

LABOUR MIGRATION



International
Labour
Office

THE WORK OF
THE ILO TO IMPROVE
LABOUR MIGRATION

MANAGEMENT
POLICY AND
PROTECTION OF
MIGRANT
WORKERS
IN EAST ASIA

2003–2005



More than ever, migrant labour remains a dynamic but controversial component of the labour markets in the countries of East Asia. It is advantageous because countries such as Singapore, Thailand, Republic of Korea, Japan and Malaysia continue to require workers from foreign countries to meet their demand for labour. And countries such as Cambodia, Lao People's Democratic Republic, Myanmar and Viet Nam continue to count on external migration to help meet the need for employment opportunities. Thailand alone, for example, hosts up to 2 million migrant workers.

In addition, while migrant-receiving countries benefit from the contribution made by migrant labour to their economies, migrant-sending countries benefit from the remittances their workers channel home—the World Bank estimates that total remittances account for the second largest sum of money received by developing countries, after foreign direct investments.

However, migrant workers too often find themselves in precarious or vulnerable circumstances. Migrant workers may lack adequate protection under labour laws, especially where migration regulation is inadequate or inappropriate, and thus encounter increased risk of discrimination, unfair treatment in their employment and even human rights abuses.

Government policies and their implementation by a wide range of agencies, from immigration security to employment inspection, and the actions of recruitment agencies and local employers, outreach by labour unions and work by community-based organizations are all required to achieve the mutual gains from labour migration—for employers, migrant workers and national workers in both sending and receiving countries.

The migration regime that has evolved in Asia—with movements to the Gulf States as well as within Asia—has several features affecting the protection and rights of migrant workers. It is primarily a system of temporary migration largely of unskilled and semi-skilled workers for fixed periods. Women form a significant part of this migration. Migration is arranged primarily through a highly commercialized recruitment industry. At the same time, there is high incidence of irregular migration due to the limited legal avenues for labour migration.

Within this regime, the treatment and conditions of migrant workers are typically less than decent, with frequent abuse and exploitation that result in gross violations of basic human rights. Women domestic workers, trafficked and smuggled persons, and migrants in irregular status are especially vulnerable. In other words, migrant workers do not uniformly receive the dignity they deserve as human beings and the respect they deserve as workers.

None of the countries in East Asia have ratified the International Labour Standards most directly related to labour migration: Migration for Employment Convention No. 97 (1949) and Migrant Workers Convention No. 143 (1975). In all of Asia, only the Philippines and Sri Lanka have ratified the International Convention on Protection of All Migrant Workers and Their Families.

The ILO's mandate to extend decent work to all workers, regardless of nationality and location of work, and its strength as a tripartite structure (of governments, trade unions and employer organizations) give it particular responsibility and expertise to work with partners to develop and implement credible migration policies that reflect labour market needs, respect the basic human rights of migrant workers and articulate labour migration as an integral part of employment strategies.

As part of this global commitment, the ILO Subregional Office for East Asia has undertaken research, policy advocacy and training, and demonstration projects to assist governments, trade unions and employers' organizations in building up their capabilities in the management and protection of migrant labour. This pamphlet presents a snapshot of that work during the 2003–2005 period in the East Asia subregion, highlighting the ways in which the ILO continues to work towards the goal of decent work for migrant workers. This ongoing work is part of the ILO commitment to work with governments, employers' organizations and trade unions to implement the recommendations from the International Labour Conference in 2004, which was organized under the theme, "*Towards a fair deal for migrant workers in the global economy*". •

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POLICY DEVELOPMENT



HELPING
GOVERNMENTS
MANAGE
LABOUR
MIGRATION



Migration policy defines who “belongs” to a national labour market for how long and on what terms. Government interventions in both sending and receiving countries through transparent and appropriate regulatory institutions and measures are fundamental if labour markets are to function in a way that is efficient and equitable. The ILO recognizes the vital role that trade unions and employers’ organizations need to play in policy development regarding migrant workers.

There is considerable concern within countries for the need to improve policies and the management of migration for work. ILO meetings and workshops in the past three years grew out of requests from governments in the region for technical assistance to improve laws and to strengthen awareness of them and the capacity for meeting the challenges of labour migration. Workshops aim to enable all stakeholders to develop coherent, transparent and comprehensive national policies that will encourage greater cooperation between origin and host countries.

- RECOMMENDATIONS FROM THESE WORKSHOPS INCLUDE:**
- Acknowledge that many sectors of the economy depend on migrant workers and explain the economic benefits to society, including employers, workers and migrants;
 - Introduce policies that are clear and transparent and provide equal treatment to national workers and migrant workers under the labour laws;
 - Make certain that social partners work with the government to improve migration management;
 - Develop cooperation with countries of origin to deal with such problems as smuggling and trafficking as well as to address concerns about remittances and health care, together with issues affecting families and children.

ENHANCING NATIONAL CAPACITY ON MIGRATION MANAGEMENT IN CAMBODIA, LAO PDR, MONGOLIA AND THAILAND: MIGRATION TASK FORCE

January 2004–March 2005
with funding from the Government of the Republic of Korea

OBJECTIVES Government, trade union and employer representatives at the 2004 International Labour Conference discussed the growing issue of labour migration and issued a set of recommendations, “*Resolution concerning a fair deal for migrant workers in a global economy*”, for extending the employment, protection and representation components of Decent Work to migrant workers the world over. Under the management of Elizabeth Morris, Senior Specialist on Human Resources and Labour Market Policies, the ILO designed a plan of work to share information on current policies in four countries, considered how to apply the recommendations of the Resolution to their specific policy development needs, and created training materials that could be used to strengthen their capabilities to effectively administer and manage overseas employment. The work was designed to promote regular forms of migration that is in line with national employment policies and programmes and that also takes an integrated approach to labour migration, linking job creation, migration policies and social protection.

