

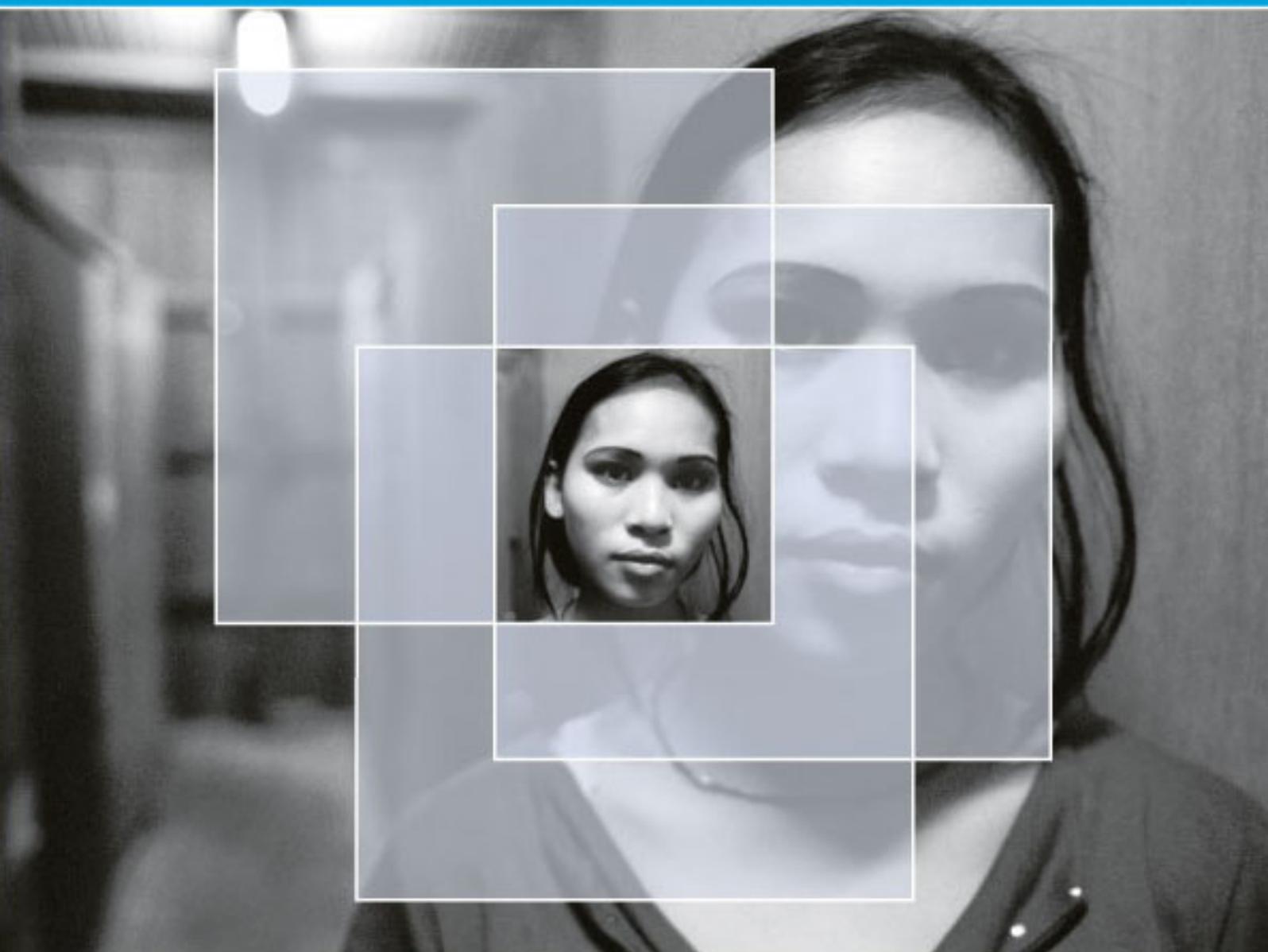


International  
Labour  
Organization

# The Mekong Challenge

## Human Trafficking: Redefining Demand

Part of a series of studies on human trafficking and labour migration in the Greater Mekong Sub-region



The Mekong Sub-regional Project to Combat Trafficking in Children and Women

# The Mekong Challenge Human Trafficking: Redefining Demand

Destination factors in the trafficking of children  
and young women in the Mekong sub-region -  
by Elaine Pearson (Abridged)

Mekong Sub-regional Project to Combat Trafficking in  
Children and Women

International Programme on the Elimination of Child Labour  
International Labour Office Bangkok

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Destination factors in the trafficking of children and young women in the Mekong sub-region - by Elaine Pearson (Abridged)

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## Foreword

In exploring ways to prevent trafficking, the International Labour Organization–International Programme on the Elimination of Child Labour (ILO–IPEC) in Bangkok, through the Mekong Sub-regional Project to Combat Trafficking in Children and Women (TICW), is looking to reduce demand for those in labour exploitation.

To begin understanding this issue, researchers at Mahidol University (with ILO–TICW Project support) will carry out a pioneering study to identify in detail, the causes, conditions and patterns of both forced labour and trafficking of migrant children and young women at destination points in Thailand. The study will focus on four labour sectors in – fisheries and fish processing, manufacturing (small to medium-sized firms), domestic work and agriculture.<sup>1</sup> The research results, which will be available in 2006, will help inform appropriate policy and programme interventions involving employers and workers organizations as well as governments.

Specifically, the ILO–TICW/Mahidol research seeks information on:

- 1) Employment conditions and practices that result in forced labour and profiles of employers and third parties involved in forced labour and trafficking;
- 2) The economic, social, cultural, legal and political context, especially labour and migration issues, that allow and nurture the use of trafficked (and enslaved) persons.

The TICW project, which started in 2000 and ends in 2008, is designed to address the problem of trafficking under the wider framework of labour migration. The project covers five countries (Cambodia, China (Yunnan province only), Lao People’s Democratic Republic, Thailand and Viet Nam. This particular demand-side research focuses on Thailand because of its status as a major destination point for migrants, both regular and irregular, including victims of trafficking largely from Cambodia, Lao PDR and Myanmar.

Except for its role in the sex industry, the demand side of trafficking has rarely been studied.<sup>2</sup> The ILO–TICW project recognizes the sensitivity and difficulties of researching demand, particularly in the context of migrant labour. To ensure the research meets its objectives, a preliminary study was undertaken to analyse existing available information on the four labour sectors in Thailand and provide guidance to researchers in terms of a conceptual framework defining demand.

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<sup>1</sup> These sectors were chosen during a stakeholders’ consultation process and chosen because it is where forced labour and trafficking in children and young women is known or reasonably suspected to occur currently or in the future.

<sup>2</sup> An exception is the recent research carried out by Anderson and O’Connell-Davidson, which is referred to in some detail in this paper.

The preliminary research entailed a desk review and interviews with various employers and officials in selected labour sectors as well as experts on human trafficking and migration. While the synthesis report was intended to help the researchers at Mahidol University shape their research and methodology, the TICW project considers that its early release, prior to the completion of the Mahidol research project, would be relevant and useful to other researchers pursuing trafficking research at points of destination. This abridged version of the technical report by Elaine Pearson, with the assistance of Karen Emmons, highlights the discussion of demand-side analysis and its special application in Thailand.

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# 1. What is Demand?

In 2004 police and labour officials raided a makeshift garment factory producing jeans in Bangkok where 18 girls – aged 11 to 14 years – from Lao PDR were rescued. Police found them hidden in a space measuring 3 by 4 metres under the floor of a room that was padlocked. Weeks earlier, two girls had escaped from the premises and complained to police. The girls had been deposited there by a Laotian recruiter who promised them paid work. After six months they had not been paid at all; they were forced to work from 6 a.m. to midnight, were poorly fed and were beaten. The Thai husband and wife running the factory were arrested and charged with human trafficking, unlawful detention and illegally hiring migrant workers.<sup>3</sup>

A conventional anti-trafficking perspective of this case would focus predominantly on the children, their background and the root causes of them being there, which would then concentrate, most likely, on the tangled web of poverty, gender discrimination and lack of awareness. But that focus would only show half the picture. More precisely, it would ignore the real cause of their being cramped into that tiny space stitching from dawn to dark.

A deeper perspective would look at the destination factors, or the demand side of trafficking. Thus, it would enquire about the other people in the story: the Laotian recruiter, the Thai employers, the Thai police and even the individuals not mentioned but present in the background, such as consumers. A more honest perspective would ask:

‘What is it that enables this kind of exploitation to take place in downtown Bangkok without anyone noticing, until two girls had the initiative and courage to escape? How does the global demand for cheap jeans, and therefore cheap labour, translate into modern-day slavery? Does the lack of enforcement of laws allow employers and recruiters to carry out these crimes? Or is it because they are “only” migrant children and on some level there is a tacit acceptance in treating migrants this way?’

As more governments and agencies seek to address the human trafficking problem, these questions and the issue of demand become more articulated. The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children attached to the United Nations Convention Against Transnational Organized Crime (2000) encourages States “to discourage the demand that fosters all forms of exploitation of persons”. This reference has helped turn the trafficking issue in a new direction. It has opened up questions on definition of what precisely constitutes “demand”.

This paper presents an analysis of “demand” as a background for research, discussion and direct action at the destination side in the trafficking issue. It aims to clarify what is meant by demand in the context of labour exploitation and provide useful guidance to an area that otherwise can be subject to multiple and conflicting interpretation.

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<sup>3</sup> “Laotian slaves freed after raid on factory”, *The Nation*, 16 September 2004

## International/regional instruments and recommendations as a basis for demand research

Article 9 (5) of the UN Trafficking Protocol from 2000 is one of the earliest references to demand as a factor in preventing trafficking:

“State Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”

The Protocol does not define what it means by ‘demand.’

The Recommended Principles and Guidelines on Human Rights and Human Trafficking, by the UN Office of the High Commissioner for Human Rights, further explain the element of demand mentioned in the UN Protocol:

“Strategies aimed at preventing trafficking should take into account the demand as a root cause. States should consider ... analyzing the factors that generate demand for exploitative commercial sexual services and exploitative labour and taking strong legislative, policy and other measures to address these issues.”<sup>4</sup>

The Brussels Declaration on Preventing and Combating Trafficking in Human Beings, which was the outcome of a key meeting of European Union States and relevant inter-government and non-government organizations in Europe in 2002, stated:

“It should be an essential and common goal for the fight against trafficking to address the reduction of the demand for sexual services and cheap labour. This includes education to [sic] equal and respectful

relationships between sexes, and awareness campaigns especially targeting clients...A crucial component in the comprehensive counter-trafficking response will be further research and analysis of the demand side of the trafficking process and an examination of methods by which the demand of clients can be effectively reduced.... Awareness raising campaigns aiming at the ‘demand’ side of the trafficking process should be developed as part of a comprehensive process of reducing trafficking effectively”.<sup>5</sup>

The Action Plan to Combat Trafficking in Human Beings (July 2003) from the Organization for Security and Co-operation in Europe (OSCE) also includes various references to demand and calls for far-reaching analysis of the demand and supply factors, trafficking networks and economic consequences, and its link with illegal migration. Countries of destination were invited to address “the problem of unprotected, informal and often illegal labour, with a view to seeking a balance between the demand for inexpensive labour and the possibilities of regular migration.”

The OSCE goes further than the other documents in making a connection between severe exploitation and the nature of the unprotected, informal and illegal labour markets. Thus, in tackling the demand side of trafficking for labour exploitation there is a concern for ensuring adequate labour protection in law and practice for all workers.

This interpretation of demand fits within a labour framework approach to trafficking. Various organizations that call for a labour approach have expressed the need to deal with the outcomes of trafficking rather than the process. Thus the focus is on how to prevent the exploitation from occurring. However, in its un-defined and therefore slippery state, demand can easily seem to be a general catch-all term for everything that is not “supply” – thus everything that is not about the victim.

<sup>4</sup> Recommended Principle 4 and Recommended Guideline 7.

<sup>5</sup> <http://www.december18.net/web/general/traffickingconventionsBrusselsDecl.pdf>. The European Union has not formally endorsed this document.

## Demand or destination factors – What is the best guiding term?

“Demand” in the context of trafficking is a problematic term because of the lack of a precise and agreed-upon definition. While at first glance it seems to have a singular meaning, it actually is a vague concept that can refer to many (even conflicting) things. It also can be an ideologically loaded term, particularly when used in reference to the demand for sex, which is a common tendency.

Technically, **demand** means a desire or preference by people for a particular kind of person or service. There are three levels of demand in the context of trafficking:

- **Employer** demand (employers, owners, managers or subcontractors).
- **Consumer** demand (clients (sex industry), corporate buyers (manufacturing), household members (domestic work)).
- **Third parties** involved in the process (recruiters, agents, transporters and those who participate knowingly in human trafficking at any stage of the process).

Reducing demand in trafficking is to look at why the demand is met by trafficked or otherwise enslaved children and women.

When human trafficking was closely connected to commercial sexual exploitation, “tackling demand” was always about reducing client demand for sexual services. Organizations argued about whether and how this might

be most effective, while some were absorbed with penalizing all clients using sexual services, making no distinction between demand for trafficking and demand for prostitution. In the arena of the sex industry, demand became synonymous with controversy and many agencies steered clear of it.

Demand means so many different things to different institutions; depending upon the context, undertaking demand research is difficult and risky. For instance, a former trafficking advisor to the UN High Commissioner for Human Rights has explained that the working group drafting the Recommended Principles and Guidelines wanted to address the demand for goods and services produced by exploitation of trafficked persons.<sup>6</sup> This would mean taking legal action also against those companies and individuals further up the supply chain that recklessly disregard whether trafficking or the use of forced labour is occurring in the production of their goods. Such individuals are complicit in trafficking and foster the demand for trafficked labour. Because the definition guidelines are so broad, it is easy for anyone to have missed this kind of interpretation.

As pointed out in a report on demand in trafficking by Bridget Anderson and Julia O’Connell-Davidson,<sup>7</sup> demand can “embrace a broad and divergent range of motivations and interests”. It can refer to employers’ requirements for cheap and vulnerable labour, to requirements for household and subsistence labour or even to consumer demand<sup>8</sup> for cheap goods and/or services – or any combination of these factors.<sup>9</sup>

Factors creating pressure for abuse can mean something

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<sup>6</sup> Interview with A. Gallagher, Bangkok, 4 August 2004

<sup>7</sup> Anderson, B. and O’Connell-Davidson, J., *Is Trafficking in Human Beings Demand Driven? A Multi-Country Pilot Study*, Migration Research Series, International Organization for Migration, Geneva, December 2003 (IOM study). The IOM report is based on prior research conducted by the authors for Save the Children Sweden, which resulted in another similarly titled report, *Trafficking - A demand led problem?* The two reports are regarded as important resources for anyone conducting similar research. The Global Alliance Against Traffic in Women conducted the research in Thailand for the Anderson and O’Connell-Davidson study and thus some references in this abridged report to the Thai research are based on interviews with GAATW.

<sup>8</sup> This report focuses on employers and third-party demand rather than consumers. In different sectors, consumers may not have knowledge about the means of production. For example, a person buying a pair of shoes most likely won’t know that they were produced by someone who was trafficked. It is very difficult to distinguish demand for a trafficked person or service from the demand for the particular labour or service.

<sup>9</sup> Anderson and O’Connell Davidson

beyond economic demand. While the exploitation of workers may be driven by economic reasons, traffickers control and abuse victims also because they are able to get away with it. Discrimination against migrants is socially acceptable and tolerated by many governments, thus communities remain indifferent to migrant trafficking. Because migrant children and young women often are not in a position where they are willing or able to stand up for their rights, they are even more vulnerable to abuse and exploitation. For example, in Thailand's fish processing sector, young migrant women (aged 16–30) make up the majority of workers. Employers prefer this group because they are less willing to speak out for labour rights while accepting low wages in a demanding work environment.<sup>10</sup>

Addressing the demand side illustrates the need to question the social acceptance and tolerance of this kind of discrimination and exploitation. An essential part of fighting trafficking and exploitation is changing public attitudes toward migrant workers.

Looking at all these factors together then refers to **demand side** or **destination factors**, which mean both demand *plus* the environment that creates or influences demand: the economic, cultural, social, legal and policy factors affecting employers, consumers and third parties. How do these various factors create situations that exploit and abuse workers? If the aim is to stop such abuse from occurring, then what kind of interventions involving employers, third parties and workers might manipulate such pressure?

Anderson and O'Connell-Davidson conducted research on the demand side of trafficking in sex work and domestic work in six countries, including Thailand. In their reports, the authors found three pervading factors why workers were exploited in those two sectors:

- the unregulated nature of the labour markets;
- the abundant supply of labour; and
- the power and malleability of social norms regulating employer behaviour.<sup>11</sup>

Anderson and O'Connell-Davidson argued that demand is intrinsically related to supply and thus it is difficult to characterize and isolate the factors that cause demand. They further note that demand for trafficked persons' labour or services does not appear where workers are well unionized and where labour standards regarding working hours, health and safety, wages and employment are routinely monitored and enforced.<sup>12</sup> This reinforces the issue of labour protection as a pivotal factor in addressing demand/destination factors in the context of trafficking.

What are the benefits of "demand-side" research? Governments currently are interested in "tackling demand" for both sexual and labour exploitation as laid out in the various international agreements. This presents an opportunity to set out a definition of demand that is clearly about protecting workers' rights in the context of internal and cross-border migration. Thus trafficking analysis would not focus primarily on examining why migration happens but be more grounded in the exploitative outcomes of migration. The prevention of exploitation clearly involves setting out the roles and responsibilities of different actors (governments and employers' and workers' associations). Thus it adds legitimacy and sustainability to anti-trafficking efforts by encouraging workers and employers to join their voices against trafficking. Talking about demand situates trafficking as a problem at the point of destination. Using the language of demand is an important way of holding destination countries accountable for their role in trafficking rather than allowing them simply to put pressure on countries of origin.

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<sup>10</sup> Press, B., *Untangling Vulnerability: A study on HIV/AIDS Prevention Programming for Migrant Fishermen and Related Populations in Thailand*, Raks Thai Foundation, July 2004, p. 23.

<sup>11</sup> Anderson, B. and O'Connell-Davidson, J., IOM study, p. 22.

<sup>12</sup> Anderson, B. and O'Connell-Davidson, J., Save the Children study, p.54.

However, there are various pitfalls with using the term “demand side” to advocate for enhanced labour protection. Unless demand is clearly defined, there will be conflicting entry points to the issue due to the history of demand in the context of sexual exploitation. Yet engaging in too much conceptual clarity to redefine demand might ultimately waste energy and resources. This is especially futile if migrant labour protection is not a high priority of governments – they are unlikely to tackle demand by safeguarding migrant workers’ rights. The call for “discouraging demand” is not coming from those who have experienced trafficking. Thus engaging in these issues risks losing the central focus on the victim, which is core to a rights-based approach to trafficking. Using the “demand” term also may be too vague and merely imply (albeit in a roundabout way) a need for increased law enforcement. Finally, the message of discouraging demand for trafficked labour could be misconstrued as discouraging demand for migrant labour.

