I have been to the district office for worker's registration and to the birth certificate issuing department.

Finally, I want to add that I want equal treatment, and full access to worker's rights and benefits such as freedom of movement and ownership, freedom of job selection, and access to medical treatment. I want all of the migrants to obey the rules and regulations. On the other hand, rights and benefits should be upheld according to the law. The government should reduce application fees for documents such as worker registration, visas and so on. I hope that in the future migrant workers are able to find better more easily.

Did you know...

Occupational safety in the mining industry

The Minerals Acts BE 2510 (1967) sets out regulations for the mining industry in Thailand and serves to facilitate mining entrepreneurs while providing protection to labourers as well as providing for public safety.¹

Compensation for workplace accidents and illnesses

Section 13 of the *Thai Workmen's Compensation Act BE 2537 (1994)* stipulates that employers must provide immediate medical treatment to workers who have been injured at work, or who are suffering from an occupational disease, and that they must pay for all medical expenses. Where rehabilitation is required, Section 15 states that employers must also cover this expense. Section 16 states that where the employee suffers from injuries or sickness causing death or disappearance, the employer shall pay funeral expenses, at the amount of one hundred times the highest rate of the minimum daily wages under the Law on Labour Protection.²

Under Section 18, where an employee suffers from an injury or illness, or disappears, the employer shall pay monthly wages directly to the employee or to their beneficiary as follows:

- (1) 60% of the monthly wages where the employee is unable to work for more than three consecutive days, with the payment to be made from the first day the employee is unable to work until and throughout the time he is unable to work but not exceeding one year;

- (2) 60% of the monthly wages where the employee has lost certain organs of the body (the various categories are outlined in ministerial regulations), for a period not exceeding 10 years;
- (3) 60% of the monthly wages where the employee becomes incapacitated or permanently disabled, for a period not exceeding 15 years; or
- (4) 60% of the monthly wages in case of the death of employee, for a period of 8 years.

Endnotes:

¹ Minerals Act, B.E. 2510 (1967) Available at: <http://www.thailawonline.com/en/thai-laws/laws-of-thailand/427-minerals-act-be-2510-1967.html> (accessed 30/05/2012)

² Workmen's Compensation Act, B.E. 2537 (1994). Available at http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_isn=5095 (accessed 30/05/2012)

“My family cannot save enough money to go back home. Our income is enough for living and we have no extra money to save. There is no certain policy for pensions for the future.”



Domestic workers participating in a MAP Foundation workshop
Photo courtesy of MAP Foundation

Migrant Reflection: Ma Nge **Domestic/hotel worker from Burma** Interviewed in Southern Thailand by the Foundation for Education and Development (FED)

My name is Ma Nge. I am 30 years old and married. I come from Dawei, Burma. I have been living in Thailand since 2001. I live together with my family: my husband, my daughter and my relatives. There are seven people in my family. I worked as a domestic worker when I arrived here, now I work in a hotel. I have been working in a hotel for almost four years now.

I decided to leave Burma because I could not find a job to feed my family properly. I could work on a farm. However, that job was available only in the summer and the wage was too low. It could not cover my family's needs. Then I decided to go Thailand to earn more money.

I also had other reasons to come and work in Thailand. Firstly, my relatives live and work in Thailand. They informed me about the living and working conditions in Thailand. Secondly, I knew that it would be easier to obtain legal documents in Thailand than in any other country. Finally, Thailand was a good place for me as it is close to Burma, and I can go in and out of Thailand quite easily. I didn't know about formal travel to Thailand. I came through an illegal route.

“Once we reached the sea, the 50 migrants were crammed into a small long tail boat covered with some scrap iron. Some of the migrants lost their lives because they were unable to breath.”

I did not know about recruitment agencies. The Burmese government did not provide any information or support before I left. I got the information from my aunt who lives in Thailand. I noticed that domestic work was safer and better work rather than working in a

rubber plantation or construction site. I decided to work as a housemaid when I arrived in Takua Pa.

Reaching Thailand was very dangerous indeed. First, I went to the harbour around 2 am, early in the morning, and waited until the boat was full. It cost 500 baht per person. I contacted a broker to bring me here. Before we started the trip, the broker asked me to choose a card with a photo that was similar to me.

A small boat brought me to Ranong where I stayed one night at the broker’s house. Then a car picked up the other migrants and me. There were fifty migrants inside the car. The car was almost the same size as a pickup truck. It was so crowded inside the truck and it was difficult to breathe. It took about seven hours to get from Ranong to Takuapa. The car stopped at every checkpoint. We went down from the car and walked through the jungle to the sea.

Once we reached the sea, the 50 migrants were crammed into a small long tail boat covered with some scrap iron. Some of the migrants lost their lives because they were unable to breath. We had to walk again through the jungle before getting into a car. I paid 3,000 baht to the broker for this long and dangerous trip from Ranong to Takuapa.

I would suggest that migrants should travel to Thailand with a temporary passport because it is safe and cheaper. It would be better to have a temporary passport before travelling to Thailand. They can travel on public transportation and do not need to be afraid of arrest. However, the temporary passport is so expensive.

I wish that the application fees could be reduced. In addition, people need information such as application instructions to apply for the temporary passport by themselves. Finally, the Thai government should be more efficient in issuing these documents to reduce the long waiting time.

There have been some improvements in migrant workers’ situation within these ten years. Migrant children’s education has improved since they can attend Thai schools.

My employers always treat me fairly. I don't need to worry about police arrest and live freely. My working situation is better now. At the beginning, I worked 16 hours a day when I worked for a Thai family. They paid me only 3,000 baht per month. Now, I work in a hotel. I work eight hours a day and earn 4,700 or 4,500 baht per month.

However, some low points do exist. Sometimes, I work overtime but I receive no payment, which is different from what is required under Thai law. I have been working in this hotel for four years, but my salary has never increased.

I believe that work permits prevent workers from travelling outside the province where he or she is affiliated. In other words, it restrains migrant workers' freedom of movement. Therefore, it is more difficult to find a job for them since they are restricted from going anywhere.

Laws have been enacted aimed at protecting migrant workers. However, migrants are still afraid to contact governmental institutions such as police, hospitals and so on. The reason for this persistent fear is that law enactment does not protect the migrant workers practically. Migrant workers should be protected by Thai law, but this is quite difficult indeed.

There are no formal vacancy announcements for jobs but this information is passed on to one another through phone conversations. I call my friends and sometimes, they call to inform me of vacancies.

When I arrived in Thailand, I helped my aunt's family working in a rubber plantation. Then, I worked for a Thai family as a housemaid, earning 3,000 baht per month. I worked 16 hours a day. I had no holidays but I could take leave when I felt sick. My employer gave me pocket money sometimes.

Working at a Thai house was very difficult because of the stress. I always lived with fear, but I did not need to worry about police arrest because my employer took full responsibility for me.

Later on, I got a job in a hotel, which is safer and requires less working hours than working in a Thai house. I have to work according to the working hours and go home after the working hours. I do have to worry about police arrest while I am working at the hotel. Police can arrest me anytime because my job title and employer's name in the work permit is different from my current job. The manager or owner of the hotel will not take any responsibility for the police arrest.

In the hotel, our supervisor trains us about the working rules, using tools and other safety instruction. During the low season, we have to attend English and Thai language courses to better understand the guests. The courses were provided by the hotel.

When I applied for a job in the hotel, I submitted the application with my signature. The hotel manager helped me to complete the application. I have no employment contract. I have not been dismissed from the job because I have tried so hard. None of the migrant workers in our area have a contract. We just work doing what we can or what we like. If we don't want it anymore, we just quit the job. My recommendation is that the minimum wages of basic jobs should be increased and should be paid equally among Thai and Burmese for the same job.

With regard to rights in the workplace, I get tips and service charges of about 2,000 baht during the high season, which is about six months a year. I have to work 8 hours a day and have one day off per week. If I take leave, my salary will be deducted accordingly. There is no health care service provided. If someone is injured at work, he or she will get no compensation or medical treatment.

There has been a significant change since the Tsunami. Hotel and restaurant service jobs have become popular among migrant workers. Many women get jobs in the hotel and tourist industries. Although there is little difference in the wages, women prefer to work in a hotel or restaurant rather than as a housemaid because of the shorter working hours and better safety. Temporary passports do not provide benefits and wage increases.

I have never been involved in worker's associations or labour unions. It might be good, if we, migrant workers, could bargain our rights collectively through a worker's association. Although I haven't been involved in worker's organizations, I have heard stories about the successes of workers who demanded their rights from an employer in Mae Sot.

I have had a work permit since 2002 and revalidate the registration regularly. I apply for the work permit myself because it is not part of the working agreement with my employer. I ask a broker to get the work permit and have to pay 3,800 baht every year. However, in 2011, the price increased to 4,200 baht. The broker did not explain why the cost had increased. I keep the work permit myself.

I can go up to Phang Nga province but not to any other places. It is also impossible to apply for a driving licence. I pay 4,000 baht monthly to the police, so that I can ride a motorcycle. However, the highway police could arrest me because of illegal driving. We can negotiate with highway police, but we have to pay 3,000 to 4,000 baht for release.

“I can go up to Phang Nga province but not to any other places. It is also impossible to apply for a driving license. I pay 4,000 baht monthly to the police, so that I can ride a motorcycle.”

I have a Burmese national identity card. I spent about 4,500 to 5,000 baht to get the identity card. It was easy to apply. Without the national identity card, I cannot travel back to Burma. It will be easy to find a job if I can travel throughout the country legally. However, the application fee for the temporary passport is very expensive. I cannot afford to pay that cost. It will cost about 15,000 baht for a work permit, health card, and temporary passport because I have to apply through a broker. I think that having a temporary passport is optional and I will not apply for it.

Since I received my work permit, I can access banking services to transfer money but I can't apply for a credit card or get a loan from the bank. The transfers depend on trust in the person.

The prices go up for everything but my wage is the same as it was four years ago. I get 4,700 baht and have to pay house rental charges, motorcycle driving fees to the local police, TV cable, food and telephone costs. I have no extra income because I cannot run my own business as a migrant.

I have had a health card since 2001. My brother, sister and husband also have work permits and health cards. This year, we paid 4,200 baht each for the work permits and health cards. The medical insurance is not part of our working agreement and we have to arrange it all ourselves. My employer does not take any responsibility concerning medical insurance. I used this health card when I was pregnant or getting sick.

I have noticed many issues in using the health card. First, I regret that the 30 baht health scheme does not cover accidents. It only covers diseases. I know that my neighbour could not get a health card because they had HIV. Actually, the 30 baht health card covers only very limited health problems. Secondly, at the hospital, the medical staff give priority to Thai people. Burmese people wait almost the whole day to be examined by the doctor. Furthermore, Thai doctors give Paracetamol for whatever disease migrants have, because migrants only have to pay

30 baht for the treatment. The treatment is consequently completely inappropriate. Therefore, my family and I always go to the private clinic for minor health problems to avoid waiting the whole day to receive improper treatment at the state hospital. I prefer to pay more to receive proper treatment, and besides it is sometimes impossible for me to wait the whole day because of my work obligations.

The hospital hires a translator to help migrants, however the translator is very busy and impatient. Migrants ask their friend to help them as a translator and pay the extra charges such as transportation and translating. Sometimes, they have to pay for a translator in the state hospital. As a consequence, most of the migrants go to the private clinic for treatment. It cost about 300 baht minimum at the private clinic. Despite all of these issues, I would prefer to have the 30 baht health card because the private clinic is not able to treat serious illnesses.

I have to have a medical check-up every year to renew my work permit. The check-up includes tests such as blood, urine, tuberculosis, and a chest x-ray. When I was pregnant, I also had to do monthly medical checkups for HIV, urine, tuberculosis and so on.