This programme of work was designed to respond to these countries’ request for ILO assistance in developing overseas employment administration capacity in their countries in the following ways:

- To enhance knowledge and appreciation of migration-related issues, such as international labour standards and management of overseas migration
- To build the capacity of national labour administrations, social partners and human rights institutions
- To formulate and implement sound labour migration policies suited to national conditions
- To formulate policies that protect migrant workers. •

ILO SUBREGIONAL TRAINING WORKSHOP ON LABOUR MIGRATION POLICY AND MANAGEMENT

2-6 August 2004
Ayutthaya, Thailand

The workshop responded to specific needs identified with ILO constituents. Countries such as Cambodia and Lao PDR, which regard overseas labour migration as a strategy to relieve the pressure on local unemployment, earn valuable foreign exchange and promote skills development, requested the ILO to assist in developing the overseas employment administration capacity within their governments. Receiving countries, such as Thailand, are interested in the effective management of migration flows to meet labour market demands and to minimize irregular migration. Four persons from each of the participating countries attended, representing government agencies, employers' and workers' organizations and national human rights commissions.

PURPOSE OF THE WORKSHOP

- To address requests for technical assistance to improve laws and legislation and strengthen awareness and capacity for meeting the challenges of labour migration
- To improve the knowledge on migration-related issues, including international labour standards and overseas migration management
- To strengthen the ability of labour administrations, social partners and human rights institutions to develop and implement sound migration policies suited to national conditions and providing protection to women and men migrant workers.

RESULTS

Knowledge sharing: The ILO prepared and published a report of the workshop, *ILO Subregional Training Workshop on Labour Migration Policy and Management*. It summarizes current migration policies in each of the four participating countries (Cambodia, Lao PDR, Mongolia and Thailand) and the discussions on improving legislation and practice in line with international standards.

Training for key officials and partners: *A Training Manual on International Labour Migration* was developed from the materials initiated for the workshop, in collaboration with the ILO's Migration Unit in Geneva and the ILO-IPEC Mekong Subregional Project to Combat Trafficking in Children and Women for Labour Exploitation. The manual is designed for a five-day training course on the management of international labour migration. It is intended for use at the national level to extend labour migration management

training in the development of overseas employment administration capacity. The manual will be available in Khmer, Lao, Mongolian and Thai.

Structure and content of the training course:

- Global and regional migration
- Development of national labour migration policies and structures
- Promoting overseas employment and employing foreign workers
- Protecting migrant workers
- Gender issues in migration
- Irregular migration and migration management
- Trafficking of women and children
- Migration information data and statistics.

Policy promotion: The participants at the subregional workshop organized a series of national workshops, with technical and financial support from the ILO Subregional Project to Combat Trafficking of Children and Women, to bring more relevant parties and policy makers into the discussion and to identify country-specific follow-up priorities. For example, in Phnom Penh, a tripartite seminar on “Information and Recommendations on the Improvement of Labour Migration Management in Cambodia” took place on 8 December 2004 to share information about the current status of labour migration management, using the ILO training modules. The workshop enabled participants to identify strengths and weaknesses and to devise a work plan that they could implement towards a safer labour migration management policy. This work is also informing a broader training-employment strategy, which the ILO has been asked to help develop, including labour migration as one major element.

A High-Level Subregional Meeting on Labour Migration Management took place on 30 November 2004 with two participants from each country representing the labour ministry and one other agency dealing with labour migration management. They assessed the national-level follow-up to the Subregional Training Workshop and identified proposals for future work, including national initiatives and donor assistance. •

SOCIAL PARTNERS



ENABLING WORKERS'
AND EMPLOYERS'
ORGANIZATIONS TO
TAKE ACTION ON
MIGRATION



No migrant worker policy can be implemented successfully if there is widespread irregular migration employment and corruption and if there is insufficient enforcement of laws. Employers and migrant workers must understand their rights and responsibilities and understand the difference and consequences between being registered and unregistered. The policy regime must give appropriate incentives and feasible rules to encourage and enable, first, workers to be registered and, second, employers to employ registered workers.

Trade unions in both migrant-sending and receiving countries have a crucial role to play in the protection of foreign workers. Trade union assistance includes organizing migrant workers into unions and promoting decent wages and working conditions through collective bargaining. Establishing contacts between unions in sending and receiving countries can help migrant workers adequately prepare prior to their departure through education and information made available by home-country unions. Also, on arrival they could contact unions in the destination country for any needed assistance or useful information. Thus, appropriate legislation that protects migrant workers' right to join unions and access to local mechanisms to resolve their disputes is a major ILO concern in this region.

Employers' organizations also have a vital role to play. Their labour requirements – in particular industries, with particular skills – creates the demand for workers to leave home and seek employment elsewhere. Their needs and experience with migration policies and worker registration must inform national policy development, monitoring and impact assessment. And as employers, they have responsibilities to ensure equal treatment under labour laws with regard to wages, social security, occupational safety and health and working conditions, regardless of national origin of the workforce.

Trade unions and employers' organizations have requested ILO help in understanding migration flows and the role of migrant workers in the workforce, to participate in migration policy formulation and evaluation and to facilitate exchange of views and coordination of actions across borders.

TRADE UNIONS' PHUKET DECLARATION ON PROTECTING MIGRANT WORKERS

29-30 August 2005
Phuket, Thailand

In August 2005, the ILO facilitated a workshop for Thai trade union leaders to discuss concerns about the protection of migrant workers in Thailand. Trade union leaders at this meeting represented the Labour Congress of Thailand (LCT), National Congress of Thai Labour (NCTL), Thai Trade Union Congress (TTUC), and the State Enterprises Workers' Relations Confederation (SERC).

The workshop provided information on current labour law coverage of migrant workers, on the enforcement and lapses in enforcement of migrant workers' rights under national law, and on international practice and experience. The participants exchanged their views on the implementing and impact of the recently launched migrant labour registration regime. The timing, and even the venue, of this workshop had been motivated in part by the trade unions' shared concerns about migrant workers' experience during the recent tsunami crisis, which had highlighted the vulnerabilities of migrant workers and their families.