These pitfalls can be avoided and the benefits maintained by changing the terminology. There is a need for researchers to be aware of the “anti-trafficking industry” and not to set a precedent for a whole new wave of projects that only re-name or re-research the factors that are known already. For clarity purposes, “destination factors” is a more inclusive and conceptually clear term than the “demand side” of trafficking and thus is the preferred term. Research into destination factors involves an in-depth appraisal of labour protection and laws, as it recognizes that increased labour protection is a means of preventing trafficking and forced labour from occurring.

## Other critical terms

### **Trafficked person**

Any child (younger than 18) or any person (in the context of the forthcoming research in Thailand not a Thai national) who has been trafficked according to the definition set out under “trafficking”.

### **Trafficker**

Any person that commits the crime of trafficking in persons. This is not limited to those involved in recruitment or transportation of people but includes employers and all those involved in the exploitation of the trafficked person.

### **Trafficking**

Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000):<sup>13</sup>

“(a) ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) ‘Child’ shall mean any person under eighteen years of age.”

This definition considers trafficking as the facilitated movement of a person by means of deception or coercion,

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<sup>13</sup> Supplementing the UN Convention Against Transnational Organized Crime (2000), hereafter referred to as the UN Trafficking Protocol.

etc. into conditions of exploitation, be it sexual exploitation, forced labour, slavery or slavery-like practices or servitude. As far as children are concerned, there is no need to prove that deception and coercion were used. The evidence of movement into exploitation is considered enough to define a child as “trafficked”.

Despite the fact that the UN Trafficking Protocol is attached to a Convention on organized crime, using this definition solely from a context of organized crime can be misleading. Many cases of trafficking do not fit within the organized crime model,<sup>14</sup> such as cases of child domestic workers who are trafficked by one or two persons, by a family or community member rather than by a syndicate.<sup>15</sup>

### **Exploitation**

Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (2000):<sup>16</sup>

“Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs...”

### **Forced labour**

Article 2 of ILO Convention No. 29 on Forced Labour (1930) says that a lack of consent to work is the essential element of forced labour:

“Forced or compulsory labour” shall mean all work or service which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”

The ILO has defined the worst forms of child labour, which provides a clearer context of what is considered forced labour in regards to children.

### **Migrant worker**

Article 2(1) of the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990) says that a migrant worker is any person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national.

In Thailand, this definition of a migrant worker would include hill tribes people who do not have Thai citizenship.

### **Irregular migrant**

Article 5 of the UN Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990) states in relation to migrant workers that they:

“(a) Are considered as documented or in a regular situation if they are authorized to enter, to stay and to engage in a remunerated activity in the State of employment pursuant to the law of that State and to international agreements to which that State is a party;

(b) Are considered as non-documented or *in an irregular situation if they do not comply with the conditions provided for in subparagraph (a) of the present article.*”

An irregular migrant is the same as an undocumented migrant. The definition of an irregular migrant includes all those that do not have valid documents authorizing their entry, stay or working status in the destination

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<sup>14</sup> This refers to a transnational organized criminal group of three or more persons.

<sup>15</sup> Dottridge, M. Kids as Commodities? Child trafficking and what to do about it, International Federation Terre des Hommes, Lausanne, May 2004.

<sup>16</sup> Supplementing the UN Convention Against Transnational Organized Crime (2000), hereafter referred to as the UN Trafficking Protocol.

country. According to ILO Convention No. 143, those regular migrants who lose their job in the destination country do not automatically become undocumented or irregular. Victims of trafficking can be either irregular or regular migrants.

### **Employer**

A person who manages, hires or pays another to perform labour or services under their supervision. This includes labour subcontractors.

### **Third party/recruiter**

Those who facilitate migrant workers to find employment and receive payment for this service.

## Trafficking and migration

Child trafficking is distinct from children migrating on their own to work. It is important to make a distinction between the two issues.<sup>17</sup> There is no mention in any international standards about a prescribed age for migration for children. Nor is migration for employment mentioned under ILO Recommendation 190 (to ILO Convention No. 182 on the worst forms of child labour) in the clarification on conditions to be considered in definitions of “hazardous” work.

Governments play a role in facilitating markets for cheap migrant labour through their policies. Government policies stimulate economic and social demand for certain goods and services while restrictions on regular labour migration mean that migrant workers are left vulnerable to traffickers. Destination governments largely fail to recognize the supply of cheap exploitable labour underlying production.

In many cases worldwide, desperate people ignore standards of acceptable working conditions and circumvent restrictive laws and policies so that they can fulfil their basic needs. This includes young people. There is a clear lack of policies protecting unaccompanied migrant children from abuse. Most initiatives to stop trafficking ultimately restrict the movement of young people. To avoid this but prevent the exploitation inherent in trafficking, migration alternatives for young people require serious consideration. In line with the best interests of children and young people, their right to movement and their opportunities to migrate and work cannot be overlooked.

## Lessons learned from demand-side research<sup>18</sup>

An ILO-sponsored pilot study in Cambodia illustrates the difficulties in conducting demand-side research without first establishing clear definitions of demand and a clear conceptual framework. Without concise definitions, it is easy to slip back into a standard anti-trafficking analysis that focuses far more on supply factors and vulnerabilities of victims.

For example, the Cambodian study examined demand in three service sectors: the sex industry, hotel and guesthouses and beer promotion. Any demand-side study needs to first establish whether trafficking is occurring in the sectors. These sectors were chosen through national stakeholders’ exercises as destination sites where trafficking occurred. However, it became apparent through the course of the research that there was clear evidence of trafficking into only one of the three sectors, the sex industry.

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<sup>17</sup> Dottridge, M., p.9.

<sup>18</sup> Publication forthcoming. The studies initially intended to look at the demand side of trafficking in Cambodia but will be published as a situational analysis of children and women in three sectors.

That those working in entertainment and service sectors are more likely to have been trafficked and more vulnerable to forced labour have not been confirmed – the research findings show no meaningful evidence of trafficking into beer promotion or hotel and guesthouse work. While there may have been flaws in forming the research methodology, the more important lesson is the need to move beyond pre-conceived ideas about areas of work where females are most likely to be exploited.

The primary lesson learned from this research is to choose sectors carefully, to establish a reasonable basis for assuming trafficking occurs into a sector. Conducting a preliminary phase of interviews with key informants in each sector is one way of determining if trafficking or forced labour occurs.

It is essential to have clear and specific research objectives, to define destination factors (demand) and have questions addressing each factor separately. When reviewing questionnaires, researchers should think carefully about what inferences might be drawn from the results.

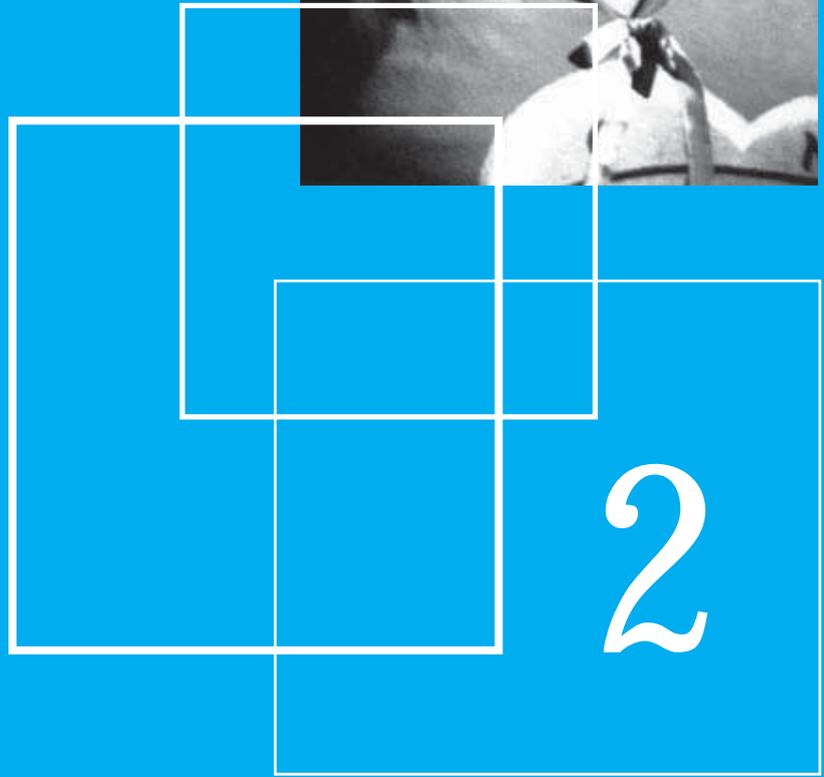
Researchers must be aware that employers who participate in interviews are most unlikely to be traffickers. Yet demand-side research is about recognizing that the line between the criminal behaviour of traffickers and lesser crimes of employers engaged in labour exploitation is quite blurred. Examining in detail the different sectors of work, and particularly from understanding the “normal” operating practices of recruiters and employers, provides considerable insight and can bring to the surface the grey areas and potential realms for exploitation. This is an example where researchers should be careful in drawing inferences of trafficking from responses of employers and recruiters. The responses from employers and recruiters give an indication of what they believe as

much as what they think they should say (or believe). With this in mind, it is still extremely useful to collect qualitative data from those engaged in various levels of work in different sectors to try and piece together what is acceptable and non-acceptable treatment of workers.

Research questions should not focus too much on supply factors (factors relating to victims and their personal background) but rather look in detail at the working and living conditions and rights in the workplace as indicators of factors at the destination point that encourage or help exploitation to occur. Questions may consider the mode of recruitment and work history to determine if trafficking occurred but should focus on the existence of deception or coercion in recruitment.

While access to victims is extremely difficult, for demand-side research to be most useful attempts must be made to interview the more vulnerable victims, such as those working in smaller and less visible factories or brothels. In places such as Cambodia, this includes migrant sex workers who do not speak Khmer who are more vulnerable to exploitation due to their limited ability to communicate. Researchers also should consider that those children and women who are currently working in sectors who participate in interviews may not be honest about their working and living conditions. They are more likely to say that things are acceptable out of fear of repercussions from the employer. This is especially the case if interviews are carried out on-site. It is highly preferable to interview children and women away from the work site or outside working hours. Some of the more promising research findings elsewhere have been done by research institutions that had some previous positive relationship or dealings with the ethnic or migrant group being interviewed.





## 2. Thailand and Vulnerable Workplaces

This section presents general information regarding the legal, political, economic and socio-cultural dimensions of four labour sectors in Thailand that have workplaces exploiting migrant labour. What is known about the extent of the exploitation (including trafficking and forced labour) is highlighted here.

### The Mekong context of destination-factors research

In the Mekong region, Cambodia, Thailand, Lao PDR and Myanmar have signed or acceded to the UN Trafficking Protocol.<sup>19</sup>

The ILO has been active in the region on the issue of trafficking for a number of years as have various UN agencies and the International Organization for Migration (IOM). And yet, very little research has been done on the demand side of trafficking, largely due to the conceptual difficulties as well as the difficulty in accessing traffickers and victims of exploitation. Anderson and O'Connell-Davidson conducted the only comprehensive demand-side study, which was worldwide in scope but included surveys and interviews with employers of domestic workers and clients of sex workers in Thailand.<sup>20</sup>

In that work, the researchers did not find a particular demand for trafficked labour per se in either the sex or domestic work sectors of Thailand. They even found it difficult to conclude that there was a specific demand by employers and clients for migrant workers – other than

migrants were readily available. Ultimately they concluded that the lack of legal regulation of these sectors in Thailand contributed significantly to the exploitation that takes place – which was a major finding of the whole study.<sup>21</sup>

There does exist considerable research on demand for regular migrant labour and much of it has focused on Thailand as a major destination country in the region. Studies commissioned by ILO and IOM have looked at the impact of its migration laws and policies, including the impact of various registration periods through the 1990s and 2000s. Overall, the studies find that migrant workers are increasingly employed in the agriculture, domestic work, fishing and manufacturing sectors in Thailand, for the following reasons:

- Work in these sectors is considered dirty, difficult and dangerous.
- The economic boom in Thailand, both prior to and after the 1997 economic crisis, has provided many Thais with more employment options and they no longer need to work in these lower-paying or less desirable (less labour protection and social benefits) sectors. Even with government initiatives to attract Thai people, they still prefer working elsewhere. But the boom still creates need for workers in these sectors, thus migrants are readily employed – regardless of their legal status.

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<sup>19</sup> See [http://www.unodc.org/unodc/en/crime\\_cicp\\_signatures\\_trafficking.html](http://www.unodc.org/unodc/en/crime_cicp_signatures_trafficking.html)

<sup>20</sup> Conducted by The Global Alliance Against Traffic in Women (GAATW)

<sup>21</sup> Interview, GAATW, Bangkok, 6 August 2004

## Legal framework in Thailand

### Thailand and relevant ILO conventions

Thailand has ratified 14 ILO Conventions,<sup>22</sup> which includes five of the eight fundamental conventions.<sup>23</sup> It has not ratified Convention No. 87 on Freedom of Association and Protection of the Right to Organize (1948),<sup>24</sup> Convention No. 98 on the Right to Organize and Collectively Bargain (1949) or Convention No. 111 on Discrimination (Employment and Occupation) (1958). Even without signing or ratifying them, as a member of the ILO Thailand is obliged to uphold the fundamental conventions. The right to freedom of association, collective bargaining and freedom from discrimination are customary rules of international law and binding upon all countries.<sup>25</sup> All of the rights enshrined in the fundamental conventions apply to migrants as well as citizens, although Convention No. 111 on discrimination is not obligatory in this regard.

The right to form and join trade unions is further protected under Article 8 of the UN International Covenant on Economic, Social and Cultural Rights (which has been ratified by Thailand). Article 30 of Thailand's Constitution gives protection from discrimination and the Constitution also includes the right to associate. Whether Thailand's constitutional provisions can be applied to non-Thai citizens has yet to be challenged.<sup>26</sup>

Thailand has not ratified the Migration for Employment Convention (Revised), 1949 (No. 97), the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) or the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.<sup>27</sup>

Thailand also has ratified Convention No. 122 on Employment Policy (1964), which is considered one of the ILO's 12 priority conventions.<sup>28</sup> Under Article 3 of Convention No. 122, employment policies (including migration for employment) should be designed with the fullest involvement of employers' and workers' organizations "with a view to taking fully into account their experience and views and securing their full cooperation in formulating and enlisting support for such policies".<sup>29</sup> This is a key principle of the ILO. That migrant workers in Thailand are prohibited by law from forming their own associations or precluded in practice from joining existing workers' organizations means they are excluded from participating in the development of such employment policies – in contravention of Convention No. 122.

### Migration law and policy

Over the past decade Thailand has pursued a migration policy of erratic registering periods that enabled undocumented workers in the country to register and

<sup>22</sup> <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-ratif8conv.cfm?Lang=EN>

<sup>23</sup> The eight fundamental Conventions are The Forced Labour Convention, 1930 (No. 29); The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); The Right to Organise and Collective Bargaining Convention, 1949 (No. 98); The Equal Remuneration Convention, 1951 (No. 100); The Abolition of Forced Labour Convention, 1957 (No. 105); The Discrimination (Employment and Occupation) Convention (No. 111); The Minimum Age Convention, 1973 (No. 138); and The Worst Forms of Child Labour Convention, 1999 (No. 182).

<sup>24</sup> Neither has Myanmar, Lao PDR or Cambodia.

<sup>25</sup> Muntarbhorn, *V. Employment and Protection of Migrant Workers in Thailand: National Laws/Practices versus International Labour Standards?*, draft, ILO, Bangkok, July 2004, p.29.

<sup>26</sup> Muntarbhorn, *V.*, p.29.

<sup>27</sup> Muntarbhorn, *V.*, p.30.

<sup>28</sup> The priority Conventions include the eight fundamental Conventions and four other Conventions: Convention No. 81 on Labour Inspection (1947), Convention No. 122 on Employment Policy (1964), Convention No. 129 on Labour Inspection (Agriculture) (1969) and Convention No. 144 on Tripartite Consultation (International Labour Standards) (1976).

<sup>29</sup> Tim de Meyer, Briefing Note: Migration Law and Practice in Asia and the Pacific in the Context of International and ILO Instruments, Sub-regional Training Workshop on Labour Migration Policy and Management, Ayutthaya, 2-6 August 2004, p.5.

work legally for limited periods of time. The process has been haphazard, varying from year to year with little information on future or sustainable measures. In 2002, Thailand adopted a new approach to migration management by signing bilateral memorandums of understanding (MOUs) with neighbouring Cambodia, Myanmar and Lao PDR. The new approach is a more “open-door” policy to manage, rather than reject, migrant workers.<sup>30</sup> The MOUs aim at preventing illegal migration and employment and controlling labour migration flows. The MOUs state that regular migrant workers are entitled to the same protection, wages and benefits provided by law to nationals, without discrimination as to race, gender or religion. Under the MOUs, the system of migration management is being decentralized to the provinces where provincial committees can authorize and allocate quotas by sector and occupations.<sup>31</sup> However, there is concern that if the fees to be collected from regular migrants under the MOUs are too high or difficult to collect, then migrants may still come to Thailand in an irregular fashion.<sup>32</sup> As well, the MOUs lack specific safeguards for the rights of migrants who have been trafficked or held in forced labour.

Following through on the MOUs, Thailand began a new process of registering all Burmese, Lao and Khmer migrant workers as of 1 July 2004. More than 1.2 million migrants registered with the Ministry of Labour. Almost 46 per cent of them were women; 71 per cent (male and female) were from Myanmar, 15 per cent from Lao PDR and 14 per cent from Cambodia. Migrants that register are permitted to work in fisheries and related industries, manufacturing, domestic work, agriculture, plantations, rice mills, shipping and construction work, if there is a shortage of Thais to fill the positions.<sup>33</sup> This registration period differed to previous ones in several ways:

- Migrants were able to register directly (not via their employers as in all previous registration periods).
- Non-working migrants such as children and dependants of migrant workers were able to register.
- Registered migrants received an ID rather than a work permit (in the first phase 1 – 31 July 2004), but convert it to a work permit when they have a job.
- The registration was free though migrants were required to pay 600 *baht* for a medical examination and 1,300 *baht* for medical insurance.
- Upon payment of the health fees, migrants could apply for a work permit costing 1,900 *baht* for one year. Thus the total cost for a full year of proper registration was 3,800 *baht*.
- Migrants could pay a total cost of 2,450 *baht* for three months’ registration or 2,900 *baht* for six months.<sup>34</sup>
- Employers also registered, including the type and number of workers they were employing and what gaps remained.

Those who did not apply for a work permit must leave Thailand by 31 July 2005. Children 15 years and older were permitted to register for “light work” only. This last registration process has overcome various problems and criticisms of previous periods where workers were unable to change employers and the registration fee was deemed too high. The ability to change employers enables migrants in situations of trafficking and forced labour to escape without fear of deportation. Previously, migrants needed approval from both the previous and new employers to make a change of employment. Now workers are able to move to a new workplace without the former employer’s permission. This is a very positive change to encourage those being held in exploitation to escape,

<sup>30</sup> Muntarbhorn, V., p.15.