At the beginning, they checked properly. As the number of patients increased, they examined patients by group, taking the tests on the assembly line. They did not give protection for X-ray tests. After completing the check-up, the health card was issued to those who did not have serious health problems. For example, my friend who suffered from HIV did not manage to obtain a health card.

I want to suggest that the Thai government should take action to eliminate discrimination against Burmese migrants in state hospitals. Burmese should not wait many hours to receive treatment. The state hospitals should provide appropriate treatment. These check-ups should be done properly. The results should be given to patients and should include the doctor's recommendation for the appropriate treatment if needed. Finally, I believe that the cost for obtaining the health card is too expensive and it should be reduced.

My daughter is three years old now. She goes to a learning centre managed by the Foundation for Education and Development (FED). I don't have any problems sending her to school because I live near the learning centre. I have to pay 300 baht monthly and some extra charges such as for school activities, uniforms, books and so on. I can pay all these charges without any difficulties. However, she would not be able to get an officially recognised certificate at the end of her studies. I have a plan to send her back to Burma after her primary level education.

I decided not to enrol my daughter in Thai school because I am afraid that the Thai teachers will discriminate against her because she is a Burmese migrant.

In addition, she does not speak Thai very well. I am worried that she might be different from Thai children and be unable to learn properly. Though I do not send my children to Thai school, I have seen that there has been some progress in the education system. My recommendation for the future is that the Thai government should recognise Burmese schools. After completion of their studies, the children should receive a certificate, which is recognised equally with the certificate issued by Thai schools.

There have been improvements in the situation of women migrant workers because of the education system. Before, migrant women had to decide whether they went to work or stay at home. They could not leave their children alone at home. Now, the problem is solved because they can send their children to school instead of keeping them at home. The school provides a safe environment for their children, and they don't need to worry about their children.

I would suggest that training should relate to work and be designed to strengthen migrants' capacities. It should include some teaching of Thai and English as well. The training should be managed by NGOs because it is easier to communicate with these organizations rather than government.

In the last 10 years, people like me were afraid to go from one place to another. They stayed at the place where they work. Recently, after registration people now have greater opportunity to move from one place to another, or they can go anywhere within a province. Police do not make arrests everyday like before.

I'm worried that the Thai government might allow migrant workers to work temporarily and then deport us anytime in the future. My family cannot save enough money to go back home. Our income is enough for living and we have no extra money to save. There is no certain policy for pensions for the future. We are getting old and the employer does not want to employ us. Therefore, government policies should make long-term plans for migrants to work instead of short-term agreements.

Generally, there are some major improvements. Burmese migrant children are allowed to attend Thai schools after the tsunami as well as learning centres organised by NGOs.

My recommendation is that the government should make a long-term policy for migrants. The registration fee and temporary passport fee should be reduced because most of the migrants cannot afford to pay the fees. Therefore, only men can apply as a priority and women have to be left behind because they cannot spend the cost for both in the family.

I have never known about an Employers' Association but I think this association cannot help create better policy for migrants. They will lobby for policies which will help their business to improve.

In regards to social celebrations in the Thai community, such as Loi Ka Hton or Songkran, migrants are able to participate, but migrants are afraid to join the Thai community.

Ten years ago, migrants were often robbed or murdered and had their money and possessions taken in the remote rubber plantations. Now, it is safer than before because communication is better than before. We can call any time to get help.

I was arrested once in early 2001 in Ranong. At that time, I was working at a seafood packing company. I received eight baht per hour and worked for eight hours a day. I worked there for three months. In Ranong, police would raid our living place early in the morning or in the middle of the night. We could not sleep very well and always had to live in fear.

I was arrested with 20 other people and the police put me in a detention centre. The police didn't provide any food or drinking water. I was released after three or four hours because my aunt paid 3,000 baht to police through a broker to release me.

One of my friends was accused of stealing a necklace and her boss beat her. She was afraid to inform the police to seek justice. Because people can't speak and understand Thai it is difficult for them to complain at the police station.

My recommendation is that migrants should get more protection under the law and should be able to access justice easily. It would be very good if NGOs could assist with legal protection for migrants, because so far contacting NGOs is effective and they are able to get migrants better protection.

There has been no improvement in detention centres. Detention centres are really bad because the toilet is inside the small room. It's really difficult to live with the bad smell. It should be arranged properly. The government should provide information in migrant languages so that migrants can review policies and make better suggestions and demands about them.

We cannot contact the Myanmar Embassy easily. I think we would not be given much help from the embassy. It would be great if the authorities and employers helped us in the case of an emergency. The contact numbers of the different agencies should be printed in the Burmese language and provided to migrants for emergency use.

It used to be very easy to travel or move with brokers but nowadays it is more difficult to travel with a broker. It would be good if migrants could report human traffickers. If the authorities provided the contact number to migrant communities, they could contact and inform them in cases of human trafficking. In addition, trafficking law and policies should be printed in migrant languages, therefore migrants can decide where there is a case of trafficking.

I have been to some government departments when my brother in law had a motorbike accident. Those offices were Takuapa court, the police station, and the immigration office. We got 60,000 baht compensation. I have been to the labour and employment offices when I applied for worker registration. These offices are good because some places have translators.

My recommendation for those who want to work in Thailand is that they should come to Thailand while the registration is open. They should try to get legal status for wherever they want to go. They will have some opportunities to live and work. Before they leave the country, they should have the contact number of a person or organisations so that they can contact them in case of emergency.

Did you know...

Domestic work

Domestic work is neither clearly mentioned nor explicitly excluded by Thai labour laws. The Labour Protection Act of 1998 can be interpreted as applying to domestic workers as a category of employees, however, a ministerial regulation issued in the same year excluded household workers from certain protection clauses under the Labour Protection Act.

Protection for migrant domestic workers

The Thai Labour Protection Act 1998 and its 2007 amendment provide that equal treatment must be afforded to all employees, including migrant workers, irrespective of their legal status. If domestic workers work both in the household and in any activity related to the business of the employer then domestic workers are entitled to receive minimum wages and other protections.

The Labour Protection Division of the Department of Labour Protection and Welfare is then tasked with drawing up draft Ministerial Regulations on Domestic Work in consultation with civil society. Most recently, a consultation meeting with civil society and labour groups was held in 2009 and again in 2010 to discuss this draft document. A number of protections were proposed for domestic workers, including:

- One day off per week;
- Minimum of 13 days public holidays; and
- Minimum wage.

In addition, it has been proposed that employment contracts must be entered into between employers and employees that clearly indicate the employee's salary and the terms and conditions with regards to overtime work (whether they are to be compensated in cash or in kind). It has also been proposed that the minimum age of employment for domestic work should be in line with the age stipulated in the Labour Protection Act. There has also been a proposal to develop a system to register domestic workers.

“I know that there is a Thai law that says they cannot arrest people under 18 years of age but I was arrested and detained.”



Burmese child selling flowers
in a market, Mae Sot, Thailand
Photo courtesy of Mekong Migration Network

Migrant Reflection: Ko Ko Child Labourer from Burma

**Interviewed in Southern Thailand by the Foundation
for Education and Development (FED)**

My name is Ko Ko and I am a 17-year-old boy. I am from the Kawthaung, Thaninthayi division, Burma. I arrived in Thailand in 2006. I have not returned to Burma since I arrived here. I live together with my aunt, and my elder sister. I have two sisters. They also live in Thailand and one of them is married. She is just 14 years old and lives together with her husband. The youngest sister is about 11 years old and lives together with me. She does not want to attend school even if I can support her. She is babysitting our cousins' children.

We did not know what to do when both of our parents passed away. My mother passed away last year and my father passed away three years ago. I could not find a job and it was very difficult to survive in Burma, so I came here to stay with my aunt.

I came here with the help of a broker. I paid 4,500 baht. We were nine people and travelled by car. It took two days from Lone Faw, Kha Maut Gyi to get here. After we passed Nan Ma Lin, we stopped at an old house because police were inspecting illegal migrants on the way. There were about 60 people from Burma.

The youngest one was about 11 years old. The next day, they went to different destinations.

“There is no occupational safety training provided for us. We learn these things from the elder brothers.”

I got a job very easily because of my aunt. She found a job for me in the fishing industry. I had no experience so she explained to me about the job. I did not attend any pre departure training

before I came here. I did not get any assistance from the government. They might arrest me if they know that I crossed the border and came here illegally. At first, it was very difficult to work because I did not understand the Thai language and had no work experience. I understood some Thai words that related to my work, but not other words. I want to speak Thai but it is difficult to memorize the words.

Normally, we go out to the sea in the afternoon and come back the next day in the morning. Sometimes, we stay two to three days at sea to catch fish. When we come back from the sea, I take the fish out of the net. Then, I repair the net and prepare for the next catch. Sometimes, these processes take the whole afternoon. I have no time to go around. This is the best job for me in this village. I earn 4,000 baht a month and they provide food. They pay in advance before going out to the sea. My wage increased from 2,000 baht to 4,000 baht. Our leader is a good person. He treats us fairly and pays our salary regularly. I have never asked for a salary advance because they pay me in advance before going out to sea. If I take the advance payment, I cannot refuse to go with them. They will kill me if I don't go. I heard that, some of the workers were killed because they received advance money and did not work for them. I don't have any contract, but I have to do what our leader tells us. I can now speak Thai and have some work experience. So, it is easier for me to work here. I earn more money than before.

There is no occupational safety training provided for us. We learn these things from the elder brothers. I don't use any equipment when setting up the fishing net under water. I just dive into the water and do the job without equipment. I have seen accidents at work. Some of the workers were injured when they were taking the net out of the water. Sometimes, workers die while they are working under water because the sea waves hit them against the fishing boat. Actually, I want to use safety equipment. I want to attend training that is relevant to my work. I want medical treatment when we get injured and compensation for injury and death.

I don't have a work permit. I would have had to pay 30 to 40 baht monthly to the police, but I don't need to pay the police because my boss told them not to arrest me. I stay most of the time on the fishing boat out at sea. I haven't applied for a work permit because I don't need one. However, I want to apply for one. If I had a work permit, I could go around to find a better job. I wish I could apply for a work permit at a low cost, and I want a longer validity period. I don't have any travel documentation. I have never been to other places in Burma because I didn't have a national identification card when I lived in Burma.

"I wish I could apply for a work permit at a low cost, and I want a longer validity period."

I attended the monastic education centre at Kawthaung, Burma. I also attended a government school. It was very expensive because I had to attend private class opened by our schoolteacher. I failed my exam not because of my family's financial problems but because of other family problems. It was very difficult to continue my education and I did not go to school anymore. It is impossible for me to attend Thai school. I am not sure that Thai schools would accept me. It is good for children to attend school in Burma. I don't want them to attend Thai school. There will be no difference for us whether we can speak Thai or not. It is better for us, if we can go around and work freely without fear of being arrested.

In the last ten years my wages increased from 2,500 baht to 4,000 baht. My earnings are not enough. I have to support my aunt and my sister. I don't use bank services. I get the money from my aunt. She borrows from other people with 20 percent interest. I need to borrow money very frequently because prices have gone up. I wish that my wages would go up. The living conditions are better as we live in a small apartment. We used to live in a small hut and it was very hot to stay inside the hut because we used zinc sheets for the roofing and walls.

In my village, Thai people don't like to see that we ride motorcycles so we don't. They don't want migrants owning grocery shops in the village because they compete with their own businesses. We have to rent a house or stay at a place that the employer provides for us. We can use a bicycle in the village. We have to take a taxi if we want to go out of the village.

I do not engage in any labour organisation activities. I do some voluntary work during my days off such as helping the village library association, donating money and religious activities. We can do some activities now, before we couldn't. Now we can celebrate our religious ceremonies and have freedom of religion. Now, there is also a voluntary memorial service group in our area. We speak our own language, Burmese, and do some Karaoke singing of Burmese songs. Before, we

were afraid to use our own language because people could recognise easily that we were Burmese migrants. I have noticed that many Burmese people use a cell phone but I don't have one. I use my friend's cell phone if I need to communicate with others.