Through discussions during the two-day workshop, the trade union leaders found common concerns and made a joint commitment to improving protection for migrant workers and extending solidarity and representation to workers from neighbouring countries. They titled this commitment the "Phuket Declaration," reprinted here in summary format. The ILO's priorities for continued work on labour migration includes continued advocacy and technical support to the Thai trade unions' efforts to act on this commitment. •

Thai Trade Unions should be committed to:

- Create an awareness that "migrant workers" are also workers who need union protection
- Organize and recruit migrant workers so that trade union protection can be extended to all migrant workers
- Educate their members about international labour migration so that they are able to accept migrant workers as union members
- Organize activities to integrate and include migrant workers and their perspectives into the work and the structure of the union
- Promote the ratification of international labour standards with regard to the protection of migrant workers and encourage the Government to review labour laws so as to ensure conformity with international labour standards
- Promote close cooperation with unions of migrant sending countries and receiving countries
- Seek technical assistance from the ILO to strengthen activities aimed at migrant workers

MALAYSIAN TRADE UNION CONFERENCE ON MIGRANT WORKERS

18-19 April 2005
Petaling Jaya Malaysia

Participants included trade union leaders from sender countries, (Bangladesh (BMSF), Indonesia (ITUC), India (HMS and INTUC), Nepal (Gefont and NTUC), Pakistan (PNFTU), Philippines (TUCP) and Viet Nam (VGCL)); government representatives from SUHAKAM (Malaysian Human Rights Commission), the Ministry of Human Resources, the Labour Department, the Immigration Department and the Royal Malaysian Police; embassy representatives from Cambodia, India, the Philippines, Thailand and Viet Nam; NGO representatives from Suaram, Tenaganita and the American Center for International Labour Solidarity and migrant workers.

While the laws of Malaysia do not discriminate against migrant workers, in practice, the rights of migrant workers are not fully protected. The right of migrant workers to join a trade union is guaranteed under the Trade Union Act of 1959. However, administrative practices can be burdensome and some unscrupulous employers discourage migrant workers from joining trade unions.

OUTCOME Recognizing that migrant workers are workers with equal rights and dignity, the Malaysian Trade Union (MTU) initiated a series of actions to develop an effective mechanism that will give adequate protection to the 1.5 million documented migrants who are working legally in the country. It also stated the need for government policy to manage migration flows, reducing irregular, undocumented migration. The presence of undocumented workers in large numbers has a profound effect on wage rates and terms of employment for documented migrants as well as for national workers. The undocumented migrant workers often are forced to work more hours for less pay and without basic facilities such as housing, medical care, overtime payment, etc. The MTU conference expects that employers of undocumented workers should be severely punished and that undocumented workers are humanely treated.

The workshop called for a number of issues to be addressed concerning consistency in government policy on labour migration, work permit system that may result in bonded contracts and is open to abuse, unfair practices regarding work contracts upon arrival that differ materially, and unfavourably, to the contracts agreed with workers before their departure, mandatory testing for 15 diseases and pregnancy (with mandatory

deportation for positive results), that increases discrimination and stigmatization, and criminalization, with penalties including corporal punishment for administrative problems.

The workshop recommendations proposed that a Tripartite Council review the policies on labour migration management and convene regular consultations among government, employers, workers, NGOs and other representatives of civil society to address these emerging concerns in Malaysia. The MTU conference resolved to undertake a series of actions designed to ensure non-discrimination and equal treatment of workers – nationals and migrants alike – which includes efforts to:

- Promote respect for basic human rights and labour rights of migrant workers;
- Gain protection of migrant workers in both regular status and irregular situations, including strengthening labour inspection services to enforce legal conditions of work for migrant workers;
- Promote the ratification of the Migration for Employment (Revised) Convention, 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and support the ILO Plan of Action for Migrant Workers as agreed at the 2004 International Labour Conference;
- Organize migrant workers and promote skills enhancement so that migrant workers are better skilled when they return home;
- Abolish corporal punishment, such as caning;
- Develop standardized contracts for domestic workers and give special attention to organizing domestic workers into unions;
- Advocate for changes in visa regulations to enable workers who bring cases of labour dispute or abuse to stay and work in the country until the case is settled; and
- Work towards establishing social security mechanisms with contributions from employers and employees.

In addition, representatives of trade unions in sending countries also made commitments, including to:

- Negotiate bilateral agreements on recruitment;
- Encourage migrant workers to join existing unions in the host countries;
- Encourage the monitoring of recruitment and employment agencies in both sending and receiving countries to reduce fraud and malpractice;
- Work to improve migrant workers' awareness of labour laws, rights and working conditions in host countries before their departure; and
- Advocate a regulatory framework based on ILO Conventions and encourage their governments to ratify ILO Conventions protecting the rights of migrant workers. •

EMPLOYERS' RESPONSES TO LABOUR MIGRATION POLICY IN THAILAND

Employers' Confederation of Thailand (ECOT)

As part of its efforts to advocate for an appropriate and sustainable plan in dealing with the growing number of migrant workers, ECOT conducted a series of activities to identify and address the essential issues concerning migrant workers.

The ILO facilitated this programme by helping to organize national and local employers' workshops and by providing resources and technical guidance for an employers' survey on migration policies.

- OBJECTIVES**
- To attain an overview of the current situation of migrant workers and the employment of irregular and illegal migrant workers;
 - To identify the push and pull factors among employers hiring migrant workers and the benefits and challenges in employing migrant workers;
 - To review practices on skills upgrading, for both migrant and local workers; and
 - To determine how ECOT can help employers in dealing with migrant workers.

- ACTIVITIES**
- National employers' workshop (Bangkok, January 2005);
 - Local employers' workshop (Tak, Thailand, January 2005);
 - Employers' survey of ECOT members in the fishing, garment and tannery industries (April 2005) and ECOT members and non-members in relevant industries in Bangkok and Tak (June 2005), followed by interviews with a selected group of companies (August 2005) to obtain in-depth information; and
 - Final national workshop to discuss the survey findings, for ECOT members and non-members (to be scheduled) and to consider follow-up activities and policy promotion on the basis of the consultations and survey. •

TECHNICAL COOPERATION



PROJECTS TO
CONFRONT LABOUR
MIGRATION
EXPLOITATION AND
TRAFFICKING

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Preventing the trafficking and labour exploitation of children and young people is an obligation of ILO members who have ratified Convention No. 182 on the Worst Forms of Child Labour. Those at a higher risk of encountering human traffickers are often from poor, under-educated, unskilled, debt-ridden and socio-economically excluded backgrounds. Children and women from ethnic minorities and tribal groups whose host countries do not recognize the right of citizenship face a higher risk of exploitation: Effectively stateless, barred from owning land and with limited access to education and other services, the children and women from these families are particularly vulnerable to trafficking and subsequent labour exploitation.

