

The Mekong Challenge – Working Day and Night: The Plight of Migrant Child Workers in Mae Sot, Thailand

A research report for the ILO Mekong Project to Combat Trafficking in Children and Women

by

The Federation of Trade Unions – Burma (FTUB) Migrants Section

with

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Executive Summary (abridged)

The relative wealth of Thailand, with its significant demand for employment in industrial, service and agricultural sectors, continues to draw a wave of workers from impoverished neighbouring countries, especially Burma.¹ This wave carries with it both adults and children – some accompanied and some not. With approximately 42% of Burma's population aged 18 years or less, there is a large and steady supply of potential child workers – their youth and inexperience accompanied by an increased vulnerability to exploitation.²

Perched on the Thai side of the Thai-Burma border sits the industrial town of Mae Sot. It is a major crossing point between Thailand and Burma, and is what some consider to be the high-water mark of this wave of labour migration. The economic desperation of these Burmese migrants, often coupled with an irregular or 'illegal' status, has made it relatively easy for both adult and child migrant workers to be exploited in both the formal and informal industries of Mae Sot.

The Royal Thai Government's policy of encouraging inward investment has opened Mae Sot to the rapid development of light industry, especially garment and textiles. This rapid development has increased demand for an easily accessible and flexible work force, thus the demand for nearby cross-border migrant workers. Unfortunately, the level of regulation for labour protection has not kept pace. Virtually every factory from which child migrant workers were interviewed for this study was found to be systematically violating provisions of the Labour Protection Act of 1998 (LPA 1998). The LPA 1998 is Thailand's core labour law which offers workers protection and oversees their wages and conditions of employment.

Migrant children in Mae Sot are faced with excessive working hours, lack of time off, and unhealthy proximity to dangerous machines and chemicals. They also endure the practice of debt bondage and the systematic seizure of their identification documents. Indeed many of these children in Mae Sot can most accurately be described as enduring the "worst forms of child labour," prohibited by the International Labour Organization's Convention No. 182 – a Convention that the Royal Thai Government ratified in February, 2001.

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outside the factory gates. Put succinctly, Mae Sot has perfected a system where children are literally working day and night, week after week, for wages that are far below the legal minimum wage, to the point of absolute exhaustion.

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¹ In 1989 the English name of the country was changed from Burma to Myanmar by the ruling State Law and Order Restoration Council (SLORC). Although the ILO now generally refers to the country as Myanmar, in this report – and in accordance with FTUB's wishes the country is referred to as Burma.

² Grumiau, Samuel, *Growing Up Under the Burmese Dictatorship: The Situation Facing Children after 41 Years of Military Rule in Burma*

With the support of the ILO's Mekong Project to Combat Trafficking in Children and Women (ILO-TICW), the Federation of Trade Unions – Burma (FTUB) conducted an action-oriented research project, focusing on Burmese children working in factories as well as more informal enterprises, such as shop-houses, in Mae Sot district, Tak province, Thailand. The survey period was just under two months in duration, beginning February 22, 2005 and ending on April 22, 2005.

As indicated above, and for the purpose of this research, a child is defined as someone “below the age of 18 years.” This definition is now internationally accepted and is widely used by both the ILO (e.g. Convention 182) and is found in the UN Convention on the Rights of the Child (CRC) to which Thailand is also a signatory. It should be mentioned here that some child respondents stated they were 18 years old, however due to the different Burmese cultural conception of age (dated from conception rather than from date of birth) the assumption is that they are still children. The labour law of Thailand recognises the age of 15 as the legal age for work, pursuant to the Labour Protection Act of 1998 (LPA 1998) and is in line with ILO Convention 138 on Minimum Age for Employment. The Ministry of Labour (MOL) permits foreign migrant children who are 15 years or older entering Thailand to register as documented migrant workers. According to the Royal Thai Government's policy and regulations, all migrant workers legally registered with the MOL are fully covered by all key labour laws.