<sup>31</sup> ASEM, *Country Reports: Asian ASEM Member Countries*, 6th Informal ASEM Seminar on Human Rights: International Migrations and Human Rights, Suzhou, China, 16-17 September 2004, p.29.

<sup>32</sup> Muntarbhorn, V., p.18.

<sup>33</sup> Arnold, D., “The Situation of Burmese Migrant Workers in Mae Sot, Thailand”, *Working Papers Series*, Southeast Asia Research Centre, City University of Hong Kong, No. 71, September 2004, p.17.

<sup>34</sup> Arnold, p. 17.

provided they can find new employment easily. The policy does not specify how long workers can remain in Thailand looking for another job once they escape or if they are dismissed by an employer.

Workers are not permitted to change employers frequently, which may encourage some to run away and then become undocumented. To alleviate these problems, some employers have suggested that workers could register via employer associations rather than by specific employers.<sup>35</sup> However, some labour advocates warn that this might render migrants even more vulnerable to exploitation due to increased control over workers by unscrupulous associations.<sup>36</sup>

In prior registrations, government quotas were deemed unrealistic in comparison to employers' needs. By registering what they needed in 2004, employers received a quota and can request replacement workers all year round.<sup>37</sup> In the 2004 process, employers requested a total of 1.59 million workers – greater than the number of migrants who registered.

Registration has had many positive benefits for migrant workers. For instance, the issuing of identity documents have afforded more protection to migrants who now feel safer to speak their own language in public and to complain to authorities about exploitation. An officer with the Migrant Assistance Programme<sup>38</sup> notes that since registration, registered workers have been more successful in their claims against employers, at least in settling small disputes with employers.

However, various problems with the current registration process remain, such as:

- Incidences of corruption and harassment of migrants by local officials and police continue.
- Continuing mistrust by migrants of the purpose of the registration (some think that this was simply a way to round up “illegals” to return them to their home country). For example, the surfacing of children younger than 15 made them vulnerable to being picked up and repatriated.
- Insufficient time for registration, especially for those working on fishing boats.
- Some employers withhold migrant ID cards. Even if ID cards are held by the workers, they lack a secure place to keep their documents and are still vulnerable to harassment by people within their communities, such as police. The additional vulnerability of this practice was exemplified in the tsunami disaster when authorities immediately deported workers who had ID documents but had lost them in the rushing waves. Re-registration of workers was a low priority and thus those migrant workers were immediately exposed to harassment.
- Many migrants lack awareness on what rights they have as registered workers; they know they have a card but are unable to say what it is for.
- Migrants still lack access to health services. If they do not speak Thai they cannot explain their symptoms to Thai doctors and hospitals. The flat fee of 30 baht for medical consultations is deemed too high when migrants have already paid 1,300 baht for medical insurance.

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<sup>35</sup> Interview, Seafood Processors' Association of Samut Sakon, Samut Sakon, 11 August 2004.

<sup>36</sup> Such as the Migrant Assistance Programme and the Thai Labour Campaign

<sup>37</sup> Charoensuthiphan, P. and Phanayanggoor, P. “Registration of alien workers starts today”, *Bangkok Post*, 1 July 2004

<sup>38</sup> An NGO assisting migrant workers in northern Thailand; interview 6 May 2005

The above problems mean that many migrants still fail to see the intended advantages of the registration process and merely regard it as an additional financial cost. As these problems illustrate, some registered migrant workers are still unable to access their rights, even if they are in a stronger position than unregistered workers.

Registration has not stopped undocumented migrants from being employed. One official of an employers' association commented that police cannot stop the employment of irregular migrant workers due to the high demand and the low penalty for illegal employment. In practice, employers are never imprisoned and only need to pay a fine (usually around 20,000 baht).<sup>39</sup>

### Labour laws

The Labour Protection Act B.E. 2541 (1998) applies to migrant workers equally as to Thai citizens, regardless of their legal status. Yet migrants receive only a fraction of the minimum wage in some sectors and geographical areas. Thai criminal and civil laws also apply to both documented and undocumented migrants. Yet there are many cases of undocumented migrant workers being deported after pursuing this right.<sup>40</sup>

Most Thai labour laws, including laws concerning minimum wage only apply to businesses that employ ten or more workers.<sup>41</sup> Agricultural and home workers are explicitly denied protection under the Labour Protection Act. Only in matters of wages, annual holidays and sexual harassment are domestic workers protected.<sup>42</sup> According to a study of Thailand's 33 million workforce population, only 5.9 million (18 per cent) are fully covered by labour protection laws.<sup>43</sup> The right to organize is denied to all informal workers, whether migrant or local.

It is against Thai law for migrant workers to form trade unions. While they are allowed to join trade unions as members, in practice, existing worker organizations have not expressed willingness to represent the interests of migrants.<sup>44</sup> The law also does not allow registered unions in the agriculture, fisheries and domestic work sectors.

Thai labour law allows for employers to delegate their obligations and legal responsibilities to a "boss".<sup>45</sup> This has implications for trafficking and forced labour cases because it means those employers, including multinational corporations and larger corporations, can disregard whether or not trafficking or forced labour is occurring in factories producing their goods by passing on their responsibilities as employer to a subcontractor. Even subcontractors have evaded punishment for abusive conditions of employment.<sup>46</sup>

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<sup>39</sup> Interview, Seafood Processors Association official, Samut Sakon, 11 August 2004

<sup>40</sup> In one case of manufacturing workers, 420 registered workers who complained about gross underpayment of wages and forced overtime were fired and deported back to Myanmar.

<sup>41</sup> Martin, P. *Thailand: Improving the Management of Foreign Workers*, ILO and IOM, Bangkok, 2003, p.28. Although there has been some discussion on reducing this to companies employing 5–9 workers, as yet it has not occurred.

<sup>42</sup> For the exact list of sections excluded from domestic work refer to Amparita, M., *Study on the Legal Protection of Child Domestic Workers in the Asia-Pacific*, ILO/Japan/Korea Asian Meeting on Action to Combat Child Domestic Labour, Chiang Mai, 2–4 October 2002, p.63.

<sup>43</sup> Martin, P., p.30.

<sup>44</sup> Interview, ILO workers specialist, Bangkok, 6 August 2004.

<sup>45</sup> Section 5 Labour Protection Act (1998) as referred to in Lee, R. and Wannaboriboon, P., p.37. A boss is "a person who agrees to accept an employee in return for a wage as well as someone who has been assigned to work on behalf of an employer".

<sup>46</sup> Interview, Migrant Assistance Programme, Bangkok, 6 May 2005.

Despite the limited protection that is available in practice in Thailand, exploited migrant workers have little knowledge about the labour laws, their rights or how to report violations. Enforcement of the limited legal protections for migrant workers also is lacking and Thailand's judicial system is complicated and unfriendly, with claims taking a long time to process.<sup>47</sup> An Office of Labour Standards established in 2002 has lacked the power to do anything of consequence to improve labour protection. Labour inspection of work sites continues to be weak in Thailand with few inspections and an ever increasing number of establishments: In 2002, for instance, there were only 600 labour inspectors for more than 300,000 factories.<sup>48</sup> There does exist an additional reporting mechanism, but without the backing of a union, workers are not willing to report bad practices of employers.<sup>49</sup>

### Child labour laws

In 2004, Thailand ratified ILO Convention No. 138<sup>50</sup> on the minimum age for employment. Under Thai law, employment of children younger than 15 has been prohibited since 1998.<sup>51</sup> Those aged 15–18 are permitted to work in certain protective conditions.<sup>52</sup> Though Thailand ratified ILO Convention No. 182<sup>53</sup> on the worst forms of child labour, Thailand has not drafted a list of what comprises hazardous work.<sup>54</sup>

### Anti-trafficking law

Thailand has signed (but not yet ratified) the UN Trafficking Protocol. It has a law criminalizing trafficking in women and children for sexual and labour exploitation<sup>55</sup> and it is expected to broaden the scope of this law to bring it in line with the Protocol.<sup>56</sup> In 1999 the Government signed an MOU<sup>57</sup> to provide minimum standards for the treatment of women and child victims of trafficking, such as not placing them in immigration detention facilities and providing them with appropriate shelter. Although, this means that those without proper papers or pursuing a legal case can spend long periods of time in the shelter, effectively being held in “detention”. Prosecuting cases of trafficking for labour exploitation have been difficult; traffickers typically are prosecuted under other laws, such as use of child labour or hiring undocumented workers, and the victims are rarely regarded as victims of trafficking.<sup>58</sup> This is beginning to change, however, as evidenced in the recent case mentioned earlier (of Laotian children trafficked into informal manufacturing in Bangkok).

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<sup>47</sup> Lee, R. and Wannaboriboon, P., p.44.

<sup>48</sup> Lee, R. and Wannaboriboon, P., p.49.

<sup>49</sup> Lee, R. and Wannaboriboon, P., p.50.

<sup>50</sup> See Annex I

<sup>51</sup> Section 44 Labour Protection Act (1998).

<sup>52</sup> Section 45 Labour Protection Act (1998).

<sup>53</sup> See Annex I

<sup>54</sup> Ratified 16 February 2001

<sup>55</sup> Traffic in Women and Children Act B.E. 2540 (1997).

<sup>56</sup> Muntarbhorn, V., p.30.

<sup>57</sup> Common Guidelines of Practices among Concerned Agencies, B.E. 2542

<sup>58</sup> Pearson, E., Human Traffic, *Human Rights: Redefining Victim Protection*, Anti-Slavery International, London, 2002, p.177-8.

## Political context

Human trafficking is a high priority of the Thai Government, as indicated by the creation of the National Committee on Combating Trafficking in Children and Women and the allocation of 500 million baht in government funds to deal with human trafficking and related social issues.<sup>59</sup> The prime minister hosted a national conference on trafficking in August 2004, although his opening-ceremony statements reflected more concern with trafficking for sexual exploitation than the trafficking of migrants into Thailand and into all exploitative labour sectors.

There is certainly little political will to pursue the concerns of exploited migrant workers, despite policies to stimulate investment in industries such as agriculture, fishing and textile manufacturing.<sup>60</sup> While the MOUs with neighbouring countries on migrant employment address the demand for migrant labour in Thailand, they lack comprehensive protection for migrant workers.

The Government even seems unconcerned about bilateral implications, such as preferential trade benefits status from the United States, which requires implementation of international workers' rights (such as ILO conventions). Trade unions and NGOs can complain to the US Congress about violations of the Generalized System of Preferences.<sup>61</sup> As well, Section 301 of the US Tariff Act (1930) prohibits imports of products made in whole or in part by prison labour, forced labour or indentured

labour or forced or indentured child labour. Imported goods found in violation of the law are banned.<sup>62</sup> The US is Thailand's largest export market, receiving approximately 20 per cent of Thai exports.<sup>63</sup>

## Economic context

Thailand is by far the wealthiest country in the Mekong region. In 2003, it had the highest economic growth (real GDP growth rate of 6.3 per cent) and the lowest unemployment rate (at 2.2 per cent) in the subregion. A US Government report stated that with a projected growth of 7–8 per cent in 2004, Thailand could overtake China as Asia's fastest growing economy.<sup>64</sup> Prime Minister Thaksin Shinawatra has said that illegal immigration is inevitable as Thailand's GDP accounts for 91 per cent of the combined GDP of four Mekong countries (Cambodia, Lao PDR, Myanmar and Thailand). But Thailand's growth over the past decade has relied heavily upon migrant labour in many sectors. Without migrant workers, Thailand would lose its competitive edge, which is a cheap and constant work force. Migrant workers are paid considerably less than their Thai counterparts in all four sectors. For example, an Institute for Population and Social Research (Mahidol University) study in Tak province found that workers from Myanmar were paid less than half of what Thai workers received.<sup>65</sup> Labour-intensive garment factories and agricultural farms increasingly are relocating to areas bordering Myanmar to capitalize on cheap Burmese labour.<sup>66</sup>

<sup>59</sup> Government Public Relations Department, Office of the Prime Minister of Thailand, *The National Agenda on Human Trafficking*, 10 August 2004 at [http://thailand.prd.go.th/the\\_pm\\_view.php?id=201](http://thailand.prd.go.th/the_pm_view.php?id=201)

<sup>60</sup> Brown, A. and Hewson, K., "Labour Politics in Thaksin's Thailand", *Working Papers Series No. 62*, Southeast Asia Research Centre, City University of Hong Kong, March 2004 quoted in Arnold, D., p.9.

<sup>61</sup> E-mail communication, US Customs Section, US Embassy, Bangkok, 24 September 2004.

<sup>62</sup> E-mail communication, US Customs Section, US Embassy, Bangkok, 24 September 2004.

<sup>63</sup> Ahearn, R. and Morrison, W., *U.S.- Thailand Free Trade Agreement Negotiations*, Foreign Affairs, Defence, and Trade Division, April 2004, p.3.

<sup>64</sup> Ahearn, R. and Morrison, W., p.3.

<sup>65</sup> Sirinan, K., and Punpuing, S., *Case Study of Textile and Garment: Improving Migration Policy Management with Special Focus on Irregular Migration*, Institute for Population and Social Research, Mahidol University, undated, draft only

<sup>66</sup> Martin, P., p.3.

What is interesting is the argument that Thailand cannot afford to pay migrant workers more. Some economists have shown to the contrary that labour is only a small portion of the total retail costs (1–5 per cent) of most goods. Thus increasing labour costs will increase prices only marginally<sup>67</sup> so that a slight increase in wages will not affect price competitiveness.<sup>68</sup> But with international retailers wielding power over prices, local suppliers have to cut costs where possible. In Thailand, labour is still a significant area to cut costs. The increasing economic pressure to squeeze labour is resulting in some possible situations of forced labour. Migrant workers are especially vulnerable to exploitation due to their lack of rights to organize.

The elimination of import quotas under the Multi-Fibre Agreement is expected to have a significant economic impact on Thailand's textile manufacturing sector as international buyers turn to China. An estimated 30 per cent of small-scale Thai manufacturers will be pushed out of business and thousands of workers forced into the informal sector, further undermining legal protection of migrant workers.<sup>69</sup> The Thai Government is negotiating free trade agreements with a host of countries for preferential quotas. It is unclear at this point what impact this might have on trafficking and forced labour in the sector, though the competitive strain upon the manufacturing industry may encourage severe exploitation of workers.

## Socio-cultural context

The Anderson and O'Connell-Davidson research into the demand-side of trafficking in Thailand found that there

are preferences for particular nationalities of migrants in certain sectors, as a result of social norms and attitudes. Workers from Myanmar, for instance, are preferred in domestic work because they are regarded clean and fair; Khmers are less desired for domestic work but preferred for outdoor labour because they are considered dark-skinned and hard working, thus in higher demand in fishing or agriculture.<sup>70</sup> The research also found that employers and clients perceive migrant domestic workers and sex workers as “second best” to locals, but because of the abundant supply of migrants they were acceptable substitutes. Migrant workers in all sectors suffer discrimination and prejudice and are subjected to racist stereotypes that deem them suitable for unskilled jobs but unsuitable for others. The registration policy reinforces this by only permitting migrants to work in unskilled sectors.

Employers exhibit pervading values and attitudes when hiring migrants, acknowledging that migrants are more obedient, more hard-working and more tolerant of bad working conditions than their Thai counterparts. In an interview during research for this report, one employer commented that Thai workers are more motivated by labour welfare and are more demanding than migrant workers.<sup>71</sup> Preferences for women and child workers indicate they may be easier to exploit because employers perceive them as weaker.

Preconceptions about migrant workers, especially young migrant workers, seem to encourage bad treatment by some employers: lower wages than what is paid to Thai co-workers, cheating migrants out of wages or restricting their movement. In extreme cases, some employers have forced migrants to work. In fishing, domestic work and

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<sup>67</sup> Ascoly, N. and Zeldenrust, I., *East and Southeast Asia Regional Labour Research Report*, Clean Clothes Campaign, 2003, p.25.

<sup>68</sup> Birnbaum D., *Birnbaum's global guide to winning the great garment war*, Third Horizon Press, Hong Kong, 2000, p.144–146 quoted in Oxfam Hong Kong Briefing Paper, *Turning the Garment Industry Inside Out: Purchasing Practices and Workers' Lives*, Oxfam Hong Kong, April 2004, p.14.

<sup>69</sup> Lee, R. and Wannaboriboon, P., p.31.

<sup>70</sup> Interview, GAATW, Bangkok, 6 August 2004.

<sup>71</sup> Interview, Siam Union Frozen Foods, Samut Sakon, 11 August 2004.

manufacturing, restricted freedom of movement out of the work site (where workers also may live) is not uncommon. It appears that sometimes employers and workers agree to this system due to police harassment. According to one migrant employee at a fish processing factory, migrant workers will remain inside a work site on a public holiday, even though they're not working, only because it is safer.<sup>72</sup> Even where such claims about the "safety" of closed compounds are true, they provide a basis on which migrant workers are more vulnerable to exploitation and have no ability to register complaints to independent parties concerning the working conditions. This shows how the Government's repression against irregular migrants is sanctioning and justifying employers' control and imprisonment of workers – in the case of Thai workers, it would not be acceptable.

### Known extent of trafficking and forced labour

While there is abundant information on trafficking into the sex industry in Thailand, little information focuses on trafficking into the four sectors chosen for the forthcoming research. All four sectors do employ large amounts of migrant workers. Researchers for a World Vision study concerning deception of Burmese workers in Thailand interviewed migrants working in all four sectors (as well as other occupations) in Mae Sot, Mae Sai and Ranong. Of the total 1,187 respondents, the majority of whom were aged 19–25:

- 5.3 per cent were forced into prostitution
- 3.9 per cent were forced to work without pay
- 1.2 per cent were enslaved
- 0.7 per cent were imprisoned in a workplace and had to escape
- 1.1% were sexually abused.

The highest incidences of forced labour and deception of workers were found in Ranong, followed by Mae Sot. This indicates a high level of deception in the fishing sector, as most migrants employed in Ranong work in the fishing industry. Almost a third of the respondents in Ranong were given false information about the work they would do and/or working conditions.<sup>73</sup>

Based on a study in 2003 that examines the demand for migrant labour, the Thailand Development and Research Institute (TDRI) estimates a national requirement for approximately 585,000 workers for 2005–2006.<sup>74</sup> These figures are quite conservative and have been overtaken by recent migrant registration numbers. In the latest figures issued by the Ministry of Labour and Social Welfare, more than 1.2 million workers and their dependants registered for a temporary right to stay in Thailand. Of this number, more than 800,000 have since taken the additional step of obtaining their work permit. Employers have requested workers for a total of 1.5 million job positions.

There may be a large amount of movement of migrant workers between sectors. For example, fishing and fish processing are seen as "worse" (dirty and difficult, frequent night hours) than manufacturing, yet an improvement upon working in construction. There is some scope for further exploration of any patterns of this movement and to see if workers were initially trafficked into one sector but then escaped and were able to work in better conditions in another sector.<sup>75</sup> Clearly trafficking and forced labour would only account for a small but significant percentage of the total migrant workforce in each sector, as indicated in the World Vision report – approximately 6.7 per cent of those working in sectors other than prostitution.<sup>76</sup>

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<sup>72</sup> Informal conversation with migrant worker peeling shrimp in Samut Sakon, 11 August 2004.