Regularized migration, under transparent and well-implemented policy regimes is the best antidote to increasing trafficking in women and children and the exploitation of migrant workers. But other tools are also needed to meet global commitments to fighting the human trafficking phenomenon: information to would-be migrants about risks of international migration and trafficking, growth of income-earning opportunities for women and men in sending communities, enforcement of laws and applying penalties for those who act outside the legal frameworks in organizing overseas work, and rehabilitation, retraining and other support services for those who fall victim to trafficking and other forms of abuse.

The ILO has worked with various donor agencies and its constituents at the national and local levels to implement technical cooperation projects that address trafficking and other forms of exploitation in coherent ways. Actions under these projects have balanced subregional efforts, targeting the relationship between receiving and sending countries with mobilizing national and local preventive and responsive efforts. Much of the ILO's work has focused on women and children as the groups most susceptible to exploitative forms of migration. And as with all technical assistance, the inclusion of employers' and workers' organizations on project committees and in other ways to help guide and implement the work has been especially important.

MEKONG SUBREGIONAL PROJECT TO COMBAT TRAFFICKING IN CHILDREN AND WOMEN

2003 - 2008

with funding from the Governments of the United Kingdom (DFID) and Japan
Cambodia, Lao PDR, Thailand, Viet Nam, and Yunnan province, China

BACKGROUND Determining how to regulate adult migration to the advantage of both the migrants and the sending and receiving countries is becoming an urgent priority for many countries. The ILO's Subregional Project to Combat Trafficking in Children and Women, or TICW, is now in its second five-year phase as part of the ILO's overall Programme on the Elimination of Child Labour (IPEC). The project works with partners at the national level to make migration a safer activity through policies to regularize cross-border migration. At the local level in receiving countries, it works to counter the demand for trafficking, especially in industrial zones, tourist and entertainment areas, and informal workplaces. And at the local level in sending countries, it works to empower communities to raise awareness about the dangers of ill-informed migration and, more importantly, to develop alternative livelihood options in high-risk sending areas – such as small enterprise development, empowering women through small business start-ups, village savings and cooperatives and skills training for girls. Across all these levels, it works with NGOs to bring the voices of children in at-risk communities into the policy debate and national awareness-building efforts.

OBJECTIVES

- Mobilize parents and children against uninformed and ill-prepared migration and instil the long-term economic benefits of keeping children in school;
- Strengthen the capacity of governments in the Mekong Subregion to effectively counter-act the supply and demand of children and women trafficked into exploitative occupations; and
- Assist communities and high-risk groups to develop sustainable livelihoods.

RESULTS

- Research and dissemination of findings about both the supply side and demand side of trafficking in the subregion, addressing gaps in knowledge and data;
- National frameworks against trafficking, with functioning implementation plans and monitoring mechanisms;
- Subregional platform for the exchange of experiences across countries that aims to be self-sustaining;

- Country and subregional strategies to articulate trafficking within labour migration frameworks; in particular to promote regularized migration within the bilateral frameworks between Thailand and neighbouring countries (Lao PDR, Cambodia);
- Pilot programmes of community-owned prevention interventions, with strategies for mainstreaming them into larger, sustainable development frameworks;
- National and subregional Children's Forum on Human Trafficking (October 2004, in collaboration with Save the Children UK) for children to articulate their perspectives on vulnerabilities to trafficking and effects of trafficking in their home communities and to recommend specific prevention action on the part of national and local authorities; and
- A spin-off project to extend work into five other provinces in China, on the basis of the results of the work of TICW project in Yunnan province. This separate project is managed through the ILO Beijing office with its partners, the All China Women's Federation and DFID. •

MOBILIZING ACTION FOR THE PROTECTION OF DOMESTIC WORKERS FROM FORCED LABOUR AND TRAFFICKING IN SOUTH-EAST ASIA

2004 - 2006

With financial support through the ILO Netherlands Partnership Programme Project for Indonesia, the Philippines, Malaysia, Singapore, Hong Kong SAR, Cambodia, Lao PDR, Thailand, Viet Nam and Yunnan province, China

BACKGROUND The project is part of the Special Action Programme to Combat Forced Labour (SAP-FL) technical cooperation to assist member States in the implementation of ILO Conventions No. 29 and No. 105 on eliminating all forms of forced labour, which covers human trafficking. The SAP-FL has supported research in countries of origin and destination on the demand and supply factors that enable the trafficking in persons and the development of tools to address the challenges. SAP-FL works closely with other ILO units dealing with the protection of migrant workers and with IPEC.

With Anti-Slavery International and Asian Migrants Centre, SAP-FL conducted a consultation in Hong Kong SAR in February 2003 on the most effective means to protect domestic workers in Asia against the threat of forced labour and human trafficking. The Framework of Action that resulted proposed interventions be pursued throughout the migration and movement cycle, from source communities to final workplaces. This project was designed on the basis of the recommendations contained in the Framework, as guided by a project Advisory Committee composed of representatives of the relevant ministries, workers' (including domestic workers) and employers' organizations. Local activities are also coordinated with relevant NGOs.

- OBJECTIVES**
- Enhance the knowledge base and build consensus on appropriate policy to protect domestic workers;
 - Raise awareness of the exploitation of domestic workers; and
 - Pilot interventions to improve the protection of domestic workers and their rights.