There have been conflicts between Thais and Burmese migrants in the village. Some Thais accused one of the Burmese migrants of stealing their property and killed him. They came to the house at night and took him to the rubbish dump where they left the body. Sometimes, Burmese migrants have killed each other. Occasionally, people kill each other as revenge for their relatives. Now, the killings have decreased, and there are not as many as before. They were not usually reported to the authorities because the migrants did not have work permits. In some other places, they did report it to the authorities. I think these crimes should be reported to the police and sent to court. I am not sure whether the police will take care of us or not because we cannot speak Thai and we don't have work permits. We are afraid of being threatened. I think that there is no improvement in security and safety in workplaces.

I was arrested once when I visited my aunt who lives in Ranong province. I was detained for two days. At that time, my mother together with the broker came and arranged my release. She paid 1,500 baht to the broker and I do not know how much she paid the police. If she had not shown up, I would have had to stay there at least 45 days. I know that there is a Thai law that says they cannot arrest people under 18 years of age but I was arrested and detained. On the way back, we came on a small boat. There were about 30 people on the boat and we hid under a tarpaulin. It was dark and difficult to breath. It took the whole night. I thought if the boat sunk, we would all die. We could not see outside and we did not know where we were. Now, migrants who have a temporary passport can go by bus. But the migrants who do not have a temporary passport continue to travel by boat.

There are no police arrests in this village. So many people do not have temporary passports. Some migrants moved to another job because they had a temporary passport and work permit. They could easily move from one job to another. But I am still here-same place, same job. I cannot move from this village and this job because I don't have a work permit. I don't know the language. I do not have access to education or the right to choose my job. I cannot stay where I want but I have to stay where I should. I think it would be good to make my own decisions freely. I want to go other places without fear of arrest to gain some knowledge.

I have had no contact with government offices. I did not hear that the Myanmar Embassy helped the migrant workers during the tsunami. At the time of the tsunami, I was still in Burma. My aunt told us that they were helped by the Thais but not by the Myanmar Embassy. It would be better if organisations helped migrant workers at the time of emergency. I would request that they provide emergency response training for the migrant workers because we have no vehicles, like cars or motorcycles, in the event of an emergency. There should be no discrimination against migrant workers.

I have a better life here. I have a job, so I can buy food and things that I need. I want our people to have a good life here. I have not returned to Burma since I arrived. I came here because I could not survive in Burma. It would be better if I could go everywhere freely, if I could work where I wanted to and if I could stay without fear of police arrest.

Did you know...

Labour laws relating to children

Minimum age of employment

The minimum age for employing a child is 15 years (Section 44, *Labour Protection Act, 1998*). Children between the ages of 13 and 15 are permitted to perform light work.

Working hours and pay

An employer is required to give a child employee a rest period of one hour for every four hours he or she has worked (Section 46). An employer should not ask a child employee below 18 years of age to work overtime or on holidays (Section 48). Children are not permitted to work at night between the hours of 10 pm and 6 am, unless special permission is granted by the Director-General (Section 47).

Employers of young workers under the age of 18 must pay wages and salaries directly to the child. Any demands or receipt of deposits of money from children is strictly prohibited.

Prohibited work

Pursuant to Section 49, children below the age of 18 years are prohibited from performing dangerous work such as rolling and stamping metal, or work dealing with unsafe chemicals and poisonous microorganisms. Children below the age of 18 years are also strictly prohibited from working in certain establishments, such as gambling centres, slaughterhouses, dance clubs, or venues where liquor is served.

Additional protection

Where a child under the age of 18 years has been employed, the employer must: notify the labour inspector within 15 days of the date when the child commences work, prepare a record of employment conditions that should be kept on the premises, and notify the labour inspector in the case of the dismissal of a child employee within seven days of termination of employment (Section 45).

If a worker under the age of 18 must take a leave of absence due to reasons provided by educational, government or private agency institutes (for example to participate in vocational training provided by the Ministry of Social Development and Human Security), the employer is required to compensate the child in the form of the normal rate of basic pay for up to 30 days a year.

The United Nations Convention on the Rights of the Child (CRC)

All of the Greater Mekong Subregion member countries have ratified the CRC. Article 1 of the Convention on the Rights of the Child (CRC) 1990 defines the child as a human being below the age of 18 years.

Article 32 of the CRC further provides that:

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous, or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- (a) Provide for a minimum age or minimum ages for admission to employment;
- (b) Provide for appropriate regulation of the hours and conditions of employment;
- (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Arrest, detention and deportation of children

Article 36 of the CRC, states that no child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate time. Despite this, Thai authorities treat migrant children they arrest as adults according to the Immigration Act B.E. 2522 (1979). They face the same detention process as adult migrants, whereby first the authorities arrest the migrant children, then the authorities send the children to an Immigration Detention Centre, and then the children are issued with a fine. If they cannot pay the fine, they remain in detention.¹

Endnotes:

¹ Premjai Vungsiriphisal, et al. 'Migrant Children in Difficult Circumstances in Thailand' The Asian Research Center for Migration UNICEF. Available at <http://www.burmalibrary.org/docs09/MigChildrenCircumstances.pdf> (accessed 06/06/2012)

“I told my husband I would resign from my job and go to work in the city again. My husband didn’t want me to go back, but if I didn’t go we would have had nothing to eat.”



Domestic workers advocating for the right to one day off per week (2006)
Photo courtesy of MAP Foundation

Migrant Reflection: Nang Si Wan **Domestic worker from Burma**

Interviewed in Chiang Mai, Thailand, by MAP Foundation

My name is Nang Si Wan, I am a 27-year-old woman and I have been living in Thailand for about 10 years. I come from Loi Yai village, Nam San Township in central Shan State, Burma. I came here to earn money for my parents and my family. In my hometown, our main income is based on farming but we don’t have our own farm, we have to rent the farm from others and at the same time we also have to pay a lot of taxes. So we don’t have any benefits left for us except only rice to eat. There are many people in my family. I have five siblings. My oldest brother left home almost 10 years ago, and until now we haven’t had any news about him.

It is very difficult to stay in our hometown because our expenditure is not balanced with our income. We cannot survive on our work. There are many ways we have to spend money since we need to pay for everything. Even when we worked for others, we still did not have enough money to buy food. I said to my parents, ‘if we keep going like this we cannot do better than the current situation, and we cannot build our new house.’ I told to them that if I went to Thailand, I would send money to them to be able to build a new house. My sister and brother would also be able to attend school and get a higher education so that they would not

have difficulties and suffer in life. After that my parents allowed me to come to Thailand. In reality, my parents do mind, they didn't want me to come, because when I came here I was only 17 years old, and they worried about me so much.

When I saw people earning money and supporting their family, it made me really want to come to Thailand. Before I came here my mother sold her gold for the transportation fee and accommodation cost in Thailand. I also borrowed a gold chain (15.2 grams, or 'one baht', of gold). I needed to pay this back within two years, if not I would have to pay extra interest.

I came to Thailand with the people from my village who had come back from Thailand to visit their home for the first time in ten years. I had to pay 15,000

"When I saw people earning money and supporting their family, it made me really want to come to Thailand."

Kyat for the cost of the truck from my hometown to Boombarkham (Myanmar-Thai border) but the price now would be more expensive than that. We came together with the people from the same village, nine of us, and we met the other 10 people on the way, making 19 of us. When we arrived at Border Post 1 (BP1) the people who had money went to Thailand ahead of me because I didn't have money. Fortunately my mother had told me that my aunt lived at Nong Ouk (Thai-Myanmar Border) but they came to Thailand quite a long time ago and I had never met them before. Burmese agents led us as we walked for half a day and took us to stay at a farm somewhere. We had to pay the agent 700 baht and when we arrived at the farm there was someone who took us to Nong Ouk in a truck.

After we arrived at Nong Ouk, the people who had relatives went to stay with them. The friends who came the same way as me also went with their relatives to Fang. When I got to Nong Ouk I had only a little money left but I contacted my aunt in Nong Ouk. If I couldn't find my aunt I didn't know what I would do. I was quite afraid and worried about it. I had heard the name 'Dtam Ruat' (police). I was really afraid of them. I thought that Dtam Ruat were robbers or criminals and might have beards on their faces. I never thought that they were the authorities. I did not meet them. After I contacted my aunt, she contacted the people who would bring me to Chiang Mai. I still had not paid the transportation cost. At that time, my aunt also didn't have money. So I borrowed money from my friend who works at a noodle restaurant at Chang Karn-about 2,500 baht for the transportation fee from Nong Ouk to Chiang Mai.

I think that transportation costs will either increase or decrease, it depends on Thai government policies. When there is news about the creation of work permit cards, the government thinks that there will be more migrant workers flowing into Thailand, so they prevent them from coming. The agents then increase the transportation costs because they say that they have to pay commission costs at checkpoints a lot.

When I arrived in Chiang Mai I stayed with my friends at a noodle restaurant for two days, but their boss didn't want me to stay there. They might have been afraid. At that time my friend was very uncomfortable, so they looked for a job for me but we had to hire other people to help find it too.

I got a job as a domestic worker. They picked me up and sent me to work at Hang Dong, Kullapan village. As for the salary, they paid me 2,000 baht per month. The boss that I was working with loved me. I worked at that house for three months. I saved some money and paid off a debt to my friend that I had incurred when borrowing money for the commission cost for finding the job. After that I had some money left that I transferred to my mother.

At that time, Thai people told me, if you have Thai hill tribe card (green card) it is easy to get a job and the job will not be difficult. I was told I could work at a fresh coffee shop and earn 6,000 baht per month, and I was told that they were looking for new workers too.

The people who guided me to apply for the green card were Thai people who stayed in the same village where I worked. At first I only thought that I wanted money then I could go back home quickly. My parents also said that they would only allow me to stay in Thailand for two years. But then I was cheated. In 2001 I didn't get the card and the people who had helped me wanted payment for their help. I couldn't afford to pay them, as I didn't earn enough. At that time I quit my job and one of the people took me to Kullapan Ville old project. He lied to them that I had legal documents, because at that place if you don't have any documents they will not accept you for work. I worked there for 10 days and then they wanted to check my documents, so I had to tell the truth to the house owner. They didn't know what to do so they paid me a salary for one month (2,500 baht) and they told me to find a new job. Actually I worked there only for 10 days but they were afraid to hire me. I didn't know what to do. I tried to contact the man who had brought me there because at that time I didn't know anyone and couldn't do anything. I contacted him and he lent me 2,000 baht and took me to a restaurant at Wat Pa Paeng.

My friend asked me for the money back for the gold chain that I had borrowed before I came to Thailand. I didn't earn enough and couldn't pay her back. In that year I couldn't find a better job and I couldn't earn enough money. I felt very unhappy. The work that I was doing in the restaurant was very difficult, I felt so unhappy. During work time I was so distracted so I decided to resign from my job. I left all of my clothes there and went to find a new job.

This time there was a person who I knew could help me to find a job. It was a housekeeping job at Tasalar village, I worked there for less than a year. In 2004 the Thai government made a policy for workers to get a work permit. My boss who I worked with filled in the work permit card for me. However, my boss's brother had a mental problem. When there was nobody at home, he wanted me to massage him. If I talked to him nicely he was nice. If I didn't pamper him, he informed my boss and complained that I did this and that. He also hid my clothes and my Burmese ID. Sometimes when we argued he would get the dog to bite all of my things. The goal in my mind was to get enough money so that I could build a nice house and buy a farm for my parents.