A total of 313 Burmese child respondents were interviewed. The vast majority were girls – or 242 of the interviewees, accounting for 77.3% of the total sample. Boys accounted for 22.7% of the respondents, or 71 individuals. The youngest child interviewed was 12 years old, and was operating a machine 8 hours per day, 7 days a week at Factory “I”³ (see Appendix 2 for factory profiles).

Slightly less than half (47.9%) of the respondents interviewed claimed they were 17 years old. From the view point of relative vulnerability, it is telling that a significant majority of the parents of these youngsters remained behind in Burma, sending their children to cross the border, and become income providers for their family at a young age. 70.9% of the respondents reported that their mothers remained behind in Burma, and 65.5% stated that their fathers were still in Burma. The overwhelming majority of workers represented fairly new arrivals, with 61% stating that they had only been in Mae Sot for a year or less.

Migrant child workers came from all areas of Burma, reflecting the level of crisis in all parts of that country – with only two states or divisions (Karenni and Sagaing) not represented. Most (38.8%) came from Mon State, while 22.8% were from the central heartland of Pegu and the former capital, Rangoon. Another 18.6% came from the Karen state. The fact that the migrants came from almost all regions of Burma can be seen as a reflection of the drawing power of jobs in Mae Sot and the political and economic push factors they felt at home.

Most of these children (98.7%) had attended school in Burma, achieving either primary or secondary education – but very few were able to continue their studies in Thailand because of their need to work, the costs associated with education or a lack of access to schools.

In terms of work, the respondents were primarily employed in the knitting (41.5%) and garment (37.7%) sectors, reflecting the fact that the researchers were focusing heavily on these two areas. These child workers performed a number of closely related and potentially dangerous jobs operating sewing machines (25.6%), linking machines (16.6%) or knitting machines (15.3%). Researchers also found child workers in other types of production, including ceramics, canning of food, and assembling small motors.

While 73.3% of the respondents indicated they were registered to work, 56.9% added that their MOL issued work permit and/or migrant worker identification cards were retained by the employer, who provided only photocopies of these critically important documents for workers to carry. Since local officials do not accept photocopies as conclusive evidence of their legal presence in Thailand, the workers become targets of exploitation by factory security guards, police, immigration, and other local officials. A total of 30% of the child workers reported that they were required to live at the factory as a condition of employment, further underling the absolute control exerted over their lives by factory owners.

These children worked almost all the time, toiling very long hours (82.7% worked for 11 to 12 hours a day) in a work-week that was usually 7 days long. The Labour Protection Act (LPA) of 1998 places restrictions on overtime hours and night work for children but these were being routinely violated. In reality, there was little time for these child migrant

³ A full list of the names and addresses of the factories surveyed as a part of this research is on file at the ILO Office in Bangkok.

workers to do anything other than work. Despite the long hours, nearly half of the respondents (48.9%) stated that they were not entitled to paid days off – not even once per month. The LPA 1998 requires that workers be given 1 day off in every 7. The exhaustion factor is particularly troubling when compounded by the fact that nearly half of the respondents (45.8%) reported that their work environment was unsafe and/or environmentally unhealthy, and that they felt at risk of injury or ill health.

Put succinctly, Mae Sot has perfected a system where children are literally working day and night, week after week, for wages that are far below the legal minimum wage, to the point of absolute exhaustion.

These employers paid migrant workers wages far below the legal minimum. The majority of the respondents (64.2%) reported being paid an average weekly wage of just 300 to 500 Baht (US\$ 7.50 to 12.50)⁴. Another 16.4% reported making only 200 to 300 baht (US\$ 5 to 7.50) per week. Despite these meagre wages, employers then deducted costs for food, shelter, reimbursement of work permit application costs, and re-payment of any loans the worker may have taken. Furthermore, 15.3% of the child migrant workers reported that they received no additional pay for their long overtime hours. More than 1 in 4 (28.1%) workers also reported they were subject to arbitrary and sometimes unfounded pay deductions because of alleged mistakes in production. These workers were largely powerless to object to such deductions.