- RESULTS**
- Domestic workers organizations from migrant sending countries, such as Indonesia and the Philippines, have established links with migrant workers organizations in the popular destinations, such as Hong Kong SAR and Malaysia, to work towards better protection of workers.
 - The Philippines and Indonesian governments have been assisted with implementing national plans of action for the social protection of workers in the informal economy, particularly migrant workers, and for increasing gender equality in the world of work. •

LIVELIHOOD REHABILITATION FOR MIGRANT WORKERS AFFECTED BY THE INDIAN OCEAN TSUNAMI IN THAILAND

2005

An International Organization for Migration (IOM) project, with funding from Flash Appeal through UNDP and technical support from ILO

BACKGROUND The UN Country Team in Thailand undertook joint assessment missions in the provinces most affected by the December 2004 tsunami. As is typical in crisis situations, it is the poorest, the most vulnerable, the people without assets and strong communities that bear the disproportionate burden during the immediate humanitarian crisis and later reconstruction stages. This was the case for Burmese migrant workers in this crisis. The local shrimp farming, low-skill construction and rubber plantation sectors and the fish trawling fleets relied primarily on migrant labour. The tsunami hit just six months into the implementation of a new migrant labour registration policy in Thailand. Efforts to respond to humanitarian needs in the immediate aftermath of the tsunami revealed many areas of incomplete and ineffective implementation of this policy, which left migrant workers and their families in the vulnerable position of not being able to confirm their legal status due to the loss of work permits and thus experiencing discrimination in receiving official assistance – on top of the loss of life and homes in their communities.

RESPONSE Under the IOM project, the ILO has provided support for the registration of Burmese migrant workers through the Free Trade Union of Burma in two of the tsunami-affected provinces. By late 2005, some 527 Burmese workers in Phuket had received their registration papers through this IOM initiative. The ILO is also a consulting and facilitating partner in this project. •

INTERNAL LABOUR MIGRATION IN CHINA: FEATURES AND RESPONSES

2004 - 2009

BACKGROUND The number of rural migrants seeking employment in the country's urban centres has risen from 2 million in the mid 1980s to 150 million, more than one-tenth of the population. A momentous policy shift has placed migration as a key to China's national development strategy. Migration is expected to drive China's urbanization, increase rural incomes, restructure the economy and level urban-rural and regional disparities, which are the priorities in the Government's 11th Five-Year Plan for 2006-2010. However, the scale of migration presents considerable financial and institutional obstacles, and maximizing the benefits of labour migration while mitigating its negative aspects continues to be a difficult balancing act.

OBJECTIVES ILO is working to support the Chinese Government in developing the necessary functions of an efficient, flexible and market-oriented labour regime (a unified labour market, enforced labour standards, equitable training and employment opportunities, etc.) that will directly benefit vulnerable and disadvantaged groups, including rural migrant workers. An ILO priority is to promote employment and reduce inequality and poverty, with an emphasis on rural labour migrants.

- RESULTS**
- **Labour standards:** Although international labour standards apply to international labour migration, a number of the 23 ILO conventions ratified by the Chinese Government are particularly relevant to the rights of internal migrant workers. Most notable is the recently-ratified ILO Convention 111 on Discrimination, which among other protections prohibits discrimination on the basis of social origin. The ratification of this Convention reiterates the Government's commitment to eliminating the disparities caused by the *hukou* system. In the coming years, the ILO will continue to promote understanding of C.111 among policy-makers and social partners and will include labour migration policy in ongoing research and support for China's Employment Promotion Law.
 - **Preventing trafficking:** Working in close collaboration with the All China Women's Federation (ACWF), the ILO is working to reduce the risk of trafficking into the entertainment industry or other unacceptable forms of work by promoting the education of girls and safer migration channels for young women. The project is based on lessons learnt from an ILO project with ACWF in Yunnan Province to prevent trafficking within the Greater Mekong Subregion. With the financial support of DFID, the project has supported policy development on migration and trafficking (including research to provide benchmark data), advocacy and education efforts in specific sending and receiving provinces (integrating trafficking into the school curriculum in Anhui Province, for example) and the drafting of a *National Plan of Action* on prevention, education, and safe migration.


- Self-employment: Of the various Government employment promotion strategies supported by the ILO, the most extensive undertaking is the “*Start and Improve Your Business*” (SIYB) project. Since 2004, the SIYB project has been supporting the Ministry of Labour and Social Security (MOLSS) to extend opportunities for self-employment (with the financial support of the Japanese Government and DFID). The project targets workers who have the most difficulty in finding good jobs, such as laid-off workers, young graduates, and internal migrant workers. The third phase of this project (2006-07) focuses on the western part of China, directed particularly at migrants envisioning starting up businesses in the social service sector, such as community level education and healthcare provision. This work is based on surveys of migrant workers to assess their interest in entrepreneurship training, research to identify institutional barriers rural migrants face when starting businesses – including access to small business finance, and a mass media campaign to reach migrant workers and inspire their interest in start-up business training.
- HIV/AIDS: China’s rural migrant workers inhabit an environment of vulnerability. In general, they are a young population of a sexually active age and either unmarried or living apart from their spouses and children. Combined with lack of knowledge about HIV/AIDS, they have increased possibility of engaging in unsafe sex. However, due to their fear of discrimination and the high cost of medical care, most migrant workers do not have access to good information and are unable or unwilling to seek testing or treatment for sexually transmitted disease. One project based in Guangdong province, the destination of one-fifth of all of China’s registered migrants, works with tripartite constituents in promoting HIV/AIDS prevention, care and support in the workplace (supported by UNAIDS). Another effort focuses at the policy level (with the financial support of the US Department of Labor), to strengthen the capacity of MOLSS and the China Enterprise Confederation (the employers’ organization) to counter workplace discrimination and stigma related to HIV status and to address the prevention-care continuum by providing behavioural-change communication programmes and information on access to care, support and treatment. •

EVIDENCE-BASED POLICY MAKING AND ADVOCACY



FRESH RESEARCH ON
MIGRATION AND
TRAFFICKING ISSUES
IN EAST ASIA





The ILO is a knowledge-based institution. Efforts to generate and disseminate new knowledge and to base policy advocacy and technical assistance on the analysis of relevant evidence of migration flows and behaviour of workers, employers and employment agencies are an integral part of the ILO's programme on labour migration. This requires thorough understanding of what research institutes and other organizations are doing, in order to reduce the duplication or overlap of efforts and also to facilitate effective cooperation among concerned organizations.