<sup>73</sup> World Vision Foundation of Thailand, o.98.

<sup>74</sup> Thailand Development Research Institute; Population and Social Research Institute, Mahidol University; and Institute of Asian Studies, Chulalongkorn University, *The Study of the Demand for Migrant Workers in Thailand Between 2003 and 2005*, for the Office of National Security Council (Office of Prime Minister), October 2003, p.7-22 (TDRI Study) (in Thai language, see bibliography for full Thai citation).

<sup>75</sup> For example, GAATW has documented women migrant factory workers who were initially trafficked into the sex industry.

<sup>76</sup> World Vision Foundation of Thailand, p.95.

## Recruitment process

A Terre des Hommes report states that a wide range of people are involved in child trafficking in Thailand, including village leaders, school teachers, temple monks, police at border checkpoints, brothel owners, local doctors, bank officials, taxi drivers, tour operators and criminal gangs.<sup>77</sup> Recruitment of migrant workers into the sectors generally seems to work mainly through informal migrant networks. None of the sectors show a high use of formal recruitment agents except in some cases for domestic workers (in Bangkok) and in some cases for fishing (working on fishing boats). The World Vision study of migrant workers from Myanmar found that the overwhelming majority (84 per cent) of them crossed into Thailand on their own, with family members or with friends.<sup>78</sup> Only 7.5 per cent came to Thailand through the services of a broker and 0.4 per cent with their prospective employer. From the existing research material, employers seem content with hiring workers through informal contacts rather than agencies. But more information is needed to determine if this is the case in terms of trafficking for all sectors and if so, why is it preferred.

## Profile of traffickers, employers and third parties

There is a distinct lack of information in this area because of the difficulties interviewing those who are culpable. Certainly not all employers and third parties that recruit migrant workers for employment are traffickers. Those willing to be interviewed are most unlikely traffickers.

It is possible that some employers are not aware that they are engaging in exploitation and can be influenced to change their behaviour. In some cases, such as domestic

work, employers may see themselves as genuinely acting in the best interest of trafficked children they employ.<sup>79</sup> Some employers lack awareness that physical confinement of workers is a violation of their rights. In fact, these employers think it is justified if a worker owes them money (e.g. for the registration fee) as they are protecting their investment. It is also justified on the grounds that they are protecting workers from police intimidation (workers are safer locked in) or because they see a legal obligation to the Government not to let a migrant worker escape.<sup>80</sup> Some employers in the domestic work, fishing and manufacturing sectors lock migrant workers inside on-site accommodation at night. This is an example of how Government policy can be used to increase the vulnerability of migrant workers to exploitation and perpetuate the systems of control by employers over workers.

Some employers play up the public's fears regarding national security and migrants as dangerous people not to be trusted. For example, when proposing that workers' accommodation and food costs for living on-site should be deducted from their salaries, a Tak Industrial Council official commented that migrants living outside the factories had the potential to create community problems.<sup>81</sup>

## Employers' and workers' associations

There are few associations of employers and workers in all sectors due to the informal nature of the work. The exception is the fishing industry where nationally and in some provinces employers are well organized. Employers in the fishing industry have spoken out about the need for a larger number of regular migrant workers in Thailand.

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<sup>77</sup> Dottridge, M., p.32-3.

<sup>78</sup> World Vision Foundation of Thailand, p.90.

<sup>79</sup> Dottridge, M., p.73.

<sup>80</sup> Interview, ILO employers' specialist, Bangkok, 6 August 2004.

<sup>81</sup> "Alien workers have rights, employers told", *Bangkok Post*, 12 August 2004

The fishing industry is more professional with larger businesses and factories, whereas sectors such as agriculture have more small, family-run businesses. Individual fishing associations have bonded together into one national association of fisheries. The agriculture sector has no equivalent. While larger-scale manufacturers are members of the Federation of Thai Industries (FTI) or the Employers Confederation of Thailand (ECOT), the small to medium-sized firms are often not represented. In the absence of formal associations, these smaller-scale employers organize themselves in other ways. However, it is difficult for outsiders to access these kinds of informal employer associations.<sup>82</sup> Employers of domestic workers do not typically regard themselves as employers.

Employers often are unaware that migrants have the same rights as Thai workers. Some employers in Tak province, which employs many migrants in manufacturing and agriculture, have stated that campaigns about labour protection and benefits under the law would make workers “too aware of these rights” and could lead to problems if they pressed for them.<sup>83</sup>

The organizing of employers in Samut Sakon in southern Thailand is a unique example illustrating how employers’ associations can increase the visibility of migrant workers and somewhat help reduce the realm for severe exploitation to take place. An official of Raks Thai, (an organization in Samut Sakon that supports migrant workers), talked of his NGO’s positive experience in establishing relationships with “gatekeepers”, such as local officials and boat owners, who in turn gave Raks Thai access to fishermen when they were conducting research.<sup>84</sup> Through sympathetic employers’ associations, increased access to workers is possible. In many cases, however, such access is not granted if it is to inform workers of their labour rights.

Employers’ associations in Thailand’s fishing industry have raised the issue of corruption among local authorities and the need to tackle harassment of migrant workers, from whom corrupt officials reportedly extract bribes. Where employers’ and workers’ interests converge, employers can be a powerful force of advocacy for workers’ rights with the Government.

Employers do have an interest in ensuring that trafficking and forced labour does not occur and that migrant workers have minimal labour protection. It may affect their businesses if reports of trafficking and forced labour are occurring in the sector or if Thailand’s labour record is considered so bad that international corporations buying Thai products look elsewhere.

Existing employers’ associations could speak out publicly about cases of trafficking and forced labour and state what actions they are taking to prevent it.<sup>85</sup> For example, they could open their factories to labour inspections, give workers more freedom of movement and give them information on how to report complaints to independent monitors. Where cases of trafficking and forced labour come to light in their sector, employers should make an effort to speak out publicly and what course of action they will take. Ethical employers could set a role model for others by showing how it is possible to be competitive without the use of trafficked or forced labour. Such employers could educate other employers as to what are their responsibilities to their workers. Peer pressure among employers is useful: If a worker from one factory complains of forced labour, then another employer could speak employer-to-employer to verify what occurred and suggest a course of action.<sup>86</sup> In a clear case of forced labour or trafficking, peer pressure is not sufficient – the employer must be punished as a trafficker for their abuses.

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<sup>82</sup> Interview, Thai Labour Campaign, Bangkok, 6 May 2005.

<sup>83</sup> “Alien workers have rights, employers told”, *Bangkok Post*, 12 August 2004.

<sup>84</sup> Press, B., p.55.

<sup>85</sup> Interview, ILO employers’ specialist, Bangkok, 6 August 2004.

<sup>86</sup> Interview, ILO employers’ specialist, Bangkok, 6 August 2004.

By bringing in such measures, the industry as a whole may be seen as more accountable and less tolerant, thereby narrowing the scope for exploitation to occur and preventing trafficking and forced labour.

As previously mentioned, migrants in Thailand are not allowed to form trade unions. There are some labour support groups, such as the Free Trade Union of Burma (FTUB), Migrant Assistance Programme and Yaung Chi Oo Workers Association (YCOWA), that support informal organizing of migrant workers. Workers are usually quite unwilling to take direct action. Often when informal associations have tried to alter conditions of work and demanded basic labour rights, workers involved sacked and deported.<sup>87</sup> In one case in 2003, 420 legally registered migrant workers were fired and deported back

to their native Myanmar immediately after jointly bringing a labour complaint to the Tak Labour Office.<sup>88</sup> Some reports indicate the employer and immigration officials colluded against the migrant workers and that the Labour Office had no power to take action to protect the workers and prevent their deportation. This does not set a positive example to other migrant workers to bond together and fight for their rights.

Currently, there is no channel for workers to report labour rights violations other than to the Labour Office, but the above case reinforces it as a risky alternative. Until migrants' rights to freedom of association are recognized in Thailand, they will remain powerless against those employers engaged in exploitative practices.

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<sup>87</sup> Arnold, D., p.12.

<sup>88</sup> For more details on the facts of this case see Arnold, D. and UN Commission on Human Rights, *Report of the Special Rapporteur on the human rights of migrant workers (Gabriela Rodr?guez Pizarro) – Addendum - Communications sent to Governments and replies received, 60th Session*, doc. no. E/CN.4/2004/76/Add.1, 16 February 2004.





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### 3. Recommendations

This report of existing material and information relevant to the demand side of trafficking in four labour sectors offers preliminary recommendations on labour and migrant policy and practice in Thailand to address the destination factors that make work sites vulnerable to trafficked and forced labour. They are presented as suggestions to be further explored in greater detail through the research process with the Government, workers' and employers' associations, migrant organizations and migrant workers.

#### To the Thai Government:

1. Ratify outstanding ILO fundamental conventions, especially Convention No. 87 and No. 98 that concern the right of workers to organize.<sup>89</sup>
2. Ratify the UN Convention on the Rights of Migrant Workers and Members of Their Families.
3. Amend provisions of the Labour Protection Act that exclude certain categories of workers (workers in agriculture, domestic work, fisheries and small or informal companies) from any aspect of labour protection. Recognize the right for such workers to be treated equally and to enjoy the same labour rights as other workers.
4. Establish a long-term, open and transparent migrant work policy with clear labour and social protection for migrants under the law (equal to Thai workers) in all four sectors. Ensure that migrants have practical access to human rights, such as equal treatment, fair and just labour practices and working conditions, access to education and social protection.
5. Set clear standards for minimum acceptable working conditions for all workers (migrant and Thai) in all sectors. This should include the rights to a regular day off, written contracts, minimum wage, maximum working hours, voluntary overtime, paid holidays, sick and maternity leave and the right to form and join associations.
6. Develop a policy paper justifying migrant labour and engage in clear and transparent migrant worker policies that are easy for migrants and their employers to understand and that are enforced. Thai trade unions and migrant associations also should be a part of this process.<sup>90</sup>
7. Establish a simple but effective independent complaints mechanism for reporting labour violations in each sector, as the Labour Protection Offices are not effective in dealing with complaints from migrant workers. Consider use of registration

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<sup>89</sup> Conventions available in Annex I

<sup>90</sup> As proposed by Martin

fees to fund this body that can investigate labour complaints and mediate between migrant workers and employers. This should include a social support division that can advise migrants on where and how to obtain necessary social support, such as lawyers, medical care, translators, emergency shelter, etc.

Even if all migrant workers are not able to enforce their legal labour rights, if there is a possibility for them to improve their labour conditions and alternatives available, such as ethical employers of migrant labour who will protect their basic labour rights, then this should set a role model and give courage and motivation to migrant workers to escape from employers who exploit them in conditions of forced labour and trafficking.

8. Ensure that Labour Departments are neutral and are structurally independent from any association that serve the interests of employers, recruitment agents or workers.
9. Establish a mechanism of complaint against employers who do not register workers so that these migrants are not discriminated against and so that these employers are punished. Likewise, ensure that there is enforced punishment for employers who control the documents of their workers, such as through a considerable fine. Prosecute employers who restrict workers' freedom of movement with unlawful detention. Ensure migrants can register complaints against police and other officials or individuals that attempt to extort money; this could be advised or managed by an existing anti-corruption unit. Ensure strict and swift punishment of any police or border officials that engage in corruption or harassment of migrant workers.
10. Ministry of Labour should revise its system of labour inspection to make it more effective: by increasing the number of labour inspectors, inspecting informal work sites where complaints are registered (such as

private homes) and inspecting compliance with international labour standards. The current use of voluntary labour monitors who are migrant workers should be explored further in this regard.

11. The National Committee on Combating Trafficking in Children and Women should encourage the Ministry of Labour to be more active in preventing trafficking of migrant workers. There is a need generally for the Government's anti-trafficking efforts to focus more closely on trafficking of migrants to Thailand for labour exploitation.
12. Engage with migrant workers, their representatives and employers, their representatives and also among representatives of investment and trade sectors to agree on practical solutions to protect migrant workers from severe forms of exploitation. Consider setting up a task force to discuss these issues.

#### To employers (associations)

1. Recognize, as individual employers, the need for migrant labour and respecting the rights of migrants to form associations to systematically address migrant labour concerns with the Government.
2. Engage with workers' associations and the Government.
3. Publicly state the need for migrant workers in the long-term as well as short-term and lobby the Government for a long-term migration management plan rather than short-term registrations of undocumented workers.
4. Engage in campaigns aimed at the public that focus on acceptance of migrants and their families, so they experience less discrimination and stigmatization in Thailand.

5. Employers' associations in the fishing sector could share information and best practices with employers in agriculture and other sectors as to how to form organizations and reasons why they advocate for the interests of migrant workers.
6. Employers' associations should speak out publicly about trafficking and forced labour in their sector and explain what specific steps their members take to prevent such abuses from occurring.
7. Employers' associations should show how employers can still be competitive in their industry without the exploitation of workers.

#### To workers (associations)

1. To Thai trade unions, adopt a policy on migrant workers respecting their rights to equal labour protection to Thai workers. Enforce this policy by supporting migrant workers suffering exploitative conditions to bring cases against employers. If migrants are treated equally to Thai workers in wages and conditions of work, they will not be a threat to Thai workers.
2. To Thai trade unions, as part of the above policy, actively encourage migrant workers to join Thai trade unions.
3. To international trade unions, support Thai trade unions to enable migrants to become members by sharing the experiences of other countries in the region which accept migrant workers as their members and advocate for migrant worker protection (such as Malaysia, Hong Kong SAR and Korea).

#### To ILO and other organizations interested in protecting migrant workers from trafficking and forced labour:

1. Given the current practical obstacles to organizing migrant workers, investigate the role that corporate social responsibility could play in making employers more accountable for minimum labour standards. Engage with big-name retailers who can be used to bring change and pressure to ensure minimum labour standards are enforced.
2. Prioritize advocacy efforts to change law and practice to facilitate organization of migrant workers and increased protection to all those in informal sectors of work.
3. Raise awareness among Thai trade unions about the important role of migrant workers and how trade unions should extend membership to migrant workers as a means of protecting the rights of local workers.
4. Document good practices of employers' associations in addressing the concerns of migrant workers.
5. Document cases from migrant support organizations and NGOs about the extent of trafficking and forced labour in all four sectors.
6. Promote informal migrant associations and labour organizations, in the absence of labour unions, with representatives from labour rights NGOs. Share information about existing migrant unions and associations in other countries with local migrant support organizations, especially how organized workers are able to detect, monitor and report cases of trafficking and forced labour. Recognize that establishing informal networks of migrants might aid in the identifying of those who are in trafficked situations, even by being aware of closed work sites.

7. Establish forums for migrant workers to engage with, and make recommendations to, the ILO, trade unions and the Thai Government.
8. Campaign for migrant workers in all sectors to enjoy a regular day off. This is a minimum requirement for migrants to have the practical ability to meet and organize.
9. Focus activities on improving migrant labour protection in Mae Sot, given the very limited and questionable access to formal labour mechanisms. Pilot activities there and consider what practices might be transferable from the Samut Sakon experience.

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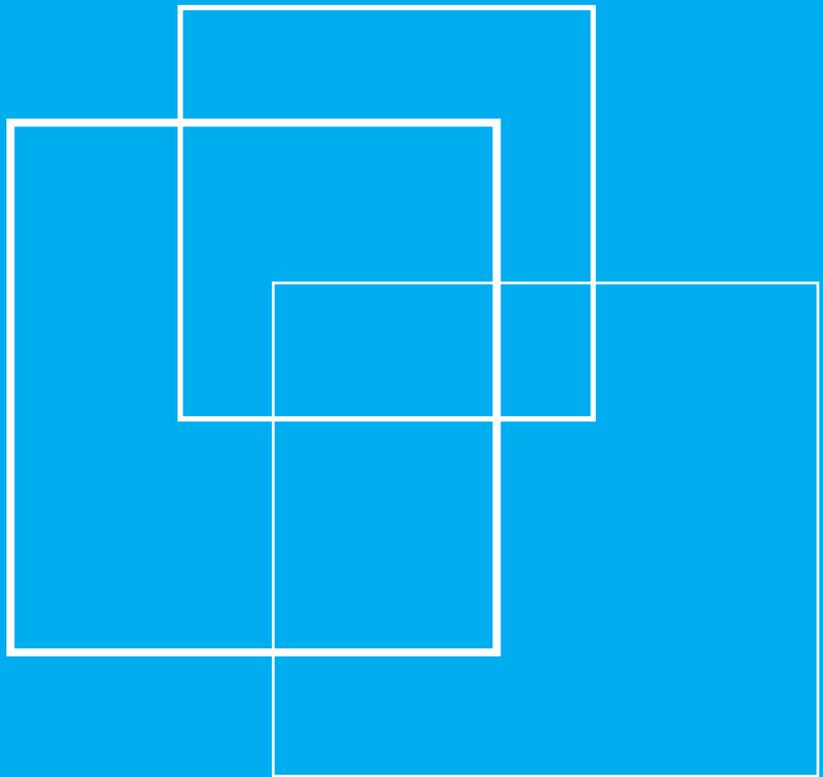
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# Annex I



## Annex I - ILO Conventions and Recommendations

The following ILO Conventions and Recommendations cited in this report are included for reference:

ILO Convention No. 29  
ILO Convention No. 87  
ILO Convention No. 98  
ILO Convention No. 111  
ILO Convention No. 138 & Recommendation No. 146  
ILO Convention No. 182 & Recommendation No. 190

### C29 Forced Labour Convention, 1930

Convention concerning Forced or Compulsory Labour  
Convention:C029

Place: Geneva

Session of the Conference:14

Date of adoption:28:06:1930

Date of coming into force: 01:05:1932

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fourteenth Session on 10 June 1930, and

Having decided upon the adoption of certain proposals with regard to forced or compulsory labour, which is included in the first item on the agenda of the Session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-eighth day of June of the year one thousand nine hundred and thirty the following Convention, which may be cited as the Forced Labour Convention, 1930, for ratification by the Members of the International Labour Organisation in accordance with the provisions of the Constitution of the International Labour Organisation:

#### Article 1

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to suppress the use of forced or compulsory labour in all its forms within the shortest possible period.

2. With a view to this complete suppression, recourse to forced or compulsory labour may be had, during the transitional period, for public purposes only and as an exceptional measure, subject to the conditions and guarantees hereinafter provided.

3. At the expiration of a period of five years after the coming into force of this Convention, and when the Governing Body of the International Labour Office prepares the report provided for in Article 31 below, the said Governing Body shall consider the possibility of the suppression of forced or compulsory labour in all its forms without a further transitional period and the desirability of placing this question on the agenda of the Conference.