After I quit the job in Tarsalar village I came to Wat Pa Pao to hire someone to find a job for me I had to pay them 500 baht. I got work at Changklan with a Muslim family, they make and distribute noodles. I got 1,800 baht per month for my wages. The work there was really difficult. I had to wake up at 5 am. I worked here more than a year and collected 4,000 baht. I had to buy everything for myself except detergent. They provided only two meals per day, one dish per meal and allowed me only five minutes to eat. Breakfast time was 11 am. I had to work from early in the morning until 11 pm. to make the noodles, seven to eight bags a day, and the only employee was me because other people could not stay.

There was one person from my village who was working in Bangkok who said that if I want to come to Bangkok she would find a job for me. So I lied to my employer that I was visiting home and took all of my personal supplies. My friend helped me to contact the people who would bring me to Bangkok. I agreed to it even though I only had 4,000 baht and the transportation cost was 6,000 baht. They said no problem so they took all of my money and I didn't have money left for me. They took me to Inthanin hotel near Sanditham. There were many people going to Bangkok at the hotel. The ones who had money to pay for transportation costs went first, but for me I didn't have enough money so I had to wait for a month before they took me to Bangkok. They bought food for me. If they didn't buy food for me one day then I had nothing to eat.

While waiting for the Bangkok trip, the man who would bring me to Bangkok chatted me up saying that he liked me, and that he wanted me to be his girlfriend or wife. He said that he didn't have a family yet and would truly love me. While waiting for him to take me to Bangkok for a month he helped me with everything, such as buying food for me. He wanted me to stay with him in Chiang Mai.

When I arrived in Bangkok he took me to a plastic factory. I was really unhappy with my work because my employer was very difficult, but at the same time I didn't have any money left. I worked there only five days then I contacted the guy who brought me there. I wanted him to take me back to Chiang Mai, because I was unhappy and worried about my physical health and state of mind. I wanted to vomit everyday and I realised that I might be pregnant. If I carried on working my womb was going to get bigger and bigger and I wouldn't be able to work, also other people would say that I had a son without a father. I phoned him and explained about my situation asking him to take me back to Chiang Mai. He didn't pick me up but gave me 350 baht to come by bus.

When I arrived at Chiang Mai I couldn't contact him again. I didn't know where to go so I contacted to my former employer and went back to work there. My womb got bigger day by day. I was so hurt I didn't know what to do. The work that I did was also very hard. I worked from early morning until dark. I couldn't think properly. I decided to tell the truth to my employer about my pregnancy, so they could find a way to help me. They took me to give birth at a hospital, somewhere in Chiang Mai. I had to pay for the delivery-more than 10,000 baht. My employer paid for me in advance and cut money back from my salary. I worked there for another eight months. I knew that even though the work was very hard I had to do it.

After nearly two years, I requested to work overtime since I still had to pay back the debt for the gold chain. My employer said that he would increase my salary to 2,300 baht. At the beginning they said that they would apply for a new job for me, and pay me until the day that I am going to work. Then they said that I was rejected from that job. I felt so upset. When payday came, they cut my salary for document costs. So I quit that job and stayed around Tanin Market with the people from my village. They worked at a lettuce preserve factory near Kham Taeng Market.

After that I met a guy, who is now my husband. It was not love but I had no job so we were living together out of pity only. I worked as a curry and food seller at the market and my husband also worked at the lettuce factory. After staying together for more than a year I became pregnant, because I am allergic to the

contraceptive pill. I let myself have the baby. At the same time my work permit card had almost expired and I needed to extend it, so I decided to stop breastfeeding my son, because I had to work. My son was only four months old. The milk for my baby cost 5,000 baht monthly, after three months I quit that job to look after my baby. My husband changed his work to construction and got 250 baht per day. My son and I had to depend entirely on him. After my first son was one year and four months old, I had my second son. Then life became really difficult.

When I had my first son, the doctor said that after one month I needed to have an internal inspection but I didn't have it. Honestly, I was too shy. The doctor said that after the internal inspection he would give me the contraceptive injection, but I was afraid to go, so I had my second son. After my second son was about nine months old, I entrusted him to other people to take care of him. My son's health was not good. He was sick very often. At that time I worked at O Song. They gave me 5,000 baht per month. I stayed there for only one month. The employer was really critical so I quit the job and stayed at home to take care of the babies. We could not survive by relying on my husband's salary only, so we moved to Pongyang to work on a flower farm. There we grew and sold flowers, then after selling them we took out the water cost, the work permit cost and the money for other costs, so we ended up with less than 3,000 baht, that doesn't include the money we borrowed from my husband's sister. After that we went to work on a tomato farm, we worked very hard during the winter, but because the employer put a lot of fertilizer down the fruit didn't grow, so we couldn't sell at that time.

I couldn't be patient anymore and I told my husband I would resign from my job and go to work in the city again. My husband didn't want me to go back, but if I didn't go we would have had nothing to eat. We had no money left, so I came to my friends work and got a job as a maid at Inthanin Hotel. At the same time the work permit card also needed to be extended so my employer paid in advance for me. As for my salary, they paid me twice a month, 15 days per time, so that there was enough money to rent a room. I called my sons and husband to come down from the mountain. I entrusted my sons to a child care centre near Wang Sing Kham. The cost for both sons was 1,000 baht, but at the beginning they only charged me 800 baht per month. Maybe they pitied me.

Now my oldest son is five years old and he is studying at Wat Pa Paeng School, at kindergarten level one. The school doesn't help students with the cost of uniforms. We have to pay all the costs by ourselves. The school informed me that there are not enough teachers, so they requested extra money for extra tutorial

classes, but I don't need to pay because the teachers said my son is excellent. My younger son is still at the child care centre and we have to pay 500 baht per month.

"We want the children to get a good education and to have knowledge so that they don't have to work difficult jobs like us in the future."

"'Human rights' are about how the employer shouldn't bully the employees; and about how when we go to the hospital for treatment it should only cost 30 baht per time."

I want Government support for my children because our children were born in Thailand and have grown up here. I want them to support migrant children like ours to study at higher education level. I want them to have an equal chance like the children of this country. After graduating, I want the Government to provide jobs for them and I don't want there to be discrimination between migrant children and Thai children. To go back

and study in our country would be difficult. The children would not catch up with other children, and another problem is we don't have any birth documents from that country. We want the children to get a good education and to have knowledge so that they don't have to work difficult jobs like us in the future.

I want people who work as maids to have holidays, a minimum of one week per month. Now I only have a one-day holiday per month and they don't cut my wage during my holiday. For welfare, if there is a holiday we should also to get wages too, if we don't take our holiday we should get twice the money. Now I work here and I have received the minimum wage of 180 baht per day since January.

I have heard about human rights on the radio. 'Human rights' are about how the employer shouldn't bully the employees; and about how when we go to the hospital for treatment it should only cost 30 baht per time. I used to listen to a Shan radio station. The station that I used to listen to was the MAP Foundation station and I also listen to Nang Su Si program.

I have health insurance because I got my work permit in 2004. I used it when I was pregnant and I went to the hospital for prenatal care-when they checked my blood and when I had my babies. When I go to see the doctor it costs 30 baht. Before, when I didn't have a work permit and health insurance I had to pay a lot of money. My older son has health insurance, too. I applied for him in 2010 at Nakornping hospital. My younger son doesn't have it yet because when I went to hospital for prenatal care, we showed our work permit card. When my younger son got sick I took my son to the clinic and paid all of the medical costs myself.

The main difficulty I have is with nationality verification, or temporary passports. The price for applying is not the same from place to place. Some places you have to pay more and some places have to pay less. We don't know how much it actually costs. The government says that the price has not been stable since 2009. The government announced that migrant workers who have a work permit card have to apply for nationality verification and for a temporary passport. The Department of Employment in Chiang Mai said in 2010 that people who have a work permit card and who don't submit the nationality verification form won't have their work permit card extended, so we had to submit it. From then up until now we haven't had any information from the Department of Employment in Chiang Mai, so we still have not gone for nationality verification.

"I want the government to stop employers from taking their employees' documents"

I want the government to stop employers from taking their employees' documents because I faced this kind of experience at Chang Karn in 2004. I had a work permit card but my employer took the original card and I had to use a copy. One time, when I visited with my friends to Sa Murg to see my relatives, I ran into some police and they wanted to check my ID card. I showed them the copy but they asked for the original and I replied that my employer keeps it. The police said that the employer don't have the responsibility to keep it, so they arrested me and called my employer to pick me up. My employer said that they couldn't pick me up, so the police took me stay with them at the checkpoint for five hours then released me. I didn't need to pay them money but I didn't meet with my relatives so it made me waste my time. When I wanted to quit the job at Chang Karn I wanted my work permit card back and they didn't give it to me. They wanted me to stay with them. I said that I would never pay my debts and the employer threatened to inform the police to arrest me, so I didn't take any documents from them, except the copy that I had of TR 38/1. In 2006 the government opened a new registration period for migrant workers so I applied again.

I can easily travel in Chiang Mai but when we go to the monastery during religious festivals, such as Buddhist lent (Khao Phansa, Aok Phansa), Water Festival and Buddhist Sabbath days, which are our important days for the Shan people, there are Thai authorities waiting around the monasteries to check ID cards and the motorbikes of the people who came out from the monastery. They use reasons like the work permit date is expired; this and that document is missing; and they request money from us. If we don't pay them they ask, 'you will pay the fine here or go to the police station?' So mostly we will pay them directly there. We don't know who to inform and where we can get support.

During the last 10 years, I think that the human rights situation has improved a bit. Now everything is modernised and the government cites policies and changes such as allowing migrant workers the right to study. We have chances to keep updated with the news in our language about how employers should not oppress employees. There are laws to protect migrant workers. We have support in getting wages from our work. Also for myself, I have changed too. When I was a new arrival I didn't know anything. I came here more than

"If I want to change my work place when I feel that it is too hard for me, I tell the boss that I am going back home so the boss will pay me my salary. If I tell them the truth then it is very difficult the get my wages, some people might not get any pay."

10 years ago. Now I know about travelling in the city. I am confident in speaking out, and I understand more. This makes my life better. An example of change is when we go to the monastery-there are many community-based organisations (CBOs) who do campaigns and distribute publications, so I read and I get more knowledge from that.

I don't have a chance to attend workers organisations meetings and events because I have no time, but I am interested in these organisations because through them I can learn and understand. I am also interested in helping the community.

Sometimes there are announcements for new job opportunities. When I wanted to work at the bakery shop I went to apply for it, but they didn't accept me because they said that it is too difficult to employ people who hold work permit cards.

At some places where I worked, the boss didn't allow me to go anywhere, even when I asked for only five minutes. If it is possible, I would like the government to make a rule for official holidays on our cultural days like full moon day, especially one in February and one in March (by the lunar calendar). That also includes the Buddhist land and water festival.

If I want to change my work place when I feel that it is too hard for me, I tell the boss that I am going back home so the boss will pay me my salary. If I tell them the truth then it is very difficult the get my wages, some people might not get any pay.

Although I have a work permit card, I have no rights to buy anything, such as a motorbike or car. Some banks don't accept our documents to deposit money in the bank. As for me, the company that I work for opened an account for me with my documents at Kasikorn Bank.

There is a government policy that does not allow migrant workers to drive a motorbike or car. If they are found driving they will be fined for 2,000 baht. Motorbikes are really important in our daily life. Without one it is very difficult to travel around. Sometimes we use our employer's name to buy one, or some people use the name of their relative who has an ID card. There are also difficulties when riding a motorbike because the police do not allow migrant workers to have a driving license. If possible, I want the Thai government to allow migrant workers to buy and ride motorbikes, and to get driving licenses.

During the past ten years, the rights that have developed are those relating to the government's policies on registration of migrant worker, work permits and surveys of migrants around border. Also, migrants' children are able to attend school, whereas before they weren't allowed to. In the past they used to announce that migrant workers were not allowed to come out of the house after 8 pm., and that they are not allowed to use a mobile phone, or to organise and associate. I can't remember which year, but that didn't happen in Chiang Mai.