The ILO's research is designed to further understanding of labour migration as both a labour market phenomenon and as a human rights concern. Much of the ILO research and publications in this area of work have resulted from its technical assistance projects. In particular, these studies, surveys and investigations try to help fill the gaps in understanding push factors from sending countries and pull factors from receiving countries. Summaries of recent ILO research on migration in East Asia are organized into three areas:

- Migration policy
- Trafficking – Perspectives from sending communities
- Trafficking – Perspectives from receiving communities

Publications resulting from this research can be found at
<http://www.ilo.org/public/english/region/asro/bangkok/library/pub15.htm>

EMPLOYMENT AND PROTECTION OF MIGRANT WORKERS IN THAILAND: NATIONAL LAWS/PRACTICES VS. INTERNATIONAL LABOUR STANDARDS?

January 2004–March 2005
with funding from the Government of the Republic of Korea

The ILO commissioned this study and report from Prof. Vitit Muntarbhorn of Chulalongkorn University (Bangkok) for advice to the National Human Rights Commission of Thailand.

BACKGROUND Thailand has experienced a sharp influx of migrant workers from neighbouring countries, particularly Myanmar, Cambodia and Lao PDR. Unofficial estimates suggest that there are more than a million migrant workers in Thailand. While several hundred thousand of them have registered to work, regularized migrant workers represent only a fraction of the actual number of migrant workers in Thailand.

In practice, migrant workers have not always enjoyed the protection of labour standards at work. Many do not enter Thailand through regular channels. Human smugglers and traffickers capitalize on the foreign labour supply and the demand for cheap labour, resulting in detrimental labour practices. Migrant workers ending up without visas or work permits often face the full force of immigration law without adequate guarantees for their safety and dignity. The risk of deportation renders them more vulnerable to forced labour practices.

A new policy enstated in 2001 permitted the registration of migrant workers in a broad manner. In 2003, there was a move towards a more “open door” policy: allowing those who re-register to be permitted to work for another year, until September 2004. This extension covered 409,000 migrant workers from Myanmar, Cambodia and Lao PDR, and employment was only permitted in six sectors.

Around the same time, Thailand signed four MOUs concerning migrant workers: with Myanmar, Lao PDR and Cambodia. The MOUs established a more systematic approach to managing migration flows and protecting migrant workers, linking labour supply with demand, and opening channels of communication between source and destination countries.

- OBJECTIVES**
- To examine whether migrant workers who enter Thailand benefit from Thai laws and practices;
 - To examine to what extent international law, in the form of international labour standards and human rights, is applied to Thai workers and to migrant workers; and
 - To examine the possible avenues for ensuring that the new registration approach converges with international standards. •

RESEARCH AND STUDY ON MIGRANT WORKERS IN REPUBLIC OF KOREA 2005

Commissioned and supported by the ILO
the study was conducted by the Korean Confederation of Trade Unions (KCTU)

- BACKGROUND** The KCTU is one of two national trade union confederations in the Republic of Korea. It supports the Migrant Trade Union (MTU), which has no legal status and is not recognized by the Government, and believes that migrant workers suffer from race, religious and national divisions in Korea. Migrant workers are not allowed to join Korean trade unions – the Sungseo Industrial Zone Construction Union admitted some migrant workers into their union seems to be the one exception. Due to the restrictions, migrant workers have formed their own union. Although Korean and migrant workers have different immediate demands, the greater goals are the same and being united would be more effective toward achieving the goals. The trade union movement in Korea is seeking changes to the labour legislation that would allow migrant workers to form or join unions of their choice and to enjoy labour rights allowed to Korean workers, such as the right to collective bargaining.
- OBJECTIVES** To make it easier for migrant workers to be organized in trade unions for the protection of their rights as workers.
- ACTIVITIES** The study compared the Korean labour law and practices with ILO conventions and other international protocols relating to migrant workers. It highlighted the deficiencies in terms of law and practices in regard to extending protection to migrant workers. The purpose was to use the findings in the ongoing campaign for Korean ratification of ILO Convention No. 97 on migration for employment (1949) the supplementary provisions (1975). The report of the study was presented at a highly publicized national seminar on 9–10 November 2005 that the Korean trade unions jointly organized with academics and others. The study will be further used in workshops and seminars to highlight the need for better protection of migrant workers. •

THAILAND: JOINT UN REPORT, “INTERNATIONAL MIGRATION IN THAILAND”

By Jerrold Huguet and Sureeporn Punpuing
and published in August 2005 by seven member
organizations of the UN Country Team in Thailand

BACKGROUND Because of Thailand’s central position in South-East Asia, its open economy and its rapid economic development, the country plays a central role in international migration as an origin, transit and destination country. This report was the result of a UN Country Team effort, led by the IOM and coordinated through the Thematic Working Group on Migration, to review the entire scope of migration issues and policies in Thailand. In addition to issues related to regular and irregular labour migration, the report covers broader issues on international migration, such as refugees, asylum seekers and displaced persons.

The ILO contributed technical analysis and provided funding for the printing of the final document. The report was released at a joint press conference on 23 August 2005.

Under the coordinating leadership of the IOM, five agencies in addition to the ILO, participated in the production of this report and are listed as sponsors: UNESCAP, UNICEF, UNDP, the World Bank, and the World Health Organization. Many ministries and offices of the Royal Thai Government cooperated closely with the agencies in preparing the report.

- OBJECTIVES**
- Create a common knowledge base for policy recommendations on international migration among the UN agencies working in Thailand;
 - Provide input to the Thai Government’s policy-making process on international migration; and
 - Identify gaps in knowledge concerning migration in Thailand

- RESULTS**
- The reports’ principle recommendations are to align migration policies with other social and economic policies, based on a review of the migration trends and analysis of economic and social impact, to continue to regularize migration and to develop a national comprehensive migration management system that would deal with all types of migration (asylum seekers, regular migration, irregular migration).
 - The report helped inform the joint development framework (UNDAF) being prepared for the 2007–2011 period.
 - The report also led to an ILO labour market analysis of migrant labour (in 2006) by occupation and industry to improve understanding of labour market participation, demand trends and the economic contributions of migrant workers in Thailand. •

THAILAND: IMPROVING THE MANAGEMENT OF FOREIGN WORKERS – CASE STUDIES ON FIVE INDUSTRIAL SECTORS

Commissioned in partnership with the IOM, 2004.