## Article 2

1. For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.

2. Nevertheless, for the purposes of this Convention, the term forced or compulsory labour shall not include—

(a) any work or service exacted in virtue of compulsory military service laws for work of a purely military character;

(b) any work or service which forms part of the normal civic obligations of the citizens of a fully self-governing country;

(c) any work or service exacted from any person as a consequence of a conviction in a court of law, provided that the said work or service is carried out under the supervision and control of a public authority and that the said person is not hired to or placed at the disposal of private individuals, companies or associations;

(d) any work or service exacted in cases of emergency, that is to say, in the event of war or of a calamity or threatened calamity, such as fire, flood, famine, earthquake, violent epidemic or epizootic diseases, invasion by animal, insect or vegetable pests, and in general any circumstance that would endanger the existence or the well-being of the whole or part of the population;

(e) minor communal services of a kind which, being performed by the members of the community in the direct interest of the said community, can therefore be considered as normal civic obligations incumbent upon the members of the community, provided that the members of the community or their direct representatives shall have the right to be consulted in regard to the need for such services.

## Article 3

For the purposes of this Convention the term competent authority shall mean either an authority of the metropolitan country or the highest central authority in the territory concerned.

## Article 4

1. The competent authority shall not impose or permit the imposition of forced or compulsory labour for the benefit of private individuals, companies or associations.

2. Where such forced or compulsory labour for the benefit of private individuals, companies or associations exists at the date on which a Member's ratification of this Convention is registered by the Director-General of the International Labour Office, the Member shall completely suppress such forced or compulsory labour from the date on which this Convention comes into force for that Member.

## Article 5

1. No concession granted to private individuals, companies or associations shall involve any form of forced or compulsory labour for the production or the collection of products which such private individuals, companies or associations utilise or in which they trade.

2. Where concessions exist containing provisions involving such forced or compulsory labour, such provisions shall be rescinded as soon as possible, in order to comply with Article 1 of this Convention.

## Article 6

Officials of the administration, even when they have the duty of encouraging the populations under their charge to engage in some form of labour, shall not put constraint upon the said populations or upon any individual members thereof to work for private individuals, companies or associations.

## Article 7

1. Chiefs who do not exercise administrative functions shall not have recourse to forced or compulsory labour.

2. Chiefs who exercise administrative functions may, with the express permission of the competent authority, have recourse to forced or compulsory labour, subject to the provisions of Article 10 of this Convention.

3. Chiefs who are duly recognised and who do not receive adequate remuneration in other forms may have the enjoyment of personal services, subject to due regulation and provided that all necessary measures are taken to prevent abuses.

## Article 8

1. The responsibility for every decision to have recourse to forced or compulsory labour shall rest with the highest civil authority in the territory concerned.

2. Nevertheless, that authority may delegate powers to the highest local authorities to exact forced or compulsory labour which does not involve the removal of the workers from their place of habitual residence. That authority may also delegate, for such periods and subject to such conditions as may be laid down in the regulations provided for in Article 23 of this Convention, powers to the highest local authorities to exact forced or compulsory labour which involves the removal of the workers from their place of habitual residence for the purpose of facilitating the movement of officials of the administration, when on duty, and for the transport of Government stores.

## Article 9

Except as otherwise provided for in Article 10 of this Convention, any authority competent to exact forced or compulsory labour shall, before deciding to have recourse to such labour, satisfy itself—

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do work or render the service;

(b) that the work or service is of present or imminent necessity;

(c) that it has been impossible to obtain voluntary labour for carrying out the work or rendering the service by the offer of rates of wages and conditions of labour not less favourable than those prevailing in the area concerned for similar work or service; and

(d) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work.

## Article 10

1. Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished.

2. Meanwhile, where forced or compulsory labour is exacted as a tax, and where recourse is had to forced or compulsory labour for the execution of public works by chiefs who exercise administrative functions, the authority concerned shall first satisfy itself—

(a) that the work to be done or the service to be rendered is of important direct interest for the community called upon to do the work or render the service;

(b) that the work or the service is of present or imminent necessity;

(c) that the work or service will not lay too heavy a burden upon the present population, having regard to the labour available and its capacity to undertake the work;

(d) that the work or service will not entail the removal of the workers from their place of habitual residence;

(e) that the execution of the work or the rendering of the service will be directed in accordance with the exigencies of religion, social life and agriculture.

#### **Article 11**

1. Only adult able-bodied males who are of an apparent age of not less than 18 and not more than 45 years may be called upon for forced or compulsory labour. Except in respect of the kinds of labour provided for in Article 10 of this Convention, the following limitations and conditions shall apply:

(a) whenever possible prior determination by a medical officer appointed by the administration that the persons concerned are not suffering from any infectious or contagious disease and that they are physically fit for the work required and for the conditions under which it is to be carried out;

(b) exemption of school teachers and pupils and officials of the administration in general;

(c) the maintenance in each community of the number of adult able-bodied men indispensable for family and social life;

(d) respect for conjugal and family ties.

2. For the purposes of subparagraph (c) of the preceding paragraph, the regulations provided for in Article 23 of this Convention shall fix the proportion of the resident adult able-bodied males who may be taken at any one time for forced or compulsory labour, provided always that this proportion shall in no case exceed 25 per cent. In fixing this proportion the competent authority shall take account of the density of the population, of its social and physical development, of the seasons, and of the work which must be done by the persons concerned on their own behalf in their locality, and, generally, shall have regard to the economic and social necessities of the normal life of the community concerned.

#### **Article 12**

1. The maximum period for which any person may be taken for forced or compulsory labour of all kinds in any one period of twelve months shall not exceed sixty days, including the time spent in going to and from the place of work.

2. Every person from whom forced or compulsory labour is exacted shall be furnished with a certificate indicating the periods of such labour which he has completed.

#### **Article 13**

1. The normal working hours of any person from whom forced or compulsory labour is exacted shall be the same as those prevailing in the case of voluntary labour, and the hours worked in excess of the normal working hours shall be remunerated at the rates prevailing in the case of overtime for voluntary labour.

2. A weekly day of rest shall be granted to all persons from whom forced or compulsory labour of any kind is exacted and this day shall coincide as far as possible with the day fixed by tradition or custom in the territories or regions concerned.

#### **Article 14**

1. With the exception of the forced or compulsory labour provided for in Article 10 of this Convention, forced or compulsory labour of all kinds shall be remunerated in cash at rates not less than those prevailing for similar kinds of work either in the district in which the labour is employed or in the district from which the labour is recruited, whichever may be the higher.

2. In the case of labour to which recourse is had by chiefs in the exercise of their administrative functions, payment of wages in accordance with the provisions of the preceding paragraph shall be introduced as soon as possible.

3. The wages shall be paid to each worker individually and not to his tribal chief or to any other authority.

4. For the purpose of payment of wages the days spent in travelling to and from the place of work shall be counted as working days.

5. Nothing in this Article shall prevent ordinary rations being given as a part of wages, such rations to be at least equivalent in value to the money payment they are taken to represent, but deductions from wages shall not be made either for the payment of taxes or for special food, clothing or accommodation supplied to a worker for the purpose of maintaining him in a fit condition to carry on his work under the special conditions of any employment, or for the supply of tools.

#### **Article 15**

1. Any laws or regulations relating to workmen's compensation for accidents or sickness arising out of the employment of the worker and any laws or regulations providing compensation for the dependants of deceased or incapacitated workers which are or shall be in force in the territory concerned shall be equally applicable to persons from whom forced or compulsory labour is exacted and to voluntary workers.

2. In any case it shall be an obligation on any authority employing any worker on forced or compulsory labour to ensure the subsistence of any such worker who, by accident or sickness arising out of his employment, is rendered wholly or partially incapable of providing for himself, and to take measures to ensure the maintenance of any persons actually dependent upon such a worker in the event of his incapacity or decease arising out of his employment.

#### **Article 16**

1. Except in cases of special necessity, persons from whom forced or compulsory labour is exacted shall not be transferred to districts where the food and climate differ so considerably from those to which they have been accustomed as to endanger their health.

2. In no case shall the transfer of such workers be permitted unless all measures relating to hygiene and accommodation which are necessary to adapt such workers to the conditions and to safeguard their health can be strictly applied.

3. When such transfer cannot be avoided, measures of gradual habituation to the new conditions of diet and of climate shall be adopted on competent medical advice.

4. In cases where such workers are required to perform regular work to which they are not accustomed, measures shall be taken to ensure their habituation to it, especially as regards progressive training, the hours of work and the provision of rest intervals, and any increase or amelioration of diet which may be necessary.

#### **Article 17**

Before permitting recourse to forced or compulsory labour for works of construction or maintenance which entail the workers remaining at the workplaces for considerable periods, the competent authority shall satisfy itself—

(1) that all necessary measures are taken to safeguard the health of the workers and to guarantee the necessary medical care, and, in particular, (a) that the workers are medically examined before commencing the work and at fixed intervals during the period of service, (b) that there is an adequate medical staff, provided with the dispensaries, infirmaries, hospitals and equipment necessary to meet all requirements, and (c) that the sanitary conditions of the workplaces, the supply of drinking water, food, fuel, and cooking utensils, and, where necessary, of housing and clothing, are satisfactory;

(2) that definite arrangements are made to ensure the subsistence of the families of the workers, in particular by facilitating the remittance, by a safe method, of part of the wages to the family, at the request or with the consent of the workers;

(3) that the journeys of the workers to and from the workplaces are made at the expense and under the responsibility of the administration, which shall facilitate such journeys by making the fullest use of all available means of transport;

(4) that, in case of illness or accident causing incapacity to work of a certain duration, the worker is repatriated at the expense of the administration;

(5) that any worker who may wish to remain as a voluntary worker at the end of his period of forced or compulsory labour is permitted to do so without, for a period of two years, losing his right to repatriation free of expense to himself.

## **Article 18**

1. Forced or compulsory labour for the transport of persons or goods, such as the labour of porters or boatmen, shall be abolished within the shortest possible period. Meanwhile the competent authority shall promulgate regulations determining, inter alia, (a) that such labour shall only be employed for the purpose of facilitating the movement of officials of the administration, when on duty, or for the transport of Government stores, or, in cases of very urgent necessity, the transport of persons other than officials, (b) that the workers so employed shall be medically certified to be physically fit, where medical examination is possible, and that where such medical examination is not practicable the person employing such workers shall be held responsible for ensuring that they are physically fit and not suffering from any infectious or contagious disease, (c) the maximum load which these workers may carry, (d) the maximum distance from their

homes to which they may be taken, (e) the maximum number of days per month or other period for which they may be taken, including the days spent in returning to their homes, and (f) the persons entitled to demand this form of forced or compulsory labour and the extent to which they are entitled to demand it.

2. In fixing the maxima referred to under (c), (d) and (e) in the foregoing paragraph, the competent authority shall have regard to all relevant factors, including the physical development of the population from which the workers are recruited, the nature of the country through which they must travel and the climatic conditions.

3. The competent authority shall further provide that the normal daily journey of such workers shall not exceed a distance corresponding to an average working day of eight hours, it being understood that account shall be taken not only of the weight to be carried and the distance to be covered, but also of the nature of the road, the season and all other relevant factors, and that, where hours of journey in excess of the normal daily journey are exacted, they shall be remunerated at rates higher than the normal rates.

## **Article 19**

1. The competent authority shall only authorise recourse to compulsory cultivation as a method of precaution against famine or a deficiency of food supplies and always under the condition that the food or produce shall remain the property of the individuals or the community producing it.

2. Nothing in this Article shall be construed as abrogating the obligation on members of a community, where production is organised on a communal basis by virtue of law or custom and where the produce or any profit accruing from the sale thereof remain the property of the community, to perform the work demanded by the community by virtue of law or custom.

## Article 20

Collective punishment laws under which a community may be punished for crimes committed by any of its members shall not contain provisions for forced or compulsory labour by the community as one of the methods of punishment.

## Article 21

Forced or compulsory labour shall not be used for work underground in mines.

## Article 22

The annual reports that Members which ratify this Convention agree to make to the International Labour Office, pursuant to the provisions of Article 22 of the Constitution of the International Labour Organisation, on the measures they have taken to give effect to the provisions of this Convention, shall contain as full information as possible, in respect of each territory concerned, regarding the extent to which recourse has been had to forced or compulsory labour in that territory, the purposes for which it has been employed, the sickness and death rates, hours of work, methods of payment of wages and rates of wages, and any other relevant information.

## Article 23

1. To give effect to the provisions of this Convention the competent authority shall issue complete and precise regulations governing the use of forced or compulsory labour.

2. These regulations shall contain, inter alia, rules permitting any person from whom forced or compulsory labour is exacted to forward all complaints relative to the conditions of labour to the authorities and ensuring that such complaints will be examined and taken into consideration.

## Article 24

Adequate measures shall in all cases be taken to ensure that the regulations governing the employment of forced or compulsory labour are strictly applied, either by extending the duties of any existing labour inspectorate which has been established for the inspection of voluntary labour to cover the inspection of forced or compulsory labour or in some other appropriate manner. Measures shall also be taken to ensure that the regulations are brought to the knowledge of persons from whom such labour is exacted.

## Article 25

The illegal exaction of forced or compulsory labour shall be punishable as a penal offence, and it shall be an obligation on any Member ratifying this Convention to ensure that the penalties imposed by law are really adequate and are strictly enforced.

## Article 26

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to apply it to the territories placed under its sovereignty, jurisdiction, protection, suzerainty, tutelage or authority, so far as it has the right to accept obligations affecting matters of internal jurisdiction; provided that, if such Member may desire to take advantage of the provisions of article 35 of the Constitution of the International Labour Organisation, it shall append to its ratification a declaration stating—

(1) the territories to which it intends to apply the provisions of this Convention without modification;

(2) the territories to which it intends to apply the provisions of this Convention with modifications, together with details of the said modifications;

(3) the territories in respect of which it reserves its decision.

2. The aforesaid declaration shall be deemed to be an integral part of the ratification and shall have the force of ratification. It shall be open to any Member, by a subsequent declaration, to cancel in whole or in part the reservations made, in pursuance of the provisions of subparagraphs (2) and (3) of this Article, in the original declaration.

#### **Article 27**

The formal ratifications of this Convention under the conditions set forth in the Constitution of the International Labour Organisation shall be communicated to the Director-General of the International Labour Office for registration.

#### **Article 28**

1. This Convention shall be binding only upon those Members whose ratifications have been registered with the International Labour Office.

2. It shall come into force twelve months after the date on which the ratifications of two Members of the International Labour Organisation have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which the ratification has been registered.

#### **Article 29**

As soon as the ratifications of two Members of the International Labour Organisation have been registered with the International Labour Office, the Director-General of the International Labour Office shall so notify all the Members of the International Labour Organisation. He shall likewise notify them of the registration of ratifications which may be communicated subsequently by other Members of the Organisation.

#### **Article 30**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered with the International Labour Office.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of five years and, thereafter, may denounce this Convention at the expiration of each period of five years under the terms provided for in this Article.

#### **Article 31**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

#### **Article 32**

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, the ratification by a Member of the new revising Convention shall ipso jure involve denunciation of this Convention without any requirement of delay, notwithstanding the provisions of Article 30 above, if and when the new revising Convention shall have come into force.

2. As from the date of the coming into force of the new revising Convention, the present Convention shall cease to be open to ratification by the Members.

3. Nevertheless, this Convention shall remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising convention.

### Article 33

The French and English texts of this Convention shall both be authentic.

## C87 Freedom of Association and Protection of the Right to Organise Convention, 1948

**Convention concerning Freedom of Association and Protection of the Right to Organise** (Note: Date of coming into force: 04:07:1950.)

Convention:C087

Place:(San Francisco)

Session of the Conference:31

Date of adoption:09:07:1948

The General Conference of the International Labour Organisation,

Having been convened at San Francisco by the Governing Body of the International Labour Office, and having met in its Thirty-first Session on 17 June 1948;

Having decided to adopt, in the form of a Convention, certain proposals concerning freedom of association and protection of the right to organise, which is the seventh item on the agenda of the session;

Considering that the Preamble to the Constitution of the International Labour Organisation declares “recognition of the principle of freedom of association” to be a means of improving conditions of labour and of establishing peace;

Considering that the Declaration of Philadelphia reaffirms that “freedom of expression and of association are essential to sustained progress”;

Considering that the International Labour Conference, at its Thirtieth Session, unanimously adopted the principles which should form the basis for international regulation;

Considering that the General Assembly of the United Nations, at its Second Session, endorsed these principles and requested the International Labour Organisation to continue every effort in order that it may be possible to adopt one or several international Conventions;

adopts this ninth day of July of the year one thousand nine hundred and forty-eight the following Convention, which may be cited as the Freedom of Association and Protection of the Right to Organise Convention, 1948:

## PART I. FREEDOM OF ASSOCIATION

### Article 1

Each Member of the International Labour Organisation for which this Convention is in force undertakes to give effect to the following provisions.

### Article 2

Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorisation.

### Article 3

1. Workers' and employers' organisations shall have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes.

2. The public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof.

#### **Article 4**

Workers' and employers' organisations shall not be liable to be dissolved or suspended by administrative authority.

#### **Article 5**

Workers' and employers' organisations shall have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers.

#### **Article 6**

The provisions of Articles 2, 3 and 4 hereof apply to federations and confederations of workers' and employers' organisations.

#### **Article 7**

The acquisition of legal personality by workers' and employers' organisations, federations and confederations shall not be made subject to conditions of such a character as to restrict the application of the provisions of Articles 2, 3 and 4 hereof.

#### **Article 8**

1. In exercising the rights provided for in this Convention workers and employers and their respective organisations, like other persons or organised collectivities, shall respect the law of the land.

2. The law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention.

#### **Article 9**

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

#### **Article 10**

In this Convention the term organisation means any organisation of workers or of employers for furthering and defending the interests of workers or of employers.

### **PART II. PROTECTION OF THE RIGHT TO ORGANISE**

#### **Article 11**

Each Member of the International Labour Organisation for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise.

## PART III. MISCELLANEOUS PROVISIONS

### Article 12

1. In respect of the territories referred to in Article 35 of the Constitution of the International Labour Organisation as amended by the Constitution of the International Labour Organisation Instrument of Amendment 1946, other than the territories referred to in paragraphs 4 and 5 of the said article as so amended, each Member of the Organisation which ratifies this Convention shall communicate to the Director-General of the International Labour Office with or as soon as possible after its ratification a declaration stating:

- a) the territories in respect of which it undertakes that the provisions of the Convention shall be applied without modification;
- b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;
- c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;
- d) the territories in respect of which it reserves its decision.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservations made in its original declaration in virtue of subparagraphs (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 16, communicate to the Director-General a declaration modifying in any other respect the

terms of any former declaration and stating the present position in respect of such territories as it may specify.

### Article 13

1. Where the subject-matter of this Convention is within the self-governing powers of any non-metropolitan territory, the Member responsible for the international relations of that territory may, in agreement with the government of the territory, communicate to the Director-General of the International Labour Office a declaration accepting on behalf of the territory the obligations of this Convention.

2. A declaration accepting the obligations of this Convention may be communicated to the Director-General of the International Labour Office:

- a) by two or more Members of the Organisation in respect of any territory which is under their joint authority; or
- b) by any international authority responsible for the administration of any territory, in virtue of the Charter of the United Nations or otherwise, in respect of any such territory.