I have been arrested twice by the police in the past 10 years. The first time, my work permit card had expired and I was on the bus to visit home. I was arrested at Chiang Dao checkpoint. I had to stay in prison for four days and pay a fine of 1,200 baht. The second time I was arrested at Mae Hea because I travelled with my relative from my husband's side of the family, but they didn't have a work permit card, and I had just finished the health check for my work permit but hadn't extended the permit card yet. Police accused me of taking an illegal migrant worker to the city, after they questioned me at the police station they said that I was innocent but that I had to go to court as I was accused of not extending my work permit. I was in prison for two days and had to pay an on-the-spot fine of 2,000 baht. They released me and told me to extend my work permit, but because I was experiencing financial problems I didn't extend it until the following year.

I think that the government should give migrants the opportunity to work in jobs where we can develop our skills and gain more knowledge, such as in beauty salons, barbers, in flower designing and in restaurants. If we can work in these kinds of jobs we can develop and use these skills in the future.

If our children are clever enough and able to study to be doctors that would be good, but on the salary of migrant workers like us it is almost impossible to send our children to study like that since we have no money to support them.

The government department that I used to visit is the Department of Employment. Sometimes when there were many people the authorities would speak rudely

to us. I hope they will use signs in our own languages about work permits one day. Sometimes migrant workers are afraid to ask the authorities how to apply for a work permit. I used to go to amphoe district to apply for the document Tor Ror 38/1. I have been to the police station twice. I have also been to immigration when I was arrested and put in jail there. The toilet there smelled bad, also the shower place was not secure. There were many people but few shower places and it was really hot. At Kong Muang police station it's worse than immigration because there are many people but the rest room is narrow and small. I don't want the police to look down on us when we are arrested and in jail. When they take us to court, some authorities abuse our rights, using verbal abuse and physically touching our bodies sexually. Some make jokes that they want to be our boyfriend, yet we already know that is not possible and they are just being rude.

Since I left my home up until now, it's still terrible. Even if we have enough money to visit our hometown it's still difficult. If people see us with money they (the army) will take it. I know of one Kayan person, from Loi Kaw, he worked in Thailand and saved 200,000 baht. He didn't know the exchange rate to Kyat and when the State Peace and Development Council (SPDC) saw it they took it all.

In my mind I think I would say to people, 'if possible do not come to Thailand' The situation now is very difficult for migrants. It is difficult to get documents and ID, and to find work. Employers are afraid to hire us if we don't have any documents. So if people borrow money from others to come here they will only be left in debt.

“We need to solve the attitude problem that the Thai community has, so that they have a positive attitude towards migrant communities instead of looking down on us.”



Workers at a construction site
Photo courtesy of MAP Foundation

Migrant Reflection: Sai Porn Sak **Construction worker from Burma** **Interviewed in Chiang Mai, Thailand, by MAP Foundation**

My name is Sai Porn Sak and I am 38 years old man. I come from Mong Pan District, Loilam city, Shan State, Burma. I moved to Thailand in 1988. I live together with my wife and one son. I work at a construction site in Chiang Mai.

In fact, I didn't want to come and work in Thailand, but I had to do it because our country's political situation is not stable. The military force us to do labour, force us to be porters and force us to be soldiers. There is no safety as well as no development, so my wife and I decided to move to Thailand to look for a better job, even though we didn't know anything about Thailand. We decided to walk to Thailand because we were afraid of the army checkpoints, where we were told that the Burmese soldiers rape the women or arrest the men. We travelled over 10 days and had to pay 500 baht to the smuggler for crossing the border. I think 500 baht for that period was quite expensive. I had to work for at least one month to get 500 baht. I didn't have to pay once we arrived in Thailand because the employer and the smuggler knew each other and the employer paid it for us and deducted it from our salary. My first job in Thailand was on an orange farm in Fang and I got 25 baht per day.

Later, my friend and I decided to go to Bangkok. When we arrived in Bangkok, there was no job for us. People around there suggested that there were many factory jobs in Rayong, so we decided to go even though we weren't sure if there would be a job for us. When we arrived in Rayong, a stranger invited us to work in fishing. He explained that there was no salary but we would get 50% of the earnings after selling the fish, and the other 50% would be taken by the employer. We decided to work in fishing and we got 2,000 baht the first time after we had been fishing for three months. That was quite a lot of money because the salary at that time was just about 700-800 baht. The second time we went fishing for four months, but there was a fight among the workers and someone was killed and the police came. Some workers were sent back from Rayong border but the employer tried to get the workers back. The employer said we could continue working if we were brave enough, but we decided to come back to Bangkok again.

Over the last 10 years, I moved to work on construction sites in Chiang Mai. I apply for the jobs myself after I seeing the construction sites. I used to depend on other people to find a job for me but it didn't work. At that time, I got 140 baht per day. We didn't have a work contract, if we wanted to work then we worked, or if we didn't want to work we quit and looked for a new job. We got higher wages when we had legal documents. In the past 10 years, the highest wages I ever got was 350 baht per day, but the highest possible wage for women is only 250 baht per day.

I think in the past we could choose to work on whatever we wanted to do, but now the government limits the type of work we can do. For example, we can work in construction, domestic work and fishing only. We cannot apply for a security guard job or open our own shop. Maybe this is because the government has made space for Thai people who are jobless from abroad and only the jobs that Thai people don't want are left for the migrants.

In 1994, I received my first legal document: the illegal entrants from Burma card (purple card), which my employer kept. I went back to Fang and I didn't have to pay for any expenses because the villagers knew me, and the head villager approved me. The authorities asked about our background and which border area I came from. I paid 200-300 baht for the registration fee. Later, in 1996, I got the illegal entrants from Burma card (orange card), which I could use for two years and which cost 2,500 baht. In 2001, the government allowed workers to have the migrant worker's card but not to register with the Department of Local Administration until 2004 when the Ministry of Interior allowed workers to register under Tor Ror 38/1. I had to pay 3,800 baht per year. I stopped using my Tor Ror 38/1 in 2009 and decided to use the Burmese irregular migrants card.¹

We used to live with our employer for free but now we have to pay for water and electricity. For me, I decided not to live with the employer because I think that it is better for my son. I have lived independently for seven years already. The room that I rent used to be 1,000 baht but now the rent has increased to 2,000 baht per month.

I have rarely been a member of any trade unions or migrants groups, mainly because we don't have any on the construction site, although we have tried to form a group twice. The first time, we formed a group of around 50 people and discussed with the employer about not collecting money for electricity. The employer agreed with that, which was a real success for us. The second time, workers came together again to discuss with the employer about not collecting a water fee from us. The employer agreed with us again, but the employer now keeps an eye on the workers who seem lead people to form a group, and if they make any small mistake the employer will chase them down for it.

Over the last three to four years many things have changed. We can get access to information and more migrant organisations have been founded. I used to be a part of the Thai trade union in Lum Pun and we tried to demand our rights at the policy level but it didn't really seem successful. There were many difficulties when we demanded rights for those who don't have any legal documents because it was a risk that the employer would chase the migrants down or tell the police to come and arrest them. So undocumented migrants didn't dare to negotiate or demand their rights. As for me, I choose the work that I am interested in, for example, I choose to work in construction because I am interested in it and the outcome is good. I also have some interests in other work but the law and policies are limited for us to work freely.

Currently, I have one son who is 10 years old and studying grade three in primary school at a local school in Nong Pueng, Sarapee district in Chiang mai. It is a government school that caters for primary students from grades one to six. This is the third school that my son has been in because I have to move my work places with my employer. Otherwise, I would have to waste nine or 10 days to find a new job. Now, I have decided that I will not move my son to any other school and instead just let him finish his primary six standard at this school. I like this school because my son can stay there in the afternoons when I am late finishing work.

For the student application process, it is quite hard for me because I don't know what kind of documents or information we need to prepare and when the teacher asks for our Thai citizen ID, I don't dare say that I don't have a Thai citizen ID. I had to ask my neighbour who has experience and can prepare documents such

“The teachers have a good attitude towards our ethnic students but the Thai parents have a negative attitude and ask the teachers why our children get the same rights when we are not Thai citizens, or they feel jealous if our children study hard and get a better score.”

as my son’s birth document and parents’ documents. The teachers don’t really ask many questions and explain that the student has a 13 number ID card that begins with the number seven, and that the student might have a chance to become a Thai citizen. It costs 2,400-2,500 baht per year for the term fee, 800-900 baht for

books, five baht per day for lunch, 300 baht per month for the school bus and 400 baht per school uniform. The 400 baht for the school uniform does not include socks and shoes, which means we have to buy those too. Some years, we had to pay a ‘school development fee’ of 150 baht, which they collected twice a year, however now they have a new policy: there is support from the school and we don’t have to pay the term fee. The school gives financial support for two school uniforms per year, and we can buy more ourselves if we want. There are no more book fees. The school provides meals, and we just have to pay three baht per day for student lunches.

The teachers have a good attitude towards our ethnic students but the Thai parents have a negative attitude and ask the teachers why our children get the same rights when we are not Thai citizens, or they feel jealous if our children study hard and get a better score.

The school does not provide any financial support for health care fees; we have to pay for them ourselves. I just heard about health care insurance for the children last year, and the school already collects 100 baht per year for it from the students. For the school certificate, when my son graduated from his second nursery school, the school gave him a certificate like the other Thai children. I am not sure if the school where my son is currently studying will give him that kind of certificate. As far as I know, there might be one certificate when they graduate from grade three and another when they graduate from grade six. I asked my neighbour who has experience with their children at school, and they said that their children got the certificate just like the other Thai children, so I don’t think there should be a problem.

I have never had any education or vocational training. The reason why I can read and write Thai is because I asked someone who is good at Thai literacy to teach me and I practised on my own. Personally, I love studying, and I studied on my own for over one month while I was jobless. When I travel from place to place, I love to read the newspaper or the signboards. In the past 10 years, migrants have not been allowed to study in formal education. Only in the last few years

have migrants been allowed to study in formal education. Now migrants have more chances to study because there are many schools which migrants open on their own, for example, the migrants' learning centres.

If possible, I would love the government to have school or vocational training for migrants so that when they graduate they could choose a job in something they are interested in or could open their own business. With regards to children, I would love the government to have a job for students who graduate from secondary three standard or six standard, or even higher educated, because nowadays children who graduate are jobless and have to go back home and do farming, which is different from what they have learnt. Another thing is that migrant's children are very limited in being able to apply for jobs because the government limits which jobs they can apply for and gives priority to Thai citizens.

I would love for the school to give more priority to children's education because the teaching curricula and systems are not standardised yet. For example, a teacher's absence means no teaching at school and no homework. Sometimes, some students are not being taught just because there aren't enough teachers to teach. Some weeks, the children have a chance to study only one day in the week. Another thing is that I would love the rural schools to have a chance to study at the same level as the urban schools.

I used to have a health insurance card (orange corner card) around the year 2544 (2001), which cost 1,900 baht per year. I tried to use that twice at Nakornping hospital. The first time, I had to pay 120 baht just because I didn't show the health insurance card. The second time, when I had a stomach ache, I tried to use my health insurance again but I still couldn't use it because the authorities said that I needed to show the health insurance card with my Tor Ror 38/1. It didn't really cost much but I couldn't use my health insurance just because I forgot to bring my Tor Ror 38/1. In 2547 (2004), I went through the registration process and got health insurance for 1,900 baht, which lasted until 2552 (2009). I cancelled my Tor Ror 38/1 because I had an immigration card with a health care card. I choose to use the immigration card because it has more benefits, for example, we can ask for a travel permit or a work permit but I have never used my health care card at a hospital since receiving it. We don't even have to pay for the health care card because if we are from Fang, we can go back and apply for the health care card in Fang district. In case of an accident, we can access health care in any hospital but we need to have a transfer letter from Fang hospital to the hospital concerned to be able to use our health care card in a different hospital. My wife has the right to use her health insurance with her Tor Ror 38/1 and my son can use my healthcare card. We are divorced and I am with my son now.