BACKGROUND The report is a summary of findings and recommendations resulting from a series of research studies conducted by three institutes in Thailand: the Asian Research Center for Migration at Chulalongkorn University; the Institute for Population and Social Research at Mahidol University and the Thailand Development Research Institute. A total of six studies were carried out: an overview of the Thai labour market in relation to employment of foreign migrants and five case studies on industrial sectors that employ large numbers of irregular migrants (marine fisheries, construction industry, garment and textile factories, agriculture and domestic work).

OBJECTIVES To understand the Thai labour market at macro and micro levels, the study looked at the overall condition of the Thai labour market in recent years in terms of the size and organizational structure, as well as the contributions of migrant workers to the Thai economy. The study involved interviews with migrants with and without registration cards, employers of migrant workers, Thai workers and government officials. The focus centred on the registration system and how it benefited the labour market or how it could be better managed to provide migrants with a secure environment as well as meet the labour needs of employers who hire migrant workers.

PUBLICATIONS The studies and consultations resulted in two complementing publications:

- 1) *Thailand: “Improving the Management of Foreign Workers”*, compiled by Philip Martin; and
- 2) *“Improving the Management of Foreign Workers in Thailand: Case studies on five industrial sectors.”*

Comments and recommendations to the Government of Thailand included in the publication:

- Develop structures and programmes for managing and protecting vulnerable foreign migrants;
- Develop a multi-ministerial and departmental approach, with increased collaboration between the Ministry of Labour and Social Welfare and the Ministries of the Interior and Public Health, involving the police, immigration and other departments in the management of labour migration;
- Encourage the participation of civil society and institutions, including employer associations, academics and NGOs in migration management;
- Use short-term approaches to acknowledge the structural dependence on migrants and register new migrants with minimal or no restrictions or quotas; and
- Shift the focus on enforcement of irregular migration from migrant workers to employers. •

TRAFFICKING – PERSPECTIVES FROM SENDING COMMUNITIES

SURVEY REPORT ON TRAFFICKING IN CHILDREN AND WOMEN IN YUNNAN PROVINCE, CHINA

TICW Project May 2005, in collaboration with the All-China Women's Federation and the Population and Social Science Department of Yunnan Provincial Statistical Bureau, as part of the ILO-IPEC Mekong Subregional Project to Combat Trafficking of Children and Women (TICW).

BACKGROUND Yunnan is a border province with many ethnic minorities and comparatively undeveloped culture and economy. Since the 1980s, it has been an area with a substantial problem of trafficking in children and women. According to the public security departments, in recent years more than 1,000 children and women have been trafficked annually to other provinces and across the border. However, the public security departments in the province are making strenuous efforts to combat trafficking through active interventions, broader international cooperation, more rescuing channels, new preventive activities, more funding, higher priority attached to serious crimes, close monitoring on the transportation lines especially of railways and ports, and extended efforts to rescue trafficked victims.

To date, there has been little research on the “push side” of the trafficking problem. In addition to expanding the knowledge base on the trafficking for labour situation in Yunnan province, the TICW project explored the possibility of worker/employer organizations participating in the anti-trafficking efforts in Greater Mekong subregion and looked at ways of mobilizing them and implementing a pilot project with their cooperation.

The field survey was carried out by the All-China Women's Federations, with assistance from the departments of statistics, education, justice and public security of the eight project counties/districts and targeted townships in Honghe Prefecture, a sending area, and Kunming City, a receiving area.

- OBJECTIVES**
- Interview trafficking victims and their families;
 - Study and analyse collected data and information;
 - Establish an integrated data system for monitoring and evaluating;
 - Determine root, potential and direct causes of trafficking; and
 - Offer specific resolutions.

RECOMMENDATIONS The survey identified key internal factors enabling human trafficking, leading to recommendations for specific policy changes, including:

- Establish and develop relevant policies to encourage and guide the gradual and regular movement of rural surplus labour into cities
- Renovate the existing employment system and construct an urban-rural integrated labour market, including offering social security provisions to rural migrants in cities

- Support measures to boost the rural economy and increase farmers' incomes
- Dismantle illegal intermediate employment agencies and hold "buyers" accountable under the law
- Fully exert the role of women's federations. •

LABOUR MIGRATION SURVEY – LAO PDR

Research conducted in 2003
publication forthcoming.

BACKGROUND

The labour migration survey was designed to provide information on the issue of labour migration internally and abroad, with information collected from both current and returned migrant workers. The sample survey covered 5,966 households and 299 villages in all districts of Khammuane, Savannakhet and Champasak provinces and was designed to identify the population most at risk of being trafficked for labour exploitation and into the worst forms of child labour.

It was the first survey of its kind to be conducted in Lao PDR and was conducted in collaboration with the Department of Labour, the Ministry of Labour and Social Welfare and the National Statistical Centre of the Committee for Planning and Cooperation and with technical assistance from the ILO TICW project and the Statistical Information and Monitoring Programme on Child Labour (SIMPOC).

OBJECTIVES

- To get a reliable estimate or proportion of irregular migrant workers already working in Thailand out of the total population of the three provinces and to measure the proportion of children, especially girls, among them;
- To get a reliable estimate of the proportion of migration population into urban areas to work among the total population of the three provinces and to measure the proportion of children, especially girls, among the emigrating population;
- To identify the push and pull factors and patterns of labour migration internally and across borders;
- To build capacity of the staff of the Ministry of Labour and Social Welfare, especially the provincial and district departments of labour and planning and other concerned departments through on-the-job training to enable them to conduct labour migration surveys. The skills building also included setting up, maintaining and using the data collected for monitoring and managing labour migration in the participants' respective districts and provinces and conducting future labour migration surveys by themselves; and
- To make an in-depth analysis of the results and findings of the survey and make recommendations for Phase II project interventions, working towards achieving the project goals and strategies for the next five years.