3. Declarations communicated to the Director-General of the International Labour Office in accordance with the preceding paragraphs of this Article shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications it shall give details of the said modifications.

4. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

5. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions

of Article 16, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

#### PART IV. FINAL PROVISIONS

##### **Article 14**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

##### **Article 15**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

##### **Article 16**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

##### **Article 17**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

##### **Article 18**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

##### **Article 19**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

## Article 20

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 16 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## Article 21

The English and French versions of the text of this Convention are equally authoritative.

## C98 Right to Organise and Collective Bargaining Convention, 1949

Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively:

Convention:C098

Place: Geneva

Session of the Conference:32

Date of adoption:01:07:1949

Date of coming into force: 18:07:1951

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Thirty-second Session on 8 June 1949, and

Having decided upon the adoption of certain proposals concerning the application of the principles of the right to organise and to bargain collectively, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention,

adopts this first day of July of the year one thousand nine hundred and forty-nine the following Convention, which may be cited as the Right to Organise and Collective Bargaining Convention, 1949:

## Article 1

1. Workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment.

2. Such protection shall apply more particularly in respect of acts calculated to—

(a) make the employment of a worker subject to the condition that he shall not join a union or shall relinquish trade union membership;

(b) cause the dismissal of or otherwise prejudice a worker by reason of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.

## Article 2

1. Workers' and employers' organisations shall enjoy adequate protection against any acts of interference by each other or each other's agents or members in their establishment, functioning or administration.

2. In particular, acts which are designed to promote the establishment of workers' organisations under the domination of employers or employers' organisations, or to support workers' organisations by financial or other means, with the object of placing such organisations under

the control of employers or employers' organisations, shall be deemed to constitute acts of interference within the meaning of this Article.

### **Article 3**

Machinery appropriate to national conditions shall be established, where necessary, for the purpose of ensuring respect for the right to organise as defined in the preceding Articles.

### **Article 4**

Measures appropriate to national conditions shall be taken, where necessary, to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers or employers' organisations and workers' organisations, with a view to the regulation of terms and conditions of employment by means of collective agreements.

### **Article 5**

1. The extent to which the guarantees provided for in this Convention shall apply to the armed forces and the police shall be determined by national laws or regulations.

2. In accordance with the principle set forth in paragraph 8 of Article 19 of the Constitution of the International Labour Organisation the ratification of this Convention by any Member shall not be deemed to affect any existing law, award, custom or agreement in virtue of which members of the armed forces or the police enjoy any right guaranteed by this Convention.

### **Article 6**

This Convention does not deal with the position of public servants engaged in the administration of the State, nor shall it be construed as prejudicing their rights or status in any way.

### **Article 7**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

### **Article 8**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

### **Article 9**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 2 of Article 35 of the Constitution of the International Labour Organisation shall indicate —

a) the territories in respect of which the Member concerned undertakes that the provisions of the Convention shall be applied without modification;

b) the territories in respect of which it undertakes that the provisions of the Convention shall be applied subject to modifications, together with details of the said modifications;

c) the territories in respect of which the Convention is inapplicable and in such cases the grounds on which it is inapplicable;

d) the territories in respect of which it reserves its decision pending further consideration of the position.

2. The undertakings referred to in subparagraphs (a) and (b) of paragraph 1 of this Article shall be deemed to be an integral part of the ratification and shall have the force of ratification.

3. Any Member may at any time by a subsequent declaration cancel in whole or in part any reservation made in its original declaration in virtue of subparagraph (b), (c) or (d) of paragraph 1 of this Article.

4. Any Member may, at any time at which the Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of such territories as it may specify.

#### **Article 10**

1. Declarations communicated to the Director-General of the International Labour Office in accordance with paragraph 4 or 5 of Article 35 of the Constitution of the International Labour Organisation shall indicate whether the provisions of the Convention will be applied in the territory concerned without modification or subject to modifications; when the declaration indicates that the provisions of the Convention will be applied subject to modifications, it shall give details of the said modifications.

2. The Member, Members or international authority concerned may at any time by a subsequent declaration renounce in whole or in part the right to have recourse to any modification indicated in any former declaration.

3. The Member, Members or international authority concerned may, at any time at which this Convention is subject to denunciation in accordance with the provisions of Article 11, communicate to the Director-General a declaration modifying in any other respect the terms of any former declaration and stating the present position in respect of the application of the Convention.

#### **Article 11**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

#### **Article 12**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications, declarations and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

#### **Article 13**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, declarations and acts of denunciation registered by him in accordance with the provisions of the preceding articles.

## Article 14

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

## Article 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides,

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## Article 16

The English and French versions of the text of this Convention are equally authoritative.

## C111 Discrimination (Employment and Occupation) Convention, 1958

Convention concerning Discrimination in Respect of Employment and Occupation

Convention:C111

Place: Geneva

Session of the Conference:42

Date of adoption:25:06:1958

Date of coming into force: 15:06:1960

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Forty-second Session on 4 June 1958, and

Having decided upon the adoption of certain proposals with regard to discrimination in the field of employment and occupation, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention, and

Considering that the Declaration of Philadelphia affirms that all human beings, irrespective of race, creed or sex, have the right to pursue both their material well-being and their spiritual development in conditions of freedom and dignity, of economic security and equal opportunity, and

Considering further that discrimination constitutes a violation of rights enunciated by the Universal Declaration of Human Rights,

adopts this twenty-fifth day of June of the year one thousand nine hundred and fifty-eight the following Convention, which may be cited as the Discrimination (Employment and Occupation) Convention, 1958:

## Article 1

1. For the purpose of this Convention the term discrimination includes—

(a) any distinction, exclusion or preference made on the basis of race, colour, sex, religion, political opinion, national extraction or social origin, which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation;

(b) such other distinction, exclusion or preference which has the effect of nullifying or impairing equality of opportunity or treatment in employment or occupation as may be determined by the Member concerned after consultation with representative employers' and workers' organisations, where such exist, and with other appropriate bodies.

2. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements thereof shall not be deemed to be discrimination.

3. For the purpose of this Convention the terms employment and occupation include access to vocational training, access to employment and to particular occupations, and terms and conditions of employment.

## Article 2

Each Member for which this Convention is in force undertakes to declare and pursue a national policy designed to promote, by methods appropriate to national conditions and practice, equality of opportunity and treatment in respect of employment and occupation, with a view to eliminating any discrimination in respect thereof.

## Article 3

Each Member for which this Convention is in force undertakes, by methods appropriate to national conditions and practice—

(a) to seek the co-operation of employers' and workers' organisations and other appropriate bodies in promoting the acceptance and observance of this policy;

(b) to enact such legislation and to promote such educational programmes as may be calculated to secure the acceptance and observance of the policy;

(c) to repeal any statutory provisions and modify any administrative instructions or practices which are inconsistent with the policy;

(d) to pursue the policy in respect of employment under the direct control of a national authority;

(e) to ensure observance of the policy in the activities of vocational guidance, vocational training and placement services under the direction of a national authority;

(f) to indicate in its annual reports on the application of the Convention the action taken in pursuance of the policy and the results secured by such action.

## Article 4

Any measures affecting an individual who is justifiably suspected of, or engaged in, activities prejudicial to the security of the State shall not be deemed to be discrimination, provided that the individual concerned shall have the right to appeal to a competent body established in accordance with national practice.

## **Article 5**

1. Special measures of protection or assistance provided for in other Conventions or Recommendations adopted by the International Labour Conference shall not be deemed to be discrimination.

2. Any Member may, after consultation with representative employers' and workers' organisations, where such exist, determine that other special measures designed to meet the particular requirements of persons who, for reasons such as sex, age, disablement, family responsibilities or social or cultural status, are generally recognised to require special protection or assistance, shall not be deemed to be discrimination.

## **Article 6**

Each Member which ratifies this Convention undertakes to apply it to non-metropolitan territories in accordance with the provisions of the Constitution of the International Labour Organisation.

## **Article 7**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

## **Article 8**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratification has been registered.

## **Article 9**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

## **Article 10**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

## Article 11

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

## Article 12

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

## Article 13

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 9 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## Article 14

The English and French versions of the text of this Convention are equally authoritative.

## C138 Minimum Age Convention, 1973

Convention concerning Minimum Age for Admission to Employment

Convention:C138

Place: Geneva

Session of the Conference:58

Date of adoption:26:06:1973

Date of coming into force: 19:06:1976

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Having decided upon the adoption of certain proposals with regard to minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Noting the terms of the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965, and

Considering that the time has come to establish a general instrument on the subject, which would gradually replace the existing ones applicable to limited economic sectors, with a view to achieving the total abolition of child labour, and

Having determined that these proposals shall take the form of an international Convention,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three the following Convention, which may be cited as the Minimum Age Convention, 1973:

#### **Article 1**

Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.

#### **Article 2**

1. Each Member which ratifies this Convention shall specify, in a declaration appended to its ratification, a minimum age for admission to employment or work within its territory and on means of transport registered in its territory; subject to Articles 4 to 8 of this Convention, no one under that age shall be admitted to employment or work in any occupation.

2. Each Member which has ratified this Convention may subsequently notify the Director-General of the International Labour Office, by further declarations, that it specifies a minimum age higher than that previously specified.

3. The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

4. Notwithstanding the provisions of paragraph 3 of this Article, a Member whose economy and educational facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially specify a minimum age of 14 years.

5. Each Member which has specified a minimum age of 14 years in pursuance of the provisions of the preceding paragraph shall include in its reports on the application of this Convention submitted under article 22 of the Constitution of the International Labour Organisation a statement—

(a) that its reason for doing so subsists; or

(b) that it renounces its right to avail itself of the provisions in question as from a stated date.

#### **Article 3**

1. The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons shall not be less than 18 years.

2. The types of employment or work to which paragraph 1 of this Article applies shall be determined by national laws or regulations or by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist.

3. Notwithstanding the provisions of paragraph 1 of this Article, national laws or regulations or the competent authority may, after consultation with the organisations of employers and workers concerned, where such exist, authorise employment or work as from the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity.

#### Article 4

1. In so far as necessary, the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, may exclude from the application of this Convention limited categories of employment or work in respect of which special and substantial problems of application arise.

2. Each Member which ratifies this Convention shall list in its first report on the application of the Convention submitted under article 22 of the Constitution of the International Labour Organisation any categories which may have been excluded in pursuance of paragraph 1 of this Article, giving the reasons for such exclusion, and shall state in subsequent reports the position of its law and practice in respect of the categories excluded and the extent to which effect has been given or is proposed to be given to the Convention in respect of such categories.

3. Employment or work covered by Article 3 of this Convention shall not be excluded from the application of the Convention in pursuance of this Article.

#### Article 5

1. A Member whose economy and administrative facilities are insufficiently developed may, after consultation with the organisations of employers and workers concerned, where such exist, initially limit the scope of application of this Convention.

2. Each Member which avails itself of the provisions of paragraph 1 of this Article shall specify, in a declaration appended to its ratification, the branches of economic activity or types of undertakings to which it will apply the provisions of the Convention.

3. The provisions of the Convention shall be applicable as a minimum to the following: mining and quarrying; manufacturing; construction; electricity, gas and water; sanitary services; transport, storage and communication; and plantations and other agricultural undertakings mainly producing for commercial purposes, but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

4. Any Member which has limited the scope of application of this Convention in pursuance of this Article—

(a) shall indicate in its reports under Article 22 of the Constitution of the International Labour Organisation the general position as regards the employment or work of young persons and children in the branches of activity which are excluded from the scope of application of this Convention and any progress which may have been made towards wider application of the provisions of the Convention;

(b) may at any time formally extend the scope of application by a declaration addressed to the Director-General of the International Labour Office.

#### Article 6

This Convention does not apply to work done by children and young persons in schools for general, vocational or technical education or in other training institutions, or to work done by persons at least 14 years of age in undertakings, where such work is carried out in accordance with conditions prescribed by the competent authority, after consultation with the organisations of employers and workers concerned, where such exist, and is an integral part of—

(a) a course of education or training for which a school or training institution is primarily responsible;

(b) a programme of training mainly or entirely in an undertaking, which programme has been approved by the competent authority; or

(c) a programme of guidance or orientation designed to facilitate the choice of an occupation or of a line of training.

#### **Article 7**

1. National laws or regulations may permit the employment or work of persons 13 to 15 years of age on light work which is—

(a) not likely to be harmful to their health or development; and

(b) not such as to prejudice their attendance at school, their participation in vocational orientation or training programmes approved by the competent authority or their capacity to benefit from the instruction received.

2. National laws or regulations may also permit the employment or work of persons who are at least 15 years of age but have not yet completed their compulsory schooling on work which meets the requirements set forth in sub-paragraphs (a) and (b) of paragraph 1 of this Article.

3. The competent authority shall determine the activities in which employment or work may be permitted under paragraphs 1 and 2 of this Article and shall prescribe the number of hours during which and the conditions in which such employment or work may be undertaken.

4. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, a Member which has availed itself of the provisions of paragraph 4 of Article 2 may, for as long as it continues to do so, substitute the ages 12 and 14 for the ages 13 and 15 in paragraph 1 and the age 14 for the age 15 in paragraph 2 of this Article.

#### **Article 8**

1. After consultation with the organisations of employers and workers concerned, where such exist, the competent authority may, by permits granted in individual cases, allow exceptions to the prohibition of employment or work provided for in Article 2 of this Convention, for such purposes as participation in artistic performances.

2. Permits so granted shall limit the number of hours during which and prescribe the conditions in which employment or work is allowed.

#### **Article 9**

1. All necessary measures, including the provision of appropriate penalties, shall be taken by the competent authority to ensure the effective enforcement of the provisions of this Convention.

2. National laws or regulations or the competent authority shall define the persons responsible for compliance with the provisions giving effect to the Convention.

3. National laws or regulations or the competent authority shall prescribe the registers or other documents which shall be kept and made available by the employer; such registers or documents shall contain the names and ages or dates of birth, duly certified wherever possible, of persons whom he employs or who work for him and who are less than 18 years of age.

#### **Article 10**

1. This Convention revises, on the terms set forth in this Article, the Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, the Minimum Age (Trimmers and Stokers) Convention, 1921, the Minimum Age (Non-Industrial Employment) Convention, 1932, the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937,

the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, and the Minimum Age (Underground Work) Convention, 1965.

2. The coming into force of this Convention shall not close the Minimum Age (Sea) Convention (Revised), 1936, the Minimum Age (Industry) Convention (Revised), 1937, the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, the Minimum Age (Fishermen) Convention, 1959, or the Minimum Age (Underground Work) Convention, 1965, to further ratification.

3. The Minimum Age (Industry) Convention, 1919, the Minimum Age (Sea) Convention, 1920, the Minimum Age (Agriculture) Convention, 1921, and the Minimum Age (Trimmers and Stokers) Convention, 1921, shall be closed to further ratification when all the parties thereto have consented to such closing by ratification of this Convention or by a declaration communicated to the Director-General of the International Labour Office.

4. When the obligations of this Convention are accepted—

(a) by a Member which is a party to the Minimum Age (Industry) Convention (Revised), 1937, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

(b) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention, 1932, by a Member which is a party to that Convention, this shall ipso jure involve the immediate denunciation of that Convention,

(c) in respect of non-industrial employment as defined in the Minimum Age (Non-Industrial Employment) Convention (Revised), 1937, by a Member which is a party to that Convention, and a minimum age of not less

than 15 years is specified in pursuance of Article 2 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

(d) in respect of maritime employment, by a Member which is a party to the Minimum Age (Sea) Convention (Revised), 1936, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to maritime employment, this shall ipso jure involve the immediate denunciation of that Convention,

(e) in respect of employment in maritime fishing, by a Member which is a party to the Minimum Age (Fishermen) Convention, 1959, and a minimum age of not less than 15 years is specified in pursuance of Article 2 of this Convention or the Member specifies that Article 3 of this Convention applies to employment in maritime fishing, this shall ipso jure involve the immediate denunciation of that Convention,

(f) by a Member which is a party to the Minimum Age (Underground Work) Convention, 1965, and a minimum age of not less than the age specified in pursuance of that Convention is specified in pursuance of Article 2 of this Convention or the Member specifies that such an age applies to employment underground in mines in virtue of Article 3 of this Convention, this shall ipso jure involve the immediate denunciation of that Convention,

if and when this Convention shall have come into force.

5. Acceptance of the obligations of this Convention—

(a) shall involve the denunciation of the Minimum Age (Industry) Convention, 1919, in accordance with Article 12 thereof,

(b) in respect of agriculture shall involve the denunciation of the Minimum Age (Agriculture) Convention, 1921, in accordance with Article 9 thereof,

(c) in respect of maritime employment shall involve the denunciation of the Minimum Age (Sea) Convention, 1920, in accordance with Article 10 thereof, and of the Minimum Age (Trimmers and Stokers) Convention, 1921, in accordance with Article 12 thereof,

if and when this Convention shall have come into force.

### **Article 11**

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

### **Article 12**

1. This Convention shall be binding only upon those Members of the International Labour Organisation whose ratifications have been registered with the Director-General.

2. It shall come into force twelve months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member twelve months after the date on which its ratifications has been registered.

### **Article 13**

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

### **Article 14**

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organisation of the registration of all ratifications and denunciations communicated to him by the Members of the Organisation.

2. When notifying the Members of the Organisation of the registration of the second ratification communicated to him, the Director-General shall draw the attention of the Members of the Organisation to the date upon which the Convention will come into force.

### **Article 15**

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications and acts of denunciation registered by him in accordance with the provisions of the preceding Articles.

### **Article 16**

At such times as it may consider necessary the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

## Article 17

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides:

a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 13 above, if and when the new revising Convention shall have come into force;

b) as from the date when the new revising Convention comes into force this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## Article 18

The English and French versions of the text of this Convention are equally authoritative.

### R146 Minimum Age Recommendation, 1973

Recommendation concerning Minimum Age for Admission to Employment

Recommendation:R146

Place: Geneva

Session of the Conference:58

Date of adoption: 26:06:1973

The General Conference of the International Labour Organisation,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Fifty-eighth Session on 6 June 1973, and

Recognising that the effective abolition of child labour and the progressive raising of the minimum age for admission to employment constitute only one aspect of the protection and advancement of children and young persons, and

Noting the concern of the whole United Nations system with such protection and advancement, and

Having adopted the Minimum Age Convention, 1973, and

Desirous to define further certain elements of policy which are the concern of the International Labour Organisation, and

Having decided upon the adoption of certain proposals regarding minimum age for admission to employment, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Minimum Age Convention, 1973,

adopts this twenty-sixth day of June of the year one thousand nine hundred and seventy-three, the following Recommendation, which may be cited as the Minimum Age Recommendation, 1973:

#### I. National Policy

1. To ensure the success of the national policy provided for in Article 1 of the Minimum Age Convention, 1973, high priority should be given to planning for and meeting the needs of children and youth in national development policies and programmes and to the progressive extension of the inter-related measures necessary to provide the best possible conditions of physical and mental growth for children and young persons.