After 2552 (2009) I didn't have any medical checks because I used my health care card. I would like the hospital to respect health insurance rights equally because the authority treats migrant patients differently. Migrants should be able to use their health insurance at private hospitals because if there is an accident, the ambulance or the police will send the patient to a private hospital, which is very expensive. Some patients have to pay 30,000 baht per night so there should be a private hospital where migrants can use their 30 baht card (health insurance card) or they should be able to use it in any hospital, including private hospitals. Another thing is that dependents, such as children and older people who are not able to work, should have the right to use health insurance.

I would love organisations that work on human rights to exert pressure on the Thai government at the international level, so that they protect migrants' rights. Better policies on migrant registration and legal documents would give migrants more freedom of expression. The government should enforce the law prohibiting employers from taking migrants' work permit cards. In some places, the employer takes money from the migrants for extending their work permit but doesn't actually get the cards for them, which means that they become illegal again. Another thing is that migrants should have the freedom to travel and the right to own property such as houses or land. Freedom to travel for migrants is very limited. We cannot travel freely or if there is a checkpoint, the authorities will ask us for money or arrest and detain us if we don't have any. Some legal documents allow us to travel but still, the authorities don't understand and ask for money. I think that the government should give training or workshops and give awareness about travelling processes or laws or anything that would help us. One more thing is that, the government should investigate police at checkpoints to stop them demanding bribes from us when we travel.

Since we have to pay money for work permits, the government should help us when we are jobless or when our wages are not fair, for example, the government should take action on behalf of the people who work on orange farms to help them get a fair wage. Vocational training for migrants should also be provided because some migrants don't have the skills necessary to work in new areas. For example, those migrants who work on orange farms don't know how dangerous the chemicals they use are; or on construction sites the migrants don't know how to use new materials and the employer never teaches them how to use them.

In regards to cultural expression, it is better now than it was 10 years because we dare to express our culture, celebrate our festivals and speak out. The authorities will not come investigate during festivals but will wait outside and ask for money after the festival has ended. I would also like the government to announce officially that we have the right to celebrate our cultural festivals.

During the past four to five years we have had greater opportunities to speak out because there are more organisations and individuals who work on migrant rights and help us to access more information.

House owners are willing to rent us rooms and the Thai community is not that bad but some families still think that as we are not Thai, we are not educated and worry that we will bring diseases to them even if we have to have a medical check-up every year.

We need to solve the attitude problem that the Thai community has, so that they have a positive attitude towards migrant communities instead of looking down on us, and the government should go between and explain both sides of the situation. We should not blame the Thai community because it is the authorities that give them their information, for example by saying that migrants from Burma take their jobs, and that migrants are the one who bring diseases. Therefore, I think that the authorities should also be the main ones to solve these problems.

In the past, communication was not that easy because we didn't have mobile phones, so if we want to contact home we have to use the public phone or write a letter and send it from the post box, which we don't really know how to do. For the most part, if we want to contact our home, we will tell someone from our village who will go back and give them our letter. Communications have improved a lot in the last 10 years. Using the Internet in our hometown is not that good but it is improving. In the past, migrants were not allowed to open bank accounts even if they had work permits or hill-tribe cards. But now I can open a bank account if I hold an Burmese irregular migrants card.²

It used to cost 170 baht per tank of rice but now it is 400 per tank of rice. The living expenses have gone up as our wages increase and it is not easy to save money. In the past, we earned 100 baht and saved 80 baht per day because we lived with our employer and we didn't have to pay for the room. For food, we used to grow our plants but currently, we have to rent a room and have to buy all the food, which makes it difficult to save money. We used to earn 100 baht and save 80 baht but now, we earn 100 baht and can save only 20 baht.

“The authorities said I had to pay even though I had my documents, since I had already been arrested. I paid because I didn’t know about the law or my rights then.”

In the past, I was arrested at my work place even though I had my legal documents. If we had legal documents we were told that we would be released and if we didn’t, that we would be fined. The authorities said I had to pay

even though I had my documents, since I had already been arrested. I paid because I didn’t know about the law or my rights then.

I was arrested recently, in the past two or three years, because my work permit expired and I was going through the extension process. The authorities said that I didn’t give them evidence and that I didn’t cooperate. I was arrested and spent 48 days at immigration and two days at the police station. I feel that it was unfair because even if we are arrested, the authorities should treat us fairly and take care of us. Another thing was that the authorities wrote down that we didn’t have any legal documents before we could prove it. Therefore, I would like the higher authorities to check everything in order to ensure justice. If possible, I would like the authorities to work strictly, checking before they arrest people because the authorities don’t really check the details on what kind of legal document migrants hold and the authorities should work more carefully.

Currently, if migrants are arrested, they are detained at immigration for 48 days even though they detain people for only 28 days for a real crime. The authorities used to ask for money, 200-300 baht, to not send you back to Burma, but now they ask for 4,000-5,000 baht. We are released if we can pay and if not we are sent back to Burma in the immigration pickup truck.

I don’t support sending migrants back to the border areas because we have to pay for the travel fee even though the authorities have the budget to send us back. Also, it is a very dangerous journey because they drive very fast and don’t stop for toilet breaks, or when we feel hungry or thirsty. Instead of sending migrants back on their budget, they should instead use that budget to give training to the migrants on the border areas.

I have had two traffic accidents, one where I was driving and one when I was the passenger. The first accident, when I was driving, I can’t remember what happened because I was unconscious and I was already at the hospital when I woke up. I don’t know any of the legal steps. I can remember what happened to my friend. He was driving the motorbike and I was on the back, and we were about to cross the road. After the accident, I called 191 and the police came to the place where the accident happened. After the police arrived, they suggested sending us to

the hospital first and said that they would follow up with the case. The police asked us questions afterwards, when we were getting better at the hospital. He explained very clearly to us who was in the wrong and who was in the right and also gave us many good suggestions. I like that kind of authority so much. The police were from Chang Puak police station.

Since we are Shan people, it is hard to ask for help from the embassy, because we don't know what the embassy is or if it exists. Actually, we should be able to access help from the embassy because they are the ones who coordinate from country to country. Embassies should be our second home when we are in risk or in an emergency situation in a country.

Travelling is very dangerous because we have to hide from the police all the time. We travelled by a smuggling bus so we could not talk loudly, could not go to the toilet and couldn't eat when we were hungry which made people feel very weak by the time they arrived in the city. If the brokers were unable to negotiate with the authorities, we had to walk through the forest. We didn't get any food to eat even if we paid the travelling fee of 10,000 baht. We didn't dare to light candles or light a fire because we were afraid that the authorities would see us. If they saw us, there would be a problem for both migrants and the broker. Some migrants are shot by the army if they are seen. We have to be very careful because people smuggling is very dangerous.

In the past six to seven years, I have seen a girl who was sold for 25,000 baht and made to work in domestic work. The employer would never let her go out, or if she tried to escape, the security guard would beat her. The employer treated her badly and beat her when she didn't work well enough. When I met her, she was about 22 years old but now she is about 30. I saw that situation because I went to their house to fix their electricity. My employer didn't go with me so the house owner might have thought that I was a Thai person and didn't look at me. At first, the girl didn't talk to me but when she saw the tattoo on my arms, she knew that I was also from Burma so she explained her situation to me. She explained that the one who persuaded her to come and work in Thailand was a villager from her hometown and the one who brought her and sold her to the employer was a Thai person from Tak. At that time, she explained that she worked there for three to four years (now 10 years). I am not sure if she is still working there or if she has already escaped because I don't have her contact details and I never followed up about it.

If we are going to solve the problems, we need cooperation from both countries, not just Thailand. Currently, the authorities arrest migrants and send them back

“Migrants don’t know what their rights are when they hold a work permit. They rush to register when the registration periods open, and some migrants hold two or three kinds of legal documents.”

to the border areas but the migrants can hire a broker to come back again. The UN said that they will try to solve human trafficking around the Thai-Burma border but I feel they have never been to the border areas in reality, so how can we depend on them.

We need to think carefully before we decide to travel. We need to calm down and make the decision carefully about whether we are going to find a job – for example, where we will go and what we will do, because it can cause a problem if we decide suddenly. In the past, I didn’t worry about anything when I travelled because I believed in destiny. For example, when I went to Bangkok, I didn’t really think about being arrested by the police, but I was arrested when I travelled from Fang district to Chiang Mai at the Ping Khong checkpoint in Chiang Dao district. As there was a policeman who had a kind heart, he suggested that I do some gardening, then gave me some food and sent me back to Chiang Mai. I really felt proud of that policeman.

In cases where we want to change our employer, our old employer doesn’t have to sign the contract for us. We can work with a new employer but we can’t extend our legal documents and we may become undocumented again. We have to pay 1,000 baht if we change to a new employer, and 1,000 baht for legal documents so we need to think a lot if we are going to change. Sometimes, we move for three months and have to move again if there is not much work to do. So, we have to think again and again about whether it’s worth it to change because we will waste our time and our money.

Migrants don’t know what their rights are when they hold a work permit. They rush to register when the registration periods open, and some migrants hold two or three kinds of legal documents. Some migrants become undocumented again when the police see all their different kinds of legal document and let them choose only one. They don’t know whether they should use the blue card, the red corner card or Tor Ror 13. Then, they have to go through a new registration process again. As for me, I decided to cancel my Tor Ror 38/1 and use my immigration document because it has more benefits.

In my opinion, we should have the right to make our own decisions instead of just following the rules of some policies. For example, in the event that we want to change jobs, it is still very hard for us even if we hold Tor Ror 38/1 or a temporary passport. As we are human, we should have equal rights as all other people except those who have committed a crime.

As technology has improved, different materials and vehicles have been created which help us to do our jobs more quickly, but the difficulty is that the employer doesn't explain to us how to use the materials or about the dangers, and they don't care for our safety.

Many things have changed in the past ten years. The first time I came to Thailand, I went to Bangkok first which meant I knew Bangkok before I knew Chiang Mai. At that time, there was no electric train, airport bus link, Suvarnabhumi Airport or overpass. Now, there are lots of tall building and houses, which have increased tenfold in the past ten years. In the past, Chiang Mai only had two highways and didn't even have the middle ring road, which looked like a jungle. Now, everything has developed. For example, there are tall buildings, some are already finished and some not. Chiang Mai and Tak have good economies and lots of migrants. The cities are developing, mostly thanks to migrant workers because every construction site employs migrant workers. The government should use the money that they get from migrants' legal documents (1,900 baht per person) to help and support migrants.

In the year 2544 (2001), I went once to the Chiang Mai Employment Office (CME) but not after that because my employer completed the whole process for me. The first time I went to the CME office again was seven or eight years ago, while I work with new employer. He allowed me to go to the CME-office and take care of the process for my legal documents because he saw that I can speak Thai fluently. The attitude of the authorities depends on each person. Some authority officials treat migrants well but other do not. From my experience, the authorities at the district speak well to us, for example, Fang district and Chai Prakarn district. I can see some positive changes in each service agency but still some authorities at immigration look down on migrant workers.

I want the authority to enforce the law on migrant workers and change Thai community attitudes about migrant workers. When migrants are arrested, I don't want the authority to use violence against us. Migrants are human beings and feel or suffer as other people do from abusive words, or when looked down upon, or beaten up.

It is very important to have cooperation between the Thai and Burmese governments. Migrants' problems can be solved if the two governments work together, but now the two governments

"Migrants' problems can be solved if the two governments work together, but now the two governments decide and work with no consultation on what migrants need and what problems migrants face."

decide and work with no consultation on what migrants need and what problems migrants face. The government never listens to migrants, especially the Burmese government; they have a negative attitude towards migrants. In my opinion, the Thai government does take some action to solve migrants' problems but the Burmese government

doesn't. The Burmese government will do something just because they benefit from doing it. For example, in the Nationality Verification (NV) process in Burma, some migrants are from Thailand (their house is in Thailand, and all their relatives are in Thailand) but they pass the NV, while migrants who really come from Burma don't pass the NV.

When Burma faced Cyclone Nargis, everyone was able to see how the military government treated the people. The government doesn't care about any Burmese citizen, so how can we expect that they will help ethnic groups like the Shan, Karen, Rakhing and Mon. I want the UN to investigate and solve this problem.

I would suggest that the Thai and Burma governments officially open all the checkpoints like Chiang Mai, Mae Sai or Tak. Currently, we have to travel from Chiang Mai to Tachilek checkpoint to go back Burma, which is very far from us. If they opened the Chiang Mai checkpoint it would be more convenient for us. If the checkpoints were open, it would also improve the economic situation around the border, for example, in Nong Ouk or Mong Ton.

There are many people who want to come to Thailand and work with me but I share my experiences with them about how life is difficult in Thailand. I tell them that if they go to Thailand and they don't have any legal documents, life is very difficult because the police will arrest them. The living situation in Thailand is not the same as at home. We can't go out for food, we have no freedom, the weather is very hot, and we cannot go into the forest and look for vegetables or go fishing. I also explain to them about the checkpoints but some villagers say that they are used to climbing over mountains and through forests so why not climb over the checkpoints.

After I shared my experiences in Thailand, some villagers decided not to come but some decided to come and work with me. There were four or five people who decided to come with me at that time. I brought them and found a job for them in Chiang Mai but they have had to deal with the same cycle of problems that I talked about earlier.

I would like the government to create new policies and solve real problems because the policy under which migrants are arrested and deported solves nothing since migrants just come back again. It is a vicious cycle.

There should be a 'win-win' policy for both migrants and the authorities. There should be clear steps for those migrants who want to come to Thailand for work. If the authorities arrest and send migrants back, there should be support for migrants in the border areas. For example, if there were support for the migrants who were sent back, the migrants would feel thankful for the support and would not come back to Thailand. There should be an immigration branch in the Chiang Mai border area to help new migrants to become legal, for example, migrants in Mae Sai. This might be a way of solving problems in the long term.

Did you know...

Naturalisation policies in Thailand

The Thai Ministry of Interior issues workers with a 10-year identity card, under which it is intended for stateless persons to be reclassified as Thai nationals. The card proves that applicants and their relatives entered Thailand before 2542 Thai calendar year (1999). The card must not be lost during the period that it is valid. Furthermore, if a cardholder does not commit any crimes while in Thailand they earn the opportunity to become a legal citizen of Thailand.

Endnotes:

- ¹ According to the 2004 Regulation on National Identity Cards for Non-Thai Nationals, the Ministry of Interior has registered the "Non-Thai nationals" including Burmese irregular migrants with 13-digit identification numbers begin with the digit "6". In Jerrold W. Hugué, Apichat Chamrathirong, *Thailand Migration Report 2011 Migration for development in Thailand: Overview and tools for policymakers*, International Organization for Migration, 2011, p.65.
- ² Ibid. p65.

“I had a more secure life after my status became legalised and began to receive benefits under the system like health care and freedom to travel.”



Fishery workers
Photo courtesy of FAR

Migrant Reflection: Hui Nan

Fishery worker from Burma

Interviewed in Samut Sakhon Province, Thailand

by Raks Thai Foundation

My name is Hui Nan, and I am 32 years old. I migrated to Thailand 10 years ago and worked briefly as a fisherman at Mahachai, Samutsakorn. My family lives back in Burma, but my brother also migrated to Thailand to work as a factory worker.

In order to come to Thailand, I asked for assistance from a broker who I knew through my brother. The total payment for migration assistance was 3,500 baht. The broker didn't ask for any documents. The cost varies depending on the need of the migrants, whether they are getting the broker to find them a job or if they are only asking the broker to take them to their destination. I had a long journey when migrating to Thailand. The migration process started from my hometown in Burma, in a rural area. I had to make several transits in order to get to the border: from walking out of my village to the nearby pier, taking a boat to town, and then catching a bus to Rangoon. From Rangoon, I took a pickup truck to Dawai and further to Kawthaung. I managed to get across the border at Kawthaung by ferry and then later travelled in a pickup to Samutsakorn province (Mahachai), the place of my employment.

Before entering Thailand, I was educated up until grade 12. I decided to come to Thailand by myself because of its location: it is easy to access and to commute. I never received any pre-departure training. I didn't have a work contract when I migrated. The knowledge that I learned prior to departure was from my neighbours who had worked in Thailand before, in the fishery sector. My neighbours told me about the wide selection of work available in Thailand, more so than in Burma. I, like other migrants, never received any support from the government, there was no support of any kind, neither migration information nor medical exams prior to arrival.

I got a job offer straightaway after arriving with assistance from the agent. I have spent the last five years working on fishing boats travelling mainly to Indonesia. There was no work contract with the employer. I currently live in Thailand and now work in a food-processing factory. I receive 215 baht daily, and 40 baht extra for overtime, so I get approximately 4,500 baht per month and I have no debts. I work 11 hours a day from 8 am to 7 pm. My wage has increased slightly over the last ten years. My wage would have been higher, if I had worked under the MOU process. I send money back home to my family via a broker who charges five percent of the total amount.

When I left the fishing boats to settle in Thailand, I decided to enter the registration process for migrants in 2009. I had a more secure life after my status became legalised and began to receive benefits under the system like health care and freedom to travel. Looking back, I see my time as a fisherman in Indonesia as a time of great hardship and dissatisfaction with my working conditions. The wages were unfair and there was limited opportunity to enter any legalisation process. My life back then was unsafe and I lived with the fear that I would be arrested at any time. Besides work, I never participated in any organisation or trade union. The job I have now I found through my friend but I was only told that it was factory work, the type of work and the factory were not specified.

In terms of documentation, I possess the migrant identification document (Tor Ror 38/1), the health insurance card, and the work permit card. I obtained the work permit card because I wanted to live a legal life after spending years as an illegal, or undocumented, migrant worker. I applied through my employer. I did not face any difficulties during the process. It took one month for me to receive the card. My employer has kept the real card while I have been given only a copy for myself. I saw how useful the work permit card could be when I wanted to change jobs. I have more choices for employment. When getting a new job, I did not need the actual card from my old employer. Before having the card, I feared that I would be arrested by the police. I also applied for a temporary passport through

an agency because this way I got to keep the original copy myself, rather than the employer keeping it. I think the confiscation of personal documents by employers should not happen. I would have been more secure and independent if I had the original documents with myself in case of arrest or when seeking formal recourse.

“After having lived in the shadows for the last 10 years, I now feel that I have the freedom to move to other areas without being arrested. This is because I have obtained proper documents—a work permit and passport.”

Now I have access to health insurance, which provides me with much more security. The health insurance card was issued in March 2011, for which I paid 1,900 baht. I arranged it all by myself. So far I have used the card once, after having a bike accident, when I needed four stitches in my chin. My brother

also got the card but hasn't used it yet. I had a medical check-up when I got my registration document. I paid the fee myself through my employers. The check-up did not involve tests such as HIV and TB, and they didn't conduct a follow up to tell me my results. My overall opinion towards the healthcare system is positive. The hospital provided a Burmese translator who assisted me during the check-up process and when I was given medical assistance.

Five years ago in Samutsakorn, I was arrested, and the police tried to extort 10,000 baht from me in exchange for letting me go, but I did not have that kind of money. Finally, I was sent to the Immigration Detention Center (IDC) in Bangkok and later to Mae Sot. Instead of complaining about the unfair treatment and community harassment, I had made complaints about my work in Indonesia where the employer did not pay wages. Meanwhile, I have never contacted the Myanmar Embassy for legal assistance. I don't even know where the embassy is.

After having lived in the shadows for the last 10 years, I now feel that I have the freedom to move to other areas without being arrested. This is because I have obtained proper documents—a work permit and passport. I can also use a cell phone. However, there are still hardships in life. I have been robbed by local Thai gangsters a few times. They took my money and cell phone. I did not dare to tell anyone. In terms of religious and cultural participation, I can now attend events freely and live in the community, with Thai people as well as migrants.

To conclude, my final recommendation for migrant friends who are considering working in Thailand or other countries would be not to go to work in the fishery sector in Indonesia because I have never known anyone who has had a good experience working there. Many people have experienced not being paid and in general workers are neglected by the employers.

Did you know...

Medical conditions of work permit

The Ministry of Labour's application for a work permit requires a medical certification showing that the applicant does not suffer from prohibited diseases, as identified by the law. Article 12 (4), and Article 44 (2) of the Immigration Act B.E. 2522 states that the prohibited diseases are:

1. Leprosy
2. Dangerous step of Tuberculosis
3. Filariasis
4. Drug addiction
5. Third step of Syphilis
6. Alcoholism

It should be noted that this list specifically does not include HIV/AIDS as the prevention of infected aliens or those who are HIV positive into or to reside in the Kingdom has no effect on the spread of this disease within the nation. Thus, AIDS should not be set as a disease for prohibiting aliens infected with such disease to travel into or to reside in the Kingdom as in accordance with the articles 12 (4) and 44 (2) of the Immigration Act B.E. 252.

NGO Reflection: The Foundation for AIDS Rights (FAR)

Registration of migrants

Cabinet Resolutions which providing registration policies for illegal migrant workers have opened opportunities for undocumented migrant workers to become legal, and to access to health care services. Before the registration regime, if migrant workers were sick, they needed to seek their own ways to access health care services. In addition to registration with police, having documents increases the confidence of migrant workers in meeting outsiders, travelling, and avoiding arrest and deportation. Now, non-government organisations (NGOs) have more access to migrant workers for providing assistance and information relating to occupational health and safety, basic education, labour rights et al. Meanwhile, employers are more likely to allow NGOs to organise activities inside the workplace. Extended regulations on healthcare allowing undocumented migrants to apply for health insurance at hospitals also increases migrants' access to healthcare.

Cabinet resolutions on migrant workers are short-term policies that vary depending on the government. If the government has a positive attitude, the policy regarding migrant workers is supportive. However some governments' policies are more restrictive, for example limiting numbers of migrant workers; providing only a short time to renew work permits; not providing information properly; and requiring complicated processes with many supporting documents. The inconsistency of registration policies has become the cause of problems for migrants, namely by preventing the responsible authorities from issuing the work permit on time. Migrant workers then have only Tor Ror 38/1 and a health care card in hand which creates a risk of being charged with fines by other authorities.

Moreover, some regulations are not appropriate in relation to migrants' ways of life and working style, especially regulations such as the one stating that migrant workers have to report at the immigration office every three months. For fishery workers, this regulation is difficult to comply with, as they do not have a regular schedule for when they will be on the mainland and it depends on the fishery boat owner and how much fish they catch. Because of this, many fishery workers cannot report at the immigration office per the required timeline and they then become undocumented migrants. In addition, for migrant workers living with HIV/AIDS, the healthcare services do not cover antiretroviral (ARV) treatments, so those migrant workers have to pay for treatment on their own. Further, the medical check-up required when applying for a work permit is increasingly being utilised so as not to approve migrant registration for workers who live with HIV/AIDS.

"I have experienced deportation. I was in a small Thai immigration truck with other illegal Cambodian migrant workers. There were about 70 people in one truck. It was so bad and not easy to breathe."



Woman and child begging at the Thai-Burma border
Photo courtesy of Mekong Migration Network

Migrant Rejection: In Ry Beggar from Cambodia Interviewed in Poi Pet, Cambodia, by the Cambodian Women's Crisis Center (CWCC)

I am In Ry, I am an 80-year-old woman and I was born in Chykreng village, Savoey commune, Siem Reap province, Cambodia. I had 12 children but 10 passed away. Most were killed during Pol Pot's genocidal regime from 1975-1979. I moved to Kratie province when I got married. My husband left me with the children, and got another wife. I had two buffalos and a buffalo cart. I collected firewood from the jungle and sold it for money.

Due to my extreme poverty, in 1995, one of my daughters migrated to Poipet to work and left me with one of my grandsons in Kratie province. I lost contact with my daughter for almost one year. In 1996, I decided to find my daughter in Poipet. I did not have enough money for transport to reach there. Luckily, there was a kind man who took me to Poipet without asking for money.

I had no idea where my daughter was but I tried my best to look for her until I found her. She lived together with a kind woman, Suon. I also stayed with them in a small cottage. I could not go back to Kratie province because my sister had sold the house where she lived. My occupation was to pick morning glory,

mushrooms and bamboo shoots seasonally. In 1997, my daughter got married and they were very poor.

“I was detained for three days in Min Buri province for interrogation. I was then transferred to Sounplu centre and the next day I was deported back to Cambodia through the Poipet-Aranyaprathet international border.”

I had an idea that I could work in Thailand. I felt so sad because my daughter was very poor, so I decided to migrate for the money. I lived in Norng Chan village where many people migrated to Thailand for work, so it was not difficult for me to find a broker to facilitate the migration process. The

normal fee was around 2,000 to 2,500 baht but I paid only 1,000 baht to the broker as the broker was my neighbour and was kind to me.

The broker took me across the border to Thailand through Chok Chey border crossing point (Cambodia-Thailand border). No one asked me where I was going as they thought that I was like the others who went to Thailand in the morning for work and returned in the afternoon on a daily basis. I walked two hours from the Cambodia-Thailand border and then a car drove me to the railway station inside Thailand. Then, I walked almost one day to reach a construction site in Min Buri province.

Ten years ago, it was very easy to cross the border to reach worksites. There was only one checkpoint at Norng Kong area in Thailand and no one questioned you. Now, there are many checkpoints and it is very strict. I thought it was because of the restricted migration law. It was very difficult to reach my destination. Now, I have to pay around 2,000 baht and before, I paid only 300 baht.

I earned 80 baht for the first two days, and then my wage increased to 250 baht a day. I stayed in a slum shelter inside the construction site and paid for my meals. One month later, I was arrested by the immigration police. The other migrant workers escaped when the Thai immigration police came to seek undocumented migrant workers. I was detained for three days in Min Buri province for interrogation. I was then transferred to Suanplu centre and the next day I was deported back to Cambodia through the Poipet-Aranyaprathet international border.

A few days later, I decided to go back to Thailand by myself. I could not find the construction site where I worked before. I then decided to be a beggar and worked (begged) at Hua Lamphong¹ because the Cambodian beggars told me about the begging work. However, I was arrested and deported back to Cambodia. I entered

Thailand again. I worked (begged) at the railway station and moved to Lat Krabang market. I earned about 300 to 400 baht a day, but I felt ashamed as I had never asked for money from other people before. I stayed at a place where many undocumented migrant workers lived, especially Burmese. I slept under a bridge while I begged in Hua Lamphong area. I saved 2,000 baht before went back to Chok Chey village in Cambodia. I walked across the border to my house when I arrived at the Aranyaprathet international border.

I returned home because I missed my grandson who stayed at Kratie province. I brought him to stay with me. Nguo, my grandson, is now 26 years old and working as a construction worker in Thailand.

In 1999, I migrated again to Thailand for begging. I made my own way to Thailand. This time, I did not go to Ho Lamphong but Lat Phrao market. I rented a small room in Lat Phrao for 800 baht per month and an additional 200 baht for electricity. Living there, Thai people were kind and generous. I could earn about 300 to 500 baht a day. Sometimes, I collected garbage to sell as I could not get money from begging. I normally spent around 300 baht to travel to my destination from Cambodia but if I did not have enough money I would travel by train, which cost around 45 baht only.

Before, I could make a lot of money, but I have made little in recent years. Sometimes, I could make around 2,000 baht a day. Now Thai people are in crisis and they do not sell much. It was very difficult compared to under the Thaksin administration. Business was not good, so it made it hard to beg. The prices of goods and food also increased. I sent the money I got to my daughter in Poipet. It is easy to send money home now. I just went to Kasikorn Bank in Thailand and transferred money to Cambodia. The bank charged 10 baht per 1,000 baht of amount transferred. Before, I was cheated by the Cambodian migrant workers when I sent money to my daughter with them. Once I sent thousands of baht with a person who I trusted, but the person took all my money.

I had no choice of work, as I was very poor and old. My daughters did not care about me and my grandson who used to live with me had migrated to work as a construction worker in Thailand. I was alone. I did not worry so much as I had something to eat even in the detention centres or prisons. However, I did not change my job as a beggar because I was not familiar with other places. People in Lat Krabang market knew me and were kind to me. Regardless of how much money I made, I preferred to be at Lat Krabang market. In addition, I did not need to buy food because Thai people gave me food, which was enough for me.

"I escaped many arrests because my godson informed me before the police searched for illegal migrant workers at that place."

Now, I do not own a house and I stay at my neighbour's house. During my stay in Thailand, I rented a small room, which cost around 1,000 baht per month with an advance deposit of

1,500 baht. I had good access to religious practice in Thailand. I always went to pagoda early to donate food to monks during Buddha day and festival. My only wish is to buy a piece of land at Poipet and build a small house. I could die in peace if my wish is fulfilled. I want to request the Cambodian government to give me a small house to live in and I would never migrate to Thailand again.

I never informed the local authorities in Cambodia about my migration. I went to Thailand whenever I wanted to. I heard that obtaining a passport would cost around 10,000 baht and then more money for blood tests and other expenses. In Thailand, I also have never been in contact with any local authorities because of my illegal status, even though I could speak Thai.

I had a godson. He was a good Thai policeman and treated me very kindly. I knew him because I stayed at the Lat Krabang market for so long. He requested to be my godson. He bought a cellular phone and SIM card for me to communicate with my daughter and grandson. My godson wanted to obtain an ID card (bat taing dao) for me. But I could not have the ID card since my godson was at a low level authority. I escaped many arrests because my godson informed me before the police searched for illegal migrant workers at that place.

I have never been seriously ill in Thailand. I returned to Cambodia for treatment when I was sick. I have never been to any health centre or hospital in Thailand due to worry of possible arrest. I could buy medicine from any drug store without a medical prescription in Thailand. I heard that other illegal migrant workers could approach health centres when they were sick but the cost of medical treatment was more expensive than for Thai nationals.

I have been arrested, detained and deported many times in the last ten years. I never changed my nickname, which was 'Nan Poy', not In Ry. The police have not arrested me lately as they see me repeatedly (going back and forth). The last time I was arrested was in early 2011 when I begged at Lat Krabang market. I was very afraid for the first time I was arrested but later I was not afraid at all. I went through a small crossing point, mostly from Chok Chey and returned through Poipet-Aranyaprathet international border.

I have experienced deportation. I was in a small Thai immigration truck with other illegal Cambodian migrant workers. There were about 70 people in one truck. It was so bad and not easy to breathe. Luckily, Cambodian immigration police at Poipet gave me respect. They were responsible for working with deported Cambodians. There were no organisations visiting the detention center when I was there. One day, a group of people asked to film me. I had no idea what their background was or their purpose for filming. I acted as a poor beggar and a group of gangsters beat me until I bled. I got money for my performance.

I have been kidnapped and robbed two times in Thailand. The first time, I was kidnapped by a Thai policeman who took me to the forest. He took all my money and left me alone in the forest. Later on, a generous Thai man gave me money to return to Latphrao market. Another time, a group of fake police kidnapped me and took all my money. I did not tell anyone or report it to the local authorities or police because I was afraid of being arrested. Besides, I did not have contact with other migrant workers as I came to Thailand by myself.

In the past, I have brought seven to eight girls from my village to Thailand. I had never received any fees except food. Then, I decided that I would never bring people to Thailand again. Instead, I would recommend that they should not go to Thailand because it was dangerous. I cannot stop them but I can explain to them the dangers and difficulties of illegal migration. They could be exploited or sold. Some of the people from my village had been experienced this before. I have helped other Cambodian undocumented migrant workers. I gave them food and warned them to escape from being arrested.

In the next ten years, I want to see Cambodian people working in Cambodia. Working in Thailand illegally you are at great risk of being cheated, exploited, arrested, detained and deported. Cambodian people should not have to worry about exploitation, as my grandson who has worked without wages was exploited by his employer. If they really want to work in Thailand, they must have a passport and legal documents. Moreover, they must have information about Thailand and should be able to speak Thai as well.

I would suggest that the Cambodian government create more jobs for Cambodian people. If a person wants to migrate to Thailand, please provide them with a passport without any charges. If people receive a passport free of charge, they would go through legal channels rather than illegal channels. In addition, the Cambodian government should help illegal Cambodian migrant workers in Thailand, who are discriminated against by Thais.

I also pray for peace between the two countries, Cambodia and Thailand. I do not want to see any conflict between the two governments as it really affects both Thai and Cambodian people. I am very old now (80 years old). I am very weak and I cannot go to Thailand again. Life in Thailand was very sad and difficult. However, no one forced me to work there, it was my choice.

Did you know...

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990)

Cambodia signed the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their families on 27 September 2004, but is yet to ratify it. None of the other GMS member countries have ratified the Migrant Workers' Convention.

The Convention seeks to establish minimum standards that State parties should apply to migrant workers and members of their families, irrespective of their migratory status. The rationale behind the recognition of rights of undocumented migrant workers is affirmed in the preamble, in which the States parties consider, inter alia, that irregular migrants are frequently exploited and face serious human rights violations, and that appropriate action should be encouraged to prevent and eliminate clandestine movements and trafficking in migrant workers while at the same time ensuring the protection of their human rights.

Article 1 states that the Convention applies to all migrant workers and members of their families without distinction of any kind. Although the enumeration of the prohibited grounds of distinction is illustrative and not exhaustive, it is worth noting that the list in the Convention is broader than those found in other human right conventions, such as the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR).

Article 7 of the Convention provides that State parties should respect and ensure the rights contained in the Convention without distinction of any kind such as sex, race, colour, language, religion or conviction, political or other opinion, national, ethnic or social origin, nationality, age, economic position, property, marital status, birth or other status.²

Article 11(2) of the Migrant Workers Convention stipulates that: ‘No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.’

The ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (2007)

Article 5 of the Declaration states that, ‘pursuant to the prevailing laws, regulations and policies of the respective receiving states, the receiving states will intensify efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers’.

Furthermore, Article 17 stipulates that ASEAN member countries shall, ‘take concrete measures to prevent or curb the smuggling and trafficking in persons by, among others, introducing stiffer penalties for those who are involved in these activities’. All of the GMS member States except China form part of ASEAN.

The Universal Declaration of Human Rights (1949) (UDHR)

Article 23 (1) of the UDHR states: ‘Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment’.

Endnotes:

- ¹ Hua Lamphong is the main train station in Bangkok
- ² Office of the UN High Commissioner for Human Rights, *The International Convention on Migrant Workers and its Committee Fact Sheet No. 24, Rev.1*, 2005. Available at: <http://www.ohchr.org/Documents/Publications/FactSheet24rev.1.en.pdf>



Mekong Migration Network (MMN)
www.mekongmigration.org
Email: info@mekongmigration.org



Asian Migrant Centre (AMC)
www.asian-migrants.org
Email: info@asian-migrants.org



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Email: info@mekongmigration.org



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Email: info@asian-migrants.org