The TICW project continues to generate additional research on both sending and receiving areas in the Lao-Thai migration chain, including a separate study, *Good Practices in the Employment and Protection of Migrant Workers and their Dependents in Mukdabarn and Aamut Sakbon Provinces*, bridging Thailand and Lao PDR. The purpose of this research is to compile good practices on the management of migrant workers and their dependant, through interviewing migrant workers and local persons in receiving communities. •

SURVEY REPORT ON CROSS BORDER LABOUR MIGRATION AND TRAFFICKING IN BANTEAY MEAN CHEY PROVINCE, CAMBODIA

Research from May 2000-2004

In collaboration with the Provincial Department of Social Affairs, Labour, Vocational Training and Youth Rehabilitation and SILAKA, as part of the ILO-IPEC Mekong Subregional Project to Combat Trafficking of Children and Women (TICW)

BACKGROUND Cambodia has a young population (more than half are younger than 20) and a fast-growing labour force, with 150,000 to 170,000 people joining annually. The pace is expected to grow to 200,000 new labour market entrants annually by 2010. Given the existing population dynamics, the limited absorption capacity of the local economy and factors such as landlessness, poverty and an array of socio-economic problems, an increasing number of job seekers are attracted to work abroad by the pull of perceived economic opportunities.

However, most Cambodian migrant workers are low-skilled and due to a lack of legal migration options they are undocumented, leaving them extremely vulnerable to exploitation and abuse throughout the stages of migration. The Royal Cambodian Government in May 2003 signed a MOU with Thailand for eliminating trafficking in children and women and assisting victims of trafficking.

With financial and technical support from the International Organization on Migration and ILO-IPEC, the Government arranged a national workshop on the implementation of the MOU. Its aim was to stimulate internal discussion and increase understanding of the purpose and consequence of the MOU as well as to identify practical ways and approaches for its implementation. One of the recommendations adopted at the workshop highlighted labour migration surveys as the key starting point for knowledge-base sharing on the situation of labour migration and trafficking, especially between Banteay Mean Chey, Cambodia and Thailand.

- OBJECTIVES**
- To capture the real situation of trafficking and illegal migration from Banteay Mean Chey, Cambodia to Thailand;
 - To identify potential partners; and
 - To present the outcome for feedback, comments and recommendations at the Provincial Stakeholders Ownership Exercise meeting in Banteay Mean Chey.

- RESULTS** The report recommends:
- Setting up an information office at the Cambodia–Thailand border;
 - Expanding the network structure on both sides of the border;
 - Establishing a national policy on labour migration management;
 - Increasing awareness-raising exercises;
 - Establishing programmes to disseminate labour and anti-trafficking laws;
 - Establishing a database of job openings and register those seeking employment;
 - Negotiating with the Thai Government for the border pass to be extended throughout Thailand
 - Attracting investors to create more labour opportunities; and
 - Establishing policy and system to support the migrant workers. •

THE DESTINATION POINTS IN THE TRAFFICKING OF CHILDREN AND YOUNG WOMEN TO THAILAND 2003–2008 (PHASE II)

Research project as part of the Mekong Subregional Project to Combat Trafficking Children and Women (IPEC-TICW), ongoing through 2008

The Institute of Policy and Social Research of the Mahidol University is the primary research organization. NGOs working with the migrant communities, such as the Child Development Foundation, Free Trade Union of Burma and Rak Thai Foundation, also are participating.

BACKGROUND Policy instruments and public debates on trafficking have increasingly emphasized the importance of having a better understanding of the demand side of trafficking. But comprehensive studies on that aspect of the trafficking phenomenon continue to be too few and far between. In addition to the contentious debates around the issues of commercial sex and prostitution, there are practical difficulties in identifying and obtaining access to employers, clients and even victims who are found in unregulated, unsupervised workplaces (such as domestic service, informal manufacturing, fishing and agriculture).

The ILO has initiated a major research initiative to acquire a better understanding of the sources of vulnerability to trafficking of children and young women at points of destination. The research project involves a general assessment of the economic, employment and social conditions of those economic sectors where either trafficking for labour exploitation has already been documented or where there are valid reasons to believe that it may exist in the future. These sectors will include domestic service, informal manufacturing, fishing and agriculture. Other parallel investigations centre on the Burmese refugee community in Mae Sot and on placement agencies for domestic workers in Bangkok.

OBJECTIVES

- To detail and examine the profile of employers who engage children and young women in the worst forms of child labour and forced labour as well as the third parties involved;
- To examine how different socio-economic, socio-cultural, legal, developmental labour and migration issues interact in shaping the environment of trafficking and the national policy; and
- To examine the legal context that allows and facilitate the use/employment of trafficked victims.

The research project in Thailand, as a major receiving country, aims to understand the causes, conditions and patterns of forced labour and trafficking of children and young women to and within the country, giving attention to the economic sectors and work locations where trafficking or forced labour is seen to occur, including:

- Agriculture (fruit and vegetable, flower and animal farming) in Nakhonpathom;
- Fisheries in Samut Sakorn;
- Domestic work in Bangkok and its vicinities; and
- Manufacturing (small- to medium-sized firms) in Bangkok and its vicinities. •

ACTION-ORIENTED RESEARCH ON THE SITUATION OF BURMESE CHILD MIGRANT WORKERS IN INFORMAL INDUSTRIES IN MAE SOT

January-March 2004

BACKGROUND Child workers in Thailand are mainly of Myanmar nationality. Some have been trafficked into Thailand while others were born in Thailand of migrant workers or accompanied their parents across the border. Many of the children are employed in informal workplaces in the garment, knitting, furniture and ceramic production industries. Lack of understanding among parents and employers on the rights of the children coupled with loose law enforcement helps create an environment in which it is easier for employers to exploit vulnerable children.

For this research, the Free Trade Union of Burma (FTUB) looked at the situation of child workers aged 10–17 years working in the informal industry in the Mae Sot district of Thailand's Tak province. ILO–IPEC-trained researchers supported the work of the FTUB team.

- OBJECTIVES**
- To study the situation of migrant children from Myanmar and to provide recommendations for needed support in the areas where they live and work;
 - Use the findings and recommendations as a guide for international and local organizations and agencies, especially ILO–IPEC/TICW, to create programmes that benefit migrant children, improve their situation and improve national regulations in protecting the rights of migrant child labourers; and
 - Provide FTUB an opportunity to work closely with trade unions as well as sympathetic government agencies on measures to protect the rights of child labourers. •



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