

## Arrest, Detention and Deportation of Chinese Migrants in Thailand

Chinese migrants, though present in much smaller numbers than migrants from Burma, Lao PDR and Cambodia, frequently enter Thailand either as a transit point en route to third countries or to work in various sectors of the Thai economy. Chinese migrant workers are increasingly found in Thailand's construction and service sectors, as well as in the sex industry.

With limited access and availability to information and data from the Thai authorities, this research on the issues concerning arrest, detention and deportation of Chinese migrants was primarily conducted by interviewing returnees back in mainland China. The group of returnees whom the China Country Research Team (CRT) was able to interview does not represent the various types of Chinese migrants who enter Thailand and represents only a small group of trafficked women who had received assistance from international NGOs.

Nonetheless, the objective of providing summaries of these case studies is to document the experiences of Chinese women during the process of arrest, detention and deportation in Thailand. It is hoped that the scope of future research will be expanded to include other groups of Chinese migrants in Thailand.

### 1. Background of Interviewees

Between 2004 and 2005, International NGOs (INGOs) and the Yunnan Women's Federation (YWF) collaborated with the IOM to rescue 30 Chinese women who were trafficked to Thailand and Malaysia. This report is based on interviews conducted with women and children assisted by the project which documented their experiences. Those who received assistance were typically young women in their 20s. Most came from Yunnan Province and some were from other provinces such as Guangxi, Sichuan and Zhejiang. Of the interviewees, 80 percent belonged to ethnic minority groups, reflecting the high concentration of ethnic minorities resident in the border areas of Yunnan. Those belonging to the Dai ethnic group comprised 50 percent of interviewees, while those from other ethnic groups such as the Wa and the Lahu made up smaller proportions. Most had completed primary school or had some middle school education. One third of interviewees had already married before leaving China, and some had divorced. Others were still in school when they left China, though most had been farmers or labourers earning very small incomes and were deceived into believing that they could find higher income employment abroad.

### 2. Arrest/Rescue, Detention/Shelter, and Deportation/Return

The majority of interviewees were arrested or rescued during sudden police raids on karaoke lounges, bars and other entertainment venues in Thailand. Migrants from Burma and Lao PDR are also commonly found during such raids. These women are either detained at detention centres on account of their illegal entry or sent to shelters as trafficking victims, depending on how their cases are classified by the Thai authorities. After arrest, many girls frequently experience worry and distress that their families will find out that they have been working as sex workers abroad.

A small number of women manage to escape their traffickers when the opportunity arises. For example, when they manage to go outside they seek help from passers-by and eventually contact the police. However, without identity documents that have been confiscated either by traffickers or employers and with little knowledge of the local language, it is very difficult for them to escape. In

particular, the language barrier is among major obstacles throughout the process of seeking assistance from the police.

Women who seek assistance from the police are usually first detained at police stations. Those under the age of eighteen are sent directly to designated shelters for victims of trafficking. The judicial system makes a decision regarding the immigration status of other women aged eighteen years and over. If identified as a victim of trafficking, she will be placed in a shelter while arrangements are made to return her to China. If identified as an illegal immigrant, she will be sent to a detention centre from where she will be deported.

Chinese women identified as trafficking victims are required to follow procedures established by relevant government agencies to assist their return.

First, the Thai Ministry of Social Development and Welfare contacts the Chinese Embassy in Thailand concerning the individual in question. The Ministry sends a detailed report to the Embassy asking for confirmation of their nationality and home address. The Chinese Embassy will then interview the individual and contact the Public Security Bureaus of various provinces in China to confirm their nationality and home address. The Public Security Bureau in China then replies to the Embassy with confirmation. Upon receiving confirmation, the Chinese Embassy in Thailand issues a travel document to the individual to facilitate their return to China. Finally, the relevant Thai government department sends them home.

INGOs, IGOs and the governments of China and Thailand have been working together to help victims of trafficking return home. However, greater bilateral dialogue is required since government officials on both sides have yet to meet in face-to-face dialogue to discuss, systemise and directly coordinate this process. Currently, INGOs and IGOs act as a bridge between the two governments and have initiated communication and the exchange of information, as evidenced by recent rescue initiatives. For example, UNICEF campaigned for a bilateral police communication system between China and Thailand to facilitate information exchange. The proposed system, however, has yet to materialise. Various parties in China and Thailand that are involved in the rescue process hold information-sharing meetings to discuss their experiences and problems that arise. They also provide suggestions and recommendations regarding future work. Representatives from the Thai government, shelters, INGOs, Yunnan Province's Bureau of Public Security, YWF, and the public security bureau and women's federation of the local area (e.g. Simiao or Banna) frequently attend these meetings. When INGOs are involved in this process, the typical return procedure of a trafficking victim is as follows:

- The Thai Ministry of Social Development and Welfare sends a detailed report of the cases to relevant INGOs in China who contact the Bureau of Public Security in Yunnan Province.
- The Ministry also contacts the Chinese Embassy in Thailand to confirm their nationality and home address.
- The INGOs in China collect the results from the Bureau of Public Security in Yunnan.
- The INGOs contact the YWF regarding the individual who then visits their home, where they conduct an assessment regarding the family's situation and attitude towards their return. From this visit a family situation assessment form is completed.
- The INGOs in China translate the assessment form, send it to the Thai Ministry of Social Development and Welfare and confirm the date and accompanying person to be present during return.
- The INGOs in China contact the Bureau of Public Security in Yunnan and the YWF to arrange an airport pick-up for the individual.

- The Bureau of Public Security in Yunnan Province and YWF contact the public security bureau and women's federation in the county where the victim originates. They are instructed to collect the individual from Kunming.