2. In this connection special attention should be given to such areas of planning and policy as the following:

(a) firm national commitment to full employment, in accordance with the Employment Policy Convention and Recommendation, 1964, and the taking of measures designed to promote employment-oriented development in rural and urban areas;

(b) the progressive extension of other economic and social measures to alleviate poverty wherever it exists and to ensure family living standards and income which are such as to make it unnecessary to have recourse to the economic activity of children;

(c) the development and progressive extension, without any discrimination, of social security and family welfare measures aimed at ensuring child maintenance, including children's allowances;

(d) the development and progressive extension of adequate facilities for education and vocational orientation and training appropriate in form and content to the needs of the children and young persons concerned;

(e) the development and progressive extension of appropriate facilities for the protection and welfare of children and young persons, including employed young persons, and for the promotion of their development.

3. Particular account should as necessary be taken of the needs of children and young persons who do not have families or do not live with their own families and of migrant children and young persons who live and travel with their families. Measures taken to that end should include the provision of fellowships and vocational training.

4. Full-time attendance at school or participation in approved vocational orientation or training programmes should be required and effectively ensured up to an age at least equal to that specified for admission to employment in accordance with Article 2 of the Minimum Age Convention, 1973.

5.

(1) Consideration should be given to measures such as preparatory training, not involving hazards, for types of employment or work in respect of which the minimum age prescribed in accordance with Article 3 of the Minimum Age Convention, 1973, is higher than the age of completion of compulsory full-time schooling.

(2) Analogous measures should be envisaged where the professional exigencies of a particular occupation include a minimum age for admission which is higher than the age of completion of compulsory full-time schooling.

## II. Minimum Age

6. The minimum age should be fixed at the same level for all sectors of economic activity.

7.

(1) Members should take as their objective the progressive raising to 16 years of the minimum age for admission to employment or work specified in pursuance of Article 2 of the Minimum Age Convention, 1973.

(2) Where the minimum age for employment or work covered by Article 2 of the Minimum Age Convention, 1973, is still below 15 years, urgent steps should be taken to raise it to that level.

8. Where it is not immediately feasible to fix a minimum age for all employment in agriculture and in related activities in rural areas, a minimum age should be fixed at least for employment on plantations and in the other agricultural undertakings referred to in Article 5, paragraph 3, of the Minimum Age Convention, 1973.

### III. Hazardous Employment or Work

9. Where the minimum age for admission to types of employment or work which are likely to jeopardise the health, safety or morals of young persons is still below 18 years, immediate steps should be taken to raise it to that level.

10.

(1) In determining the types of employment or work to which Article 3 of the Minimum Age Convention, 1973, applies, full account should be taken of relevant international labour standards, such as those concerning dangerous substances, agents or processes (including ionising radiations), the lifting of heavy weights and underground work.

(2) The list of the types of employment or work in question should be re-examined periodically and revised as necessary, particularly in the light of advancing scientific and technological knowledge.

11. Where, by reference to Article 5 of the Minimum Age Convention, 1973, a minimum age is not immediately fixed for certain branches of economic activity or types of undertakings, appropriate minimum age provisions should be made applicable therein to types of employment or work presenting hazards for young persons.

### IV. Conditions of Employment

12.

(1) Measures should be taken to ensure that the conditions in which children and young persons under the age of 18 years are employed or work reach and are maintained at a satisfactory standard. These conditions should be supervised closely.

(2) Measures should likewise be taken to safeguard and supervise the conditions in which children and young persons undergo vocational orientation and training within undertakings, training institutions and schools for vocational or technical education and to formulate standards for their protection and development.

13.

(1) In connection with the application of the preceding Paragraph, as well as in giving effect to Article 7, paragraph 3, of the Minimum Age Convention, 1973, special attention should be given to—

(a) the provision of fair remuneration and its protection, bearing in mind the principle of equal pay for equal work;

(b) the strict limitation of the hours spent at work in a day and in a week, and the prohibition of overtime, so as to allow enough time for education and training (including the time needed for homework related thereto), for rest during the day and for leisure activities;

(c) the granting, without possibility of exception save in genuine emergency, of a minimum consecutive period of 12 hours' night rest, and of customary weekly rest days;

(d) the granting of an annual holiday with pay of at least four weeks and, in any case, not shorter than that granted to adults;

(e) coverage by social security schemes, including employment injury, medical care and sickness benefit schemes, whatever the conditions of employment or work may be;

(f) the maintenance of satisfactory standards of safety and health and appropriate instruction and supervision.

(2) Subparagraph (1) of this Paragraph applies to young seafarers in so far as they are not covered in respect of the matters dealt with therein by international labour Conventions or Recommendations specifically concerned with maritime employment.

## V. Enforcement

14.

(1) Measures to ensure the effective application of the Minimum Age Convention, 1973, and of this Recommendation should include—

(a) the strengthening as necessary of labour inspection and related services, for instance by the special training of inspectors to detect abuses in the employment or work of children and young persons and to correct such abuses; and

(b) the strengthening of services for the improvement and inspection of training in undertakings.

(2) Emphasis should be placed on the role which can be played by inspectors in supplying information and advice on effective means of complying with relevant provisions as well as in securing their enforcement.

(3) Labour inspection and inspection of training in undertakings should be closely co-ordinated to provide the greatest economic efficiency and, generally, the labour administration services should work in close co-operation with the services responsible for the education, training, welfare and guidance of children and young persons.

15. Special attention should be paid—

(a) to the enforcement of provisions concerning employment in hazardous types of employment or work; and

(b) in so far as education or training is compulsory, to the prevention of the employment or work of children and young persons during the hours when instruction is available.

16. The following measures should be taken to facilitate the verification of ages:

(a) the public authorities should maintain an effective system of birth registration, which should include the issue of birth certificates;

(b) employers should be required to keep and to make available to the competent authority registers or other documents indicating the names and ages or dates of birth, duly certified wherever possible, not only of children and young persons employed by them but also of those receiving vocational orientation or training in their undertakings;

(c) children and young persons working in the streets, in outside stalls, in public places, in itinerant occupations or in other circumstances which make the checking of employers' records impracticable should be issued licences or other documents indicating their eligibility for such work.

## C182 Worst Forms of Child Labour Convention, 1999

Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour

Convention:C182

Place: Geneva

Session of the Conference:87

Date of adoption:17:06:1999

Date of coming into force: 19:11:2000 The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its 87th Session on 1 June 1999, and

Considering the need to adopt new instruments for the prohibition and elimination of the worst forms of child labour, as the main priority for national and international action, including international cooperation and assistance, to complement the Convention and the Recommendation concerning Minimum Age for Admission to Employment, 1973, which remain fundamental instruments on child labour, and

Considering that the effective elimination of the worst forms of child labour requires immediate and comprehensive action, taking into account the importance of free basic education and the need to remove the children concerned from all such work and to provide for their rehabilitation and social integration while addressing the needs of their families, and

Recalling the resolution concerning the elimination of child labour adopted by the International Labour Conference at its 83rd Session in 1996, and

Recognizing that child labour is to a great extent caused by poverty and that the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education, and

Recalling the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up, adopted by the International Labour Conference at its 86th Session in 1998, and

Recalling that some of the worst forms of child labour are covered by other international instruments, in particular the Forced Labour Convention, 1930, and the United Nations Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, 1956, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Convention, which may be cited as the Worst Forms of Child Labour Convention, 1999.

## Article 1

Each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.

## Article 2

For the purposes of this Convention, the term child shall apply to all persons under the age of 18.

## Article 3

For the purposes of this Convention, the term the worst forms of child labour comprises:

- (a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

## Article 4

1. The types of work referred to under Article 3(d) shall be determined by national laws or regulations or by the competent authority, after consultation with the organizations of employers and workers concerned, taking into consideration relevant international standards, in particular Paragraphs 3 and 4 of the Worst Forms of Child Labour Recommendation, 1999.
2. The competent authority, after consultation with the organizations of employers and workers concerned, shall identify where the types of work so determined exist.
3. The list of the types of work determined under paragraph 1 of this Article shall be periodically examined and revised as necessary, in consultation with the organizations of employers and workers concerned.

## Article 5

Each Member shall, after consultation with employers' and workers' organizations, establish or designate appropriate mechanisms to monitor the implementation of the provisions giving effect to this Convention.

## Article 6

1. Each Member shall design and implement programmes of action to eliminate as a priority the worst forms of child labour.
2. Such programmes of action shall be designed and implemented in consultation with relevant government institutions and employers' and workers' organizations, taking into consideration the views of other concerned groups as appropriate.

## Article 7

1. Each Member shall take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions.

2. Each Member shall, taking into account the importance of education in eliminating child labour, take effective and time-bound measures to:

(a) prevent the engagement of children in the worst forms of child labour;

(b) provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration;

(c) ensure access to free basic education, and, wherever possible and appropriate, vocational training, for all children removed from the worst forms of child labour;

(d) identify and reach out to children at special risk; and

(e) take account of the special situation of girls.

3. Each Member shall designate the competent authority responsible for the implementation of the provisions giving effect to this Convention.

## Article 8

Members shall take appropriate steps to assist one another in giving effect to the provisions of this Convention through enhanced international cooperation and/or assistance including support for social and economic development, poverty eradication programmes and universal education.

## Article 9

The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.

## Article 10

1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General of the International Labour Office.

2. It shall come into force 12 months after the date on which the ratifications of two Members have been registered with the Director-General.

3. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

## Article 11

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

2. Each Member which has ratified this Convention and which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, exercise the right of denunciation provided for in this Article, will be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each period of ten years under the terms provided for in this Article.

## Article 12

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications and acts of denunciation communicated by the Members of the Organization.

2. When notifying the Members of the Organization of the registration of the second ratification, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention shall come into force.

## Article 13

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations, for registration in accordance with article 102 of the Charter of the United Nations, full particulars of all ratifications and acts of denunciation registered by the Director-General in accordance with the provisions of the preceding Articles.

## Article 14

At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision in whole or in part.

## Article 15

1. Should the Conference adopt a new Convention revising this Convention in whole or in part, then, unless the new Convention otherwise provides —

(a) the ratification by a Member of the new revising Convention shall ipso jure involve the immediate denunciation of this Convention, notwithstanding the provisions of Article 11 above, if and when the new revising Convention shall have come into force;

(b) as from the date when the new revising Convention comes into force, this Convention shall cease to be open to ratification by the Members.

2. This Convention shall in any case remain in force in its actual form and content for those Members which have ratified it but have not ratified the revising Convention.

## Article 16

The English and French versions of the text of this Convention are equally authoritative.

## [R190 Worst Forms of Child Labour Recommendation, 1999](#)

Recommendation concerning the prohibition and immediate action for the elimination of the worst forms of child labour

Place: Geneva

Session of the Conference:87

Date of adoption:17:06:1999

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Eighty-seventh Session on 1 June 1999, and

Having adopted the Worst Forms of Child Labour Convention, 1999, and

Having decided upon the adoption of certain proposals with regard to child labour, which is the fourth item on the agenda of the session, and

Having determined that these proposals shall take the form of a Recommendation supplementing the Worst Forms of Child Labour Convention, 1999;

adopts this seventeenth day of June of the year one thousand nine hundred and ninety-nine the following Recommendation, which may be cited as the Worst Forms of Child Labour Recommendation, 1999.

1. The provisions of this Recommendation supplement those of the Worst Forms of Child Labour Convention, 1999 (hereafter referred to as “the Convention”), and should be applied in conjunction with them.

### **I. Programmes of action**

2. The programmes of action referred to in Article 6 of the Convention should be designed and implemented as a matter of urgency, in consultation with relevant government institutions and employers’ and workers’ organizations, taking into consideration the views of the children directly affected by the worst forms of child labour, their families and, as appropriate, other concerned groups committed to the aims of the Convention and this Recommendation. Such programmes should aim at, inter alia:

(a) identifying and denouncing the worst forms of child labour;

(b) preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;

(c) giving special attention to:

(i) younger children;

(ii) the girl child;

(iii) the problem of hidden work situations, in which girls are at special risk;

(iv) other groups of children with special vulnerabilities or needs;

(d) identifying, reaching out to and working with communities where children are at special risk;

(e) informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families.

### **II. Hazardous work**

3. In determining the types of work referred to under Article 3(d) of the Convention, and in identifying where they exist, consideration should be given, inter alia, to:

(a) work which exposes children to physical, psychological or sexual abuse;

(b) work underground, under water, at dangerous heights or in confined spaces;

(c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;

(d) work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;

(e) work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

4. For the types of work referred to under Article 3(d) of the Convention and Paragraph 3 above, national laws or regulations or the competent authority could, after consultation with the workers' and employers' organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

### III. Implementation

5. (1) Detailed information and statistical data on the nature and extent of child labour should be compiled and kept up to date to serve as a basis for determining priorities for national action for the abolition of child labour, in particular for the prohibition and elimination of its worst forms as a matter of urgency.

(2) As far as possible, such information and statistical data should include data disaggregated by sex, age group, occupation, branch of economic activity, status in employment, school attendance and geographical location. The importance of an effective system of birth registration, including the issuing of birth certificates, should be taken into account.

(3) Relevant data concerning violations of national provisions for the prohibition and elimination of the worst forms of child labour should be compiled and kept up to date.

6. The compilation and processing of the information and data referred to in Paragraph 5 above should be carried out with due regard for the right to privacy.

7. The information compiled under Paragraph 5 above should be communicated to the International Labour Office on a regular basis.

8. Members should establish or designate appropriate national mechanisms to monitor the implementation of national provisions for the prohibition and elimination of the worst forms of child labour, after consultation with employers' and workers' organizations.

9. Members should ensure that the competent authorities which have responsibilities for implementing national provisions for the prohibition and elimination of the worst forms of child labour cooperate with each other and coordinate their activities.

10. National laws or regulations or the competent authority should determine the persons to be held responsible in the event of non-compliance with national provisions for the prohibition and elimination of the worst forms of child labour.

11. Members should, in so far as it is compatible with national law, cooperate with international efforts aimed at the prohibition and elimination of the worst forms of child labour as a matter of urgency by:

(a) gathering and exchanging information concerning criminal offences, including those involving international networks;

(b) detecting and prosecuting those involved in the sale and trafficking of children, or in the use, procuring or offering of children for illicit activities, for prostitution, for the production of pornography or for pornographic performances;

(c) registering perpetrators of such offences.

12. Members should provide that the following worst forms of child labour are criminal offences:

(a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;

(b) the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances; and

(c) the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties, or for activities which involve the unlawful carrying or use of firearms or other weapons.

13. Members should ensure that penalties including, where appropriate, criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work referred to in Article 3(d) of the Convention.

14. Members should also provide as a matter of urgency for other criminal, civil or administrative remedies, where appropriate, to ensure the effective enforcement of national provisions for the prohibition and elimination of the worst forms of child labour, such as special supervision of enterprises which have used the worst forms of child labour, and, in cases of persistent violation, consideration of temporary or permanent revoking of permits to operate.

15. Other measures aimed at the prohibition and elimination of the worst forms of child labour might include the following:

(a) informing, sensitizing and mobilizing the general public, including national and local political leaders, parliamentarians and the judiciary;

(b) involving and training employers' and workers' organizations and civic organizations;

(c) providing appropriate training for the government officials concerned, especially inspectors and law enforcement officials, and for other relevant professionals;

(d) providing for the prosecution in their own country of the Member's nationals who commit offences under its national provisions for the prohibition and immediate elimination of the worst forms of child labour even when these offences are committed in another country;

(e) simplifying legal and administrative procedures and ensuring that they are appropriate and prompt;

(f) encouraging the development of policies by undertakings to promote the aims of the Convention;

(g) monitoring and giving publicity to best practices on the elimination of child labour;

(h) giving publicity to legal or other provisions on child labour in the different languages or dialects;

(i) establishing special complaints procedures and making provisions to protect from discrimination and reprisals those who legitimately expose violations of the provisions of the Convention, as well as establishing helplines or points of contact and ombudspersons;

(j) adopting appropriate measures to improve the educational infrastructure and the training of teachers to meet the needs of boys and girls;

(k) as far as possible, taking into account in national programmes of action:

(i) the need for job creation and vocational training for the parents and adults in the families of children working in the conditions covered by the Convention; and

(ii) the need for sensitizing parents to the problem of children working in such conditions.

16. Enhanced international cooperation and/or assistance among Members for the prohibition and effective elimination of the worst forms of child labour should complement national efforts and may, as appropriate, be developed and implemented in consultation with employers' and workers' organizations. Such international cooperation and/or assistance should include:

(a) mobilizing resources for national or international programmes;

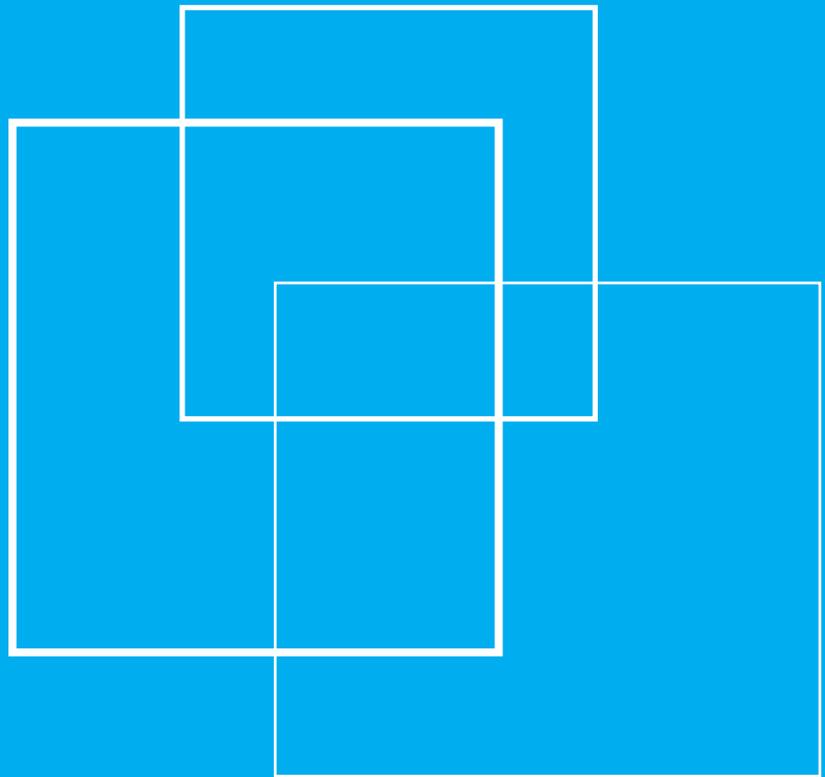
(b) mutual legal assistance;

(c) technical assistance including the exchange of information;

(d) support for social and economic development, poverty eradication programmes and universal education.