As a point of comparison, a migrant working under the above conditions would need to work three or even four days to receive the same amount of money as a ‘regular’ worker in Tak province earns in just one day by receiving the legal daily minimum wage of 135 Baht (US\$ 3.37). Working 7 days a week, that ‘regular’ worker would earn a base minimum wage of 945 Baht (US\$ 23.62) – but this does not include the 25.3 baht an hour the worker would receive for each hour worked beyond 8 hours per day, and the fact that the worker would also receive double pay for working on Sunday. Assuming this individual is on the job working the same hours as the above-mentioned migrant child workers – for example, 7 days a week, 11 hours a day – that ‘regular’ worker would receive a minimum 1,586 baht (US\$ 39.65) a week, which is 3 to 5 times more than the overall wages paid to a Burmese migrant child labourer.

During the interviews, 64.2% of the child workers cited economic reasons for coming to work in Thailand. Given the paltry wages they earned, it is difficult to see how migrant children could support their families with their income, but many reported that they were saving some money and were able to send some back to their parents in Burma.

Among all the children working, those who were most likely to save money were child migrant workers who had travelled with their parents, or those who lived with ‘relatives’ or adults who otherwise served as guardians. Those without such protectors had to live with friends or in employer-provided lodgings at their work place.

While clearly many of these children were working in conditions that one could define as the worst forms of child labour, trying to determine which, if any, were victims of child trafficking was another matter. Child trafficking is a sensitive issue to discuss, especially with children themselves. Based on the answers received, a significant majority – 89.1% of the respondents stated that they did not know of persons who had been victimized by practices that could constitute a situation of human trafficking. However, the remaining 10.9%, or 33 persons of the sample who answered the question, did reply that they knew about such situations, and reported that 21 young people had been trafficked into Bangkok. Many of the respondents were unable to provide further details. However those who did know more of the specifics indicated that most cases involved domestic labour (13 cases), followed by work in restaurants (5 cases). Only 1 person was reported to have been trafficked to another country.

In terms of their own experiences, 10 child migrant workers (3% of the total) indicated that they were denied the right to choose where they wanted to work when they arrived in Mae Sot. A total of 5 respondents indicated they were ‘forced’ to come to the job, and 7 described themselves as ‘bonded’ labourers (all had been bonded to work in their current job for the duration of one year).

However, the perception of bonded labour may not be fully understood by these workers. A total of 178 respondents (accounting for 56%) also indicated that they were unable to change their job because their employers were holding their work permits. Children under the age of 15 faced the extra complication that management, brokers, or worker/foreman leaders falsified documents to make the children appear older thus allowing their registration. This made it that much

⁴ For the purpose of this report, the US dollar-Thai baht exchange rate is computed at US\$ 1= 40 Thai Baht.

more difficult for them to move to another job. Another reason commonly cited was that factory owners paid the registration fee in advance, and were then withholding the permits as a guarantee that the child workers would not leave the factory before they had fully paid back the registration costs.

Given the findings of this study, some of the key recommendations for further consideration are:⁵

Key Recommendations:

Advocacy for Policy Reform and Improved Implementation of Labour Laws

- The MOL should consider leading an intensive collaborative effort with the Ministry of Education, other relevant Ministries, the Federation of Thai Industries (FTI), and trade union and migrant workers and offer support to relevant NGOs to ensure that migrant child workers who are below the legal minimum age to work (those younger than fifteen years) are moved out of the factories, and provided access to free, quality education within the Thai state school system.
- The MOL should consider developing an advocacy strategy (with ILO technical support, as needed) to support strict enforcement of all relevant sections of the LPA 1998 in Mae Sot, especially those concerning child labour, conditions and hours of work, and minimum wage laws.
- The MOL, with support from the ILO and other international agencies, should consider seeking Royal Thai Police support at the highest levels in Bangkok and Mae Sot for formal political commitment to address the serious problem of the seizure and retention of migrant worker identification cards and work permits by employers. An action plan should be negotiated and agreed by these two agencies to address this problem in Mae Sot and other areas of Thailand where significant numbers of migrants live and work.
 - An advocacy campaign should also be developed and implemented by the MOL, targeting Mae Sot employers and informing them that seizure and retention of identity documents issued to migrants by the Royal Thai Government is illegal, and violations will be consistently and strictly punished.
- The MOL should consider engaging with the Thai Board of Investment (BOI) to ensure that all factories in Mae Sot which receive BOI investment preferences make factual applications (especially regarding number of non-Thai staff to be hired), and that these factories comply with all Thai labour laws.
- The MOL should consider undertaking a series of round-table discussions with Mae Sot employers, emphasizing the importance of eradicating worst forms of child labour and ending abusive practices in garment sector in Mae Sot.
- The ILO should consider monitoring and publicly reporting on Royal Thai Government efforts to enforce the law and effectively prosecute non-compliant employers in Mae Sot. Reviews conducted on at least a bi-annual basis between the ILO and the MOL could be undertaken to evaluate progress in improving enforcement in Mae Sot.
- The Thai labour movement should consider giving priority to efforts to amend articles 88 and 101 of the LRA 1975 to allow non-Thai workers to form trade unions, and to serve as a committee or sub-committee member of a trade union, thereby bringing these articles of the law into compliance with ILO Convention No. 87 on Freedom of Association. In the interim, before the law is amended, Thai unions should actively organize migrant workers, enable them to join existing Thai unions, and support their efforts to collectively bargain.
- A coalition of migrant worker support organizations – NGOs, the Mae Tao Clinic, the Labour Law Clinic, and trade unions – should set up a 24 hour hotline and referral system, with counsellors capable of speaking Burmese and Thai, to receive information on human trafficking, violations of the labour law, health emergencies, and other issues affecting migrant workers in Mae Sot.

⁵ For the full list of recommendations please refer to Chapter 5 of this report.

Capacity Building for Partners

- The ILO should consider supporting an appropriate mix of activities to build the understanding of migrant workers in Mae Sot about the connection between the worst forms of child labour and human trafficking.
- The ILO should conduct a training needs assessment for the MOL office in Mae Sot, and the MOL Tak provincial office, examining what skills and knowledge these inspectors need to better perform their duties.
- Migrant workers' support organizations and trade unions should increase participatory training for nascent 'worker-leaders' at the factory level, focusing on awareness raising of the core ILO conventions, legal literacy in the provisions of the LPA 1998 and LRA 1975, and other relevant human rights standards.

Building Social Dialogue in Mae Sot

- As an impartial international organization, the ILO should promote social dialogue in Mae Sot through the establishment of a multi-party committee at provincial level comprising representatives of employers, migrant workers, trade unions, NGOs, the Law Society of Thailand, relevant government offices in Mae Sot, and the NHRC to seek common ground in finding sustainable solutions to solve the problem of child labour in factories, and the culture of impunity that results in systematic violation of migrant workers' rights in Mae Sot.
- The MOL, working with other relevant Royal Thai Government Ministries and representatives of employers and workers, should consider undertaking a study of migrant living quarters within Mae Sot factory compounds, with specific focus on access to potable water, size and suitability of rooms, sanitation, and building safety. This report should serve as the basis of a multi-agency conference to develop recommendation to significantly improve worker housing in Mae Sot.
- To the greatest extent possible, these recommendations (and activities which result from them) should be implemented in close, continuing collaboration with migrant support organizations and trade unions knowledgeable about Mae Sot. All materials to be used must be translated and presented into the major languages of the migrants (Burmese at a minimum, preferably also Karen and Mon).