While the procedures described above may seem systematic, numerous challenges frequently arise regarding their implementation. Among them is the difficulty confirming the nationality and home address of the individual. Some victims of trafficking know only the name of the township and village where they resided, but not the name of the county. This complicates confirming their home address, and ultimately their nationality. There are also girls who originate from the border areas who are stateless. In such cases organising their return home is extremely problematic. There are other cases where arrested migrants claim that they are not Chinese nationals, thinking that pretending to be of another nationality will speed up the process.

#### **[Case of Xiaoyu]**

A Chinese detainee named Xiaoyu, who was going to the shelter office everyday to ask when she could return home, believed that Burmese and Laotian girls were allowed to leave first. Thus, she told the shelter that she was Burmese, hoping to return to her home in Sishuan Banna after being sent to Burma. Only after the shelter informed her that the Burmese address she provided could not be identified, and therefore she could not be returned home, she told them about her Chinese nationality and address. She now suffers from a psychological disorder, possibly due to traumatic experiences, and is no longer able to confirm her own nationality and address.

Furthermore, the language barrier continues to prove problematic. The Thai government has hired Chinese interpreters to better facilitate the interviews of the victims. However, the interpreters often experience difficulty understanding the Yunnan dialect, and are unfamiliar with the names of places in Yunnan. Many names are translated to Chinese from Thai pronunciations, making them even more difficult to identify.

Transportation costs for the return trip is another issue of concern. Unless a victim receives aid from INGOs or other well-funded projects, the victim's family must meet the transportation costs. Many families cannot afford the high cost of travelling such a long distance. This can cause a great deal of delay in the return process.

Cooperation between relevant government departments is both essential and necessary to make detailed arrangements for the victims' return. However, the current lack of cooperation is the cause of delay in the return process, which usually takes more than six months and can result in a deepening of the victims' psychological stress.

#### **[Case of Xiaolian]**

Xiaolian has been waiting at the shelter for half a year, far longer than she had expected.

*'The police told us that we could return home after staying here for three days. Everyday I spend at the shelter feels like a whole year. After the three day promise, they still did not send us home. When first we were given towels, toothbrushes and other things, we were even told by the officers that we did not need really need these things as we would be leaving in three days. It has been so long now and I still don't know when I can return home.'*

In accordance with Thai anti-trafficking laws, those identified as victims of trafficking are neither detained nor forcibly deported. Instead, they receive protection at shelters and assistance from the Thai authorities who arrange their return. However, upon returning to their countries of origin, their circumstances change. Many Chinese women are detained or fined for illegally exiting the country. The returnees are often prosecuted under Article 14 of the Entry and Exit Management Law of the People's Republic of China, which states that departments of the Bureau of Public Security can issue warnings or detain individuals for ten days or fewer in case of illegal entry and exit, forgery, alteration, or the illegal usage or transfer of travel documents. Migrants who leave China illegally, even if they do so as victims of trafficking are deemed to have violated this law since it contains no special provisions for cases of trafficking which involve informal cross-border movement. The officers of the Bureau of Public Security are known to sympathise with the situation of these returnees and argue in favour of not penalising them, while the Border Defence Officers' view is not so lenient, arguing that most returnees 'leave voluntarily and do not deserve sympathy.'

While the bilateral agreement on the return of Cambodian trafficking victims from Thailand has been effective in facilitating the return process, UNICEF's encouragement of Thai-Chinese cooperation on the issue so far has only resulted in declarations and petitions that lack executive power.

According to Article 1 of the Treaty on Criminal Judiciary Assistance signed by the Chinese and Thai governments, both parties can request extensive judicial assistance in terms of criminal investigation, prosecution and other litigious processes. The various types of assistance made available under the treaty include requests of testimonies and statements; provision of documents, records and evidence; circulation of information regarding criminal court decisions, criminal records; and the exchange of legal information. This bilateral treaty has been used to facilitate prosecutions in both China and Thailand in their fight against organised human trafficking rings and other international organised crime. However, from a practical standpoint, implementation of the treaty on the trafficking issues can create technical complications, such as identifying corresponding departments. Furthermore, the format and procedure of such request are subject to strict requirements. Because such requests must be initiated at a very high level and involve complex procedures, the effectiveness of the treaty's implementation depends heavily on whether both sides consider the case in question to be high priority. Most importantly, this treaty mainly deals with the judicial prosecution process of traffickers, not the return of victims.

### **3. Upon Return**

Most victims rescued in Thailand return home through official channels, usually by plane from Thailand to Kunming, the capital of Yunnan Province. The individuals interviewed as part of this study were picked up at the airport by the YWF staff or officers from the Bureau of Public Security who accompanied them home. The cost of transportation from Thailand to China is typically born by INGOs, and in some cases, sponsored by local NGOs in Thailand. There are also those who leave Thailand through unofficial channels without assistance from the government departments or INGOs. This group typically uses ground transportation for their return journey. A common route taken is from Mae Sai, on the Thai-Burmese border then on to Daluo in China.

Many returnees feel anxious and afraid to return home because their deportation reveals that they worked as sex workers abroad. They worry that this will bring shame on their families and that they will suffer stigmatisation by their communities. Some are unable to re-adjust to rural life upon their return. Habits picked up from their previous jobs, such as smoking, and, the different lifestyle they have become accustomed to living, including changes in their manners, behaviour and way of speaking makes reintegration into traditional, rural communities difficult. Many women have only a very basic level of education and therefore lack employable skills, while self-development opportunities are very limited. This accounts for a high proportion of returnees leaving home again to find work in large cities or abroad. Those who go abroad again mostly do so illegally.