# Annex II



## Annex II - News Reports on Migration and Demand for Migrant Workers

The following news reports have been kindly provided by the INDOCHINA MEDIA MEMORIAL FOUNDATION. They were published in the IMMEDIATE TIMES in June 2005 as well as various sub-regional newspapers. They remain the copyright of the IMMEDIATE TIMES and their respective publications. The journalists gathered the information for their reports while taking part in a four week print journalism training course in Thailand: Migrant Labour: Its impact on community, cultures and women. The ILO-IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women is grateful for this contribution which helps place a human face on the issues covered in the report.

### FLOCKING TO LAND OF OPPORTUNITY

#### **Thailand's stronger economy draws migrant workers from Burma, Laos and Cambodia**

By Do Thi Ngoc Son  
*VnExpress*  
*Vietnam*

Wiping sweat off his face with a short sleeve, Kyaw Min, a 27-year-old Burmese man with long hair bunched under his gray cap was pushing a steel cart at a noisy fish port in Samut Sakorn province.

"I have no fixed working hour. It depends on when ships arrive, but I often get up at 4 a.m.," said a dark-skinned Kyaw Min, who has worked in Thailand for one year.

Carrying heavy barrels of fish from ships to the port, Kyaw Min earns about 6,000 baht a month – just enough for accommodation, food and other necessities, but three times as much as his income in his home country as a carpenter.

"It is hard to work here, but I can earn much more," Kyaw Min said. "Although I want to go home, I need to save money."

Kyaw Min is one of about 1.8 million Burmese workers out of a total of 2 million migrants from neighbouring countries, mostly from Burma, Laos and Cambodia, working in Thailand, according to the Migrant Action Program (MAP), a non-governmental organization. Most of them take unskilled jobs in farming, fishing and construction while many women work as housemaids.

Migrant workers in Thailand earn on average about 3,000 baht a month, said Jerrold W. Huguet, a consultant for the International Labour Organization (ILO), a UN agency. Migrant workers interviewed in Samut Sakorn and Chiang Mai said they earn from 3,000 to 15,000 baht a month – twice or even 10 times as much as in their home countries.

Thailand attracts migrant workers because it is far more developed than its neighbours and is the "country of opportunities," said Brahm Press, an expert on migrant labour from Bangkok-based Raks Thai Foundation. Last year, Thailand's Gross Domestic Product (GDP) per capita on a buying power basis was \$7,400, while that of both Cambodia and Laos was \$1,900 and Burma's was \$1,800. GDP is a measure of all final goods and services produced in a given year.

Vasant Sathorn, director of the office of foreign workers' administration in the Labour Ministry's department of employment, attributes the influx of migrant labourers to three factors: Thailand's stronger economy, its political stability and government policy.

"The government has a policy to allow migrant workers to come and work," Vasant said.

Htoo Win, 24, a shrimp peeler at a seafood-canning factory in Samut Sakorn, said that she works from 10 to 12 hours a day and earns about 10,000 baht a month.

"I am very happy here. At my home village, I could earn only 1,200 baht as a knitter," said the fair-skinned woman with waist-long hair from the south of Burma.

"I can save 8,000 baht a month and have no intention of changing workplaces," said Htoo Win, who was wearing white boots, gloves and a cloth hat and gave a big smile revealing white, even teeth. Thanks to the recommendation of her sister, Htoo Win started to work for this factory one year ago after spending four years in the south of Thailand.

Moe Tun, a 31-year-old from Shan state in Burma, left his hometown three years ago and is now working as a waiter at a resort surrounded by flower gardens at Doi Ang Khang, the royal project in northern Chiang Mai province. Moe Tun, who used to be a bus driver in Burma with a salary of 400 baht, now earns more than 4,000 baht a month.

"I don't have to pay for food and accommodation, just 125 baht a month for electricity and water," said Moe Tun, a medium-sized man with fair skin and big eyebrows.

Moe Tun added that his parents could earn only 400 baht a month from their small noodle shop.

Most migrant workers come to Thailand to seek better jobs, and a majority earn more money and have better lives than in their home countries. However, not all are so lucky – some end up being drug addicted, HIV positive or exploited.

Jackie Pollock, coordinator of MAP, said many migrant workers have to work overtime with no payment

or receive less than the minimum wage. They don't have the right to form unions and they face language barriers.

Still, people from neighbouring countries are seeking opportunities in Thailand because it needs workers to do manual and low-paying jobs, said Press of Raks Thai.

Last year, about 245,000 employers told the government they needed more than 1.5 million workers, but only about 1.2 million migrants registered for work. Of those, 800,000 people received work permits, according to Vasant.

"Employers wanted more people. There are not enough migrants coming," Pollock said.

While workers from Burma, Laos and Cambodia flock into Thailand for jobs, Thai people go to Middle East, Japan, South Korea and Taiwan to take unskilled jobs such as housework and construction work. Vasant estimated that the number of Thai workers abroad is about half a million.

The ILO's Jerrold estimated that every year, migrant workers in Thailand send home about \$315 million.

Generally, that money is used to repay debts, pay for the education of children, or build a house and purchase land. The expenditures benefit the family and community.

Kyaw Min said that he is still a newcomer and can't save much from the 6,000 baht he earns each month. "Someone here can earn up to 10,000 baht a month," he said.

Moe Tun said he tried to spend as little as possible and sends home 4,000 baht every month to pay school fees for his brother and sister, adding that schooling in Burma is very expensive.

"Now I am very hopeful about my siblings' future because they can go to school," he said.

Htoo Win, the shrimp peeler, said that as soon as she has saved 100,000 kyat (4,000 baht), she sends that money home. In about five years, when she has saved enough, she will return home.

"My mother keeps that money for my future," she said.

## I NEVER THINK TO COME BACK

*A Lao maid escapes from employer who abused her*

By: Phonsavanh Vongsay  
*The Vientiane Times*  
Laos

“Don’t take them to the hospital, just let them die.”

Those are the words an employer often said angrily to her maids after beating them badly, one of the victims, a 19-year-old Lao maid named Ms. Dao, said last week at a shelter in Thailand. Her eyes became red and looked so sad while she repeated those words.

Dao (not her real name) was a maid for three years at a two-story house in Bang Khen district, Thailand. She was never paid a salary, and her employer hurt her badly.

She had come to Thailand with two Lao friends, and they worked for the same employer. The employer beat them all.

Dao explained that her employer stabbed her ears with a big pin used for sewing rice bags. The young woman pointed to her left ear, which had been torn and stitched together.

Her friends were beaten in different ways: one’s face was cut with a knife; the other’s back was seared with a hot iron.

The employer was a woman, and she has a daughter who is a doctor. But her daughter also did not care that the maids were abused.

“We were hit every day and the blood came out from our mouths,” Dao said.

They worked all day and sometimes had to work all night.

At mealtimes, she was not able to eat if there was not any food left on the table after the employer’s family had finished.

“Don’t eat if you are not allowed,” she repeated what her employer said to the maids. “When you are allowed to eat, you must eat in the toilet.”

Dao is from Sukhumma district, of Champassak province in the southern part of Laos, close to Thailand.

She came to Thailand with a Lao broker to find money to support her family. Dao’s family allowed her to go because they were poor, they did not have enough rice to eat, and they had no buffaloes or rice fields. Her father was a fire woodcutter. There were seven people in her family and she was the second one.

“You have to be patient even though your employer hit you,” she repeated what her mother had told her. “I was patient for my mother.”

Dao was patient for three years and hoped to get a large amount of money as her employer said she would. But her employer had lied to her.

Dao said the employer promised to pay her after five months, but nothing happened. After one more year, nothing happened. After another year and a half, still nothing happened. She waited and waited for three years but she never got any money.

Then she decided to escape from that house alone and went to the police. The police helped her two friends and they were taken to Kred Tra Karn Protection and Occupational Development Centre (known as Kredtrakarn Home or Home for Girls), Pakkred district, Nonthaburi province, Thailand.

They are staying there for six months. Right now Dao is learning how to weave baskets. Her life gets better, and she can have meals three times per day as other people do.

“But I really hope to return home, in Laos,” she stressed. “I never think to come back.”

As of May, the centre had 380 girls from Burma, Cambodia, Thailand, Vietnam and Laos. The girls will be training for a while then sent back to their home countries.

The Centre was established in 1960 to provide improved protection and assistance to child victims of commercial sexual exploitation, and women and girls who suffer from various social issues such as behavioural problems and domestic violence.

They will receive medical care and vocational training assistance such as dress making, beauty treatment, barbering, weaving, wickerwork, arts and crafts, cooking and batik painting.

## PEOPLE ON THE MOVE

*Decades of economic and political crisis push the Burmese people out of their country*

By Myint Zaw  
Myanmar

After living more than two years in Thailand as an illegal migrant worker, Aung Wa, 34, came back to Yangon in 2004. He carried with him a haunting experience and little money. He received low or no pay, worked like a slave, slept little, and always lived with fear.

“Every time I saw police, I was afraid out of my wits,” he said.

But in two years he earned more money than his whole family of more than five could earn in Burma. In September 2004, three months before the Asian tsunami hit the region, he came back again to Thailand.

Like Aung Wa, many people from Burma leave their homes “to escape dire economic conditions, risking their lives for opportunity,” according to an International Labour Organization (ILO) report in 2002.

Over the past 15 years, Burmese people have suffered from a declining economy, political oppression and conflict between the Burma army and ethnic groups. As a result, the number of people leaving Burma has grown to one of the largest migration flows in Southeast Asia, according to a research paper on ‘Burmese migrant workers’ by Mahidol University.

“Hope for a better economic future is the main driving force for Burmese people to cross the border and come to Thailand,” said Myo Thant, a volunteer with the Raks Thai Foundation, an NGO that helps migrants all over Thailand. “But life as a migrant worker in a foreign land is a hard life.”

Nam Mo Khan, 36, works at a Chiang Mai construction site and earns about 4,000 baht per month. She moved her eyelids to keep her tears from falling and said, “I will work hard here for my son’s future in Burma. If I don’t work here, my son can’t go to school.” Then she smiled as the tears came down. “He is bright; he is now in fourth grade.”

“Most of us think we live better in comparison with our lives in Burma,” said Myo Kyaw, who works in a shrimp factory at Samut Sakhon, a seaport near Bangkok. The area has a large fishing industry and has the largest concentration of Burmese migrant workers in the country.

“In Burma, one day’s wages (barely \$1 US) are just barely enough for the next day. Here in Thailand, one day’s wages (more than \$3 US) are enough for three days.” Myo Kyaw said.

Burma’s economy has been struggling for the last five decades. Burma gained independence in 1948 and has been under military control since 1962, when General Ne Win imposed socialism with complete isolation from the outside world. Once one of the richest nations in Southeast Asia, Burma slid down to the list of least developed nations in 1997 as designated by the United Nations. Average personal income fell from \$670 US per year in 1960 to \$200 per year in 1989.

In 1988, a popular uprising against the Burmese government happened throughout the country. A new military government crushed the uprising and then strictly controlled power. The opposition National League for Democracy party won a 1990 election in a landslide, but the military government ignored the result.

Starting from the 1990s, the military government tried to open up the economy. That allowed for private investment and also foreign investment. But economic growth and living standards did not improve much because of continued political and ethnic problems as well as economic sanctions from Europe and the United States.

These days in the streets of downtown Yangon, roadside platforms are filled with sellers. Most of the sellers are young men and women who can’t find appropriate jobs after they graduate from university. Regular power cuts, always-crowded buses, price instability of basic commodities, daily petrol rations for car owners – everyday life in Yangon shows a picture of economic decline. Poverty can be easily witnessed in rural areas, where 70 percent of Burmese live.

Many people who live along the Thai-Burma border opt to go to Thailand for a long time. There was a massive influx to Thailand after 1988 from various parts of Burma.

Burma shares a long border with Thailand and it is relatively easy to cross. Between 1 million and 2 million people from Burma now live and work as legal and illegal migrant workers in Thailand by current estimates.

The economic gap between Thailand and Burma is very clear: Thailand's GDP per capita in 1999 was more than \$6,000 compared to just over \$1,000 in Burma.

Even though he doesn't know about GDP, San Lin from Burma's Karen State learned about the better wages in Thailand from a friend who came back seemingly with a lot of money. With the help of his friend and his mother, who sold her small farm to support his son's travel costs, San Lin now works in Samut Sakhon.

Every day he works hard by carrying loads of fish from boats to trucks. Even though he has now lived and worked in Thailand for one year, "I still need to keep my promise to mother," he said. "I told my mother that I would send money to re-buy her own farm land."

Brahm Press, a researcher from Raks Thai, noted that most of the people from Burma migrate to Thailand by what he called the 'Chain Migration Pattern.' "Former migrant workers pass the information about contact persons to other people when they came back home and sometimes they become the broker," he said.

San San, 23, became a migrant worker in Maesod by contacting her friend by phone. In 1999, San San came from the central Burma town of Nyaung Lay Pin to Yangon to work in a garment factory. After one year, some of her friends moved to Maesod. They knew that there were many garment factories in Maesod, and they could get higher wages than in Yangon.

San San said, "I didn't want to go there because I knew that some of my friends ended up in prostitution, and there is a lot of harassment in the work place."

But her factory in Yangon closed down in 2002 because of U.S. sanctions against Burma. Knowing that her parents and sisters depend on the money she sends, San San went out to a public telephone booth and called her friend in Maesod to help her to get there.

But not all migrants who come to Thailand do so for economic reasons. Some come because of the prolonged political and ethnic conflict in Burma. The conflicts have gone on for more than 50 years.

Recently, renewed fighting between the Shan ethnic army and the Burma army has prompted the daily migration of hundreds of Shan refugees to northern Thailand.

Whenever fighting breaks out between the Burma army and ethnic groups or between ethnic groups, many people become displaced and end up as migrant workers.

Economic or political, legal or illegal, most of the Burmese migrant workers give one similar answer when asked about their future plans – they want to go back home one day.

Rarely can they give the exact date of return to Burma.

For the political migrants, the Burmese political situation is still bleak. There is no solution for the political deadlock, and opposition leader Daw Aung San Suu Kyi remains under house arrest, while fighting rages in ethnic areas, especially in Shan and Karen states.

For economic migrants, they simply can't save enough money to go back. For some, they don't know what they can do for a living in Burma. "The Burmese economy is still falling back," U Chan Aye, Burmese economist said recently.

Ah Ja, 30, from Burma's Kachin state, has worked in Chiang Mai as a housemaid for more than eight years. She married another Kachin migrant and now has a 9-month-old-daughter.

To look after her daughter, she had to stop working for almost a year. Now she is trying to find a job again. Clutching her daughter between her arms, Ah Ja said she is anxious about her family and her daughter's future.

"I remember my home every minute of the day," she told a small group of journalists. Then she asked, "How can you help me to improve our life here and to go back home to Burma?"

Silence in the room.

## RUN, THIDA, RUN

By Aung San  
*Myanma Dana*  
*Myanmar*

“Run...Run.....Run, the police are coming!”

When they hear the scream, Aye Thida and other workers get up from the bed and run away. It is midnight in March 2005. The place is a garment factory workers' apartment in Mae Sod, a far-northern Thai-Burma border town. Aye Thida, 16, and 10 other workers cross the border stream back to Burma.

Like Aye Thida, hundreds of migrant workers along the border live in a game of cat and mouse. Because they don't have a living permit nor work permit ID cards, they are ready to run away when they face the police.

“If migrant workers can't show an ID when they encounter the police, there are many possibilities. The police can extract money from them, send them back to Burma or in some cases they go to prison,” said Aye Thida.

Aye Thida and her friends took refuge in the Koe Na Win monastery inside Burma. After five days stay in monastery, they came back across the stream to the garment factory at Mae Sod.

Burmese migrant workers in Thailand who don't have ID cards always live with fear like Aye Thida. They have many troubles. Low wages, little access to health care and fear of arrest or deportation are part of their lives. But registration is a difficult and complicated process.

Beginning in 2001, the Thai government issues one-year work permits to migrant workers who register and pay the fee. Last year the Thai Government issued free living permits for any workers who live in Thailand. The living permits allow migrants to remain in Thailand without being arrested or deported, but do not allow them to work here, according to the Migrant Action Programme (MAP).

If workers want a work permit, they have to pay 1,900 baht for a worker card, 1,900 baht for health insurance, and 1,000 baht for a medical check up. The total cost for the right to work legally is 4,800 baht. The cost to renew work permits for this year is 3,800 baht. Workers who

got a living permit last year but no work permit will have to pay 5,250 baht for a work permit, including a 450 baht fine, according to MAP. These amounts are too much for many workers who earn just 80-100 baht per day, they say.

“Lack of money, lack of information and lack of encouragement by employers to register are the main reasons why people don't have the ID card,” said Aung Myo Min, director of the Human Rights Education Institute of Burma (HREIB). Employers often discourage their workers to register because they would have to pay higher taxes if the government knew how many employees they really have, Aung Myo Min said.

In 2004, 1.2 million migrant workers registered in Thailand for one-year living permits. Of those, 845,530 migrant workers registered for work permits, including 628,661 Burmese, 105,230 Lao and 111,639 Cambodian workers, according to the Foreign Workers Administration Office, Department of Employment, Ministry of Labor and Social Welfare. Mr. Allan Dow, communications officer for the International Labor Organization, estimates that there are more than 2 million migrant workers in Thailand. According to this estimate, there about are 1.2 million migrant workers without work permits in Thailand.

The lives of undocumented workers have much difficulty.

“I am a housemaid in a Bangkok house,” said Naw Nyein Phu, 24. “I don't have ID so I don't dare to go outside from home. I am worried that the police will arrest me and they will send me back to Burma. Whenever I see police, I am afraid.”

Aye Thida tells a survival story full of fear. She lived in Mottama village in Moulmein Township, Mon State of Burma. She is the fourth of seven children in the family. Her family is poor and her neighborhood is poor, too. She never has been to school. One of her friends who worked at the garment factory persuaded her to come, and finally she reached Mae Sod.

Mottama is 80 miles away from Mae Sod. But there are a lot of checkpoints on the way. To pass checkpoints, travelers have to pay money. So traveling to Mae Sod cost Aye Thida 50 USD. She said she sold her earrings to pay

for the travel cost. The employer only pays 20 baht per day and gives the reason that they are just beginners. The factory provides meals. She continues work, hoping one day she will get 80 baht per day, she said.

Migrant workers leave their homes and cross the border into Thailand for many reasons, said Ko Soe Myint, a spokesman for the Yang Chi Oo organization, which helps migrant worker from a base in Mae Sod.

“Some are political migrants, many have economic reasons hoping to find more money. Most of them come by crossing the border with no passport and visa. It is easy to get a passport from the Burmese government but very difficult to get a Thai visa. Issuing one-year work permits without issuing visas is a Thai government policy that is unmatched.”

A foreign worker affairs spokeswoman in the Thai Ministry of Labor told BBC Burmese radio on June 1, “This year we will renew work permits for the already registered workers. There will be no new registrations.”

According to Myint Wai of A Mae Sod-based NGO, which also helps migrant workers, the Thai labor ministry decided that it will only renew the work permits issued last year. Myint Wai predicted the number of documented workers will be fewer than the 2004 registered number of 845,530 as some will go back to Burma. So, all new arrivals to Thailand cannot register and will be illegal. So the number of illegal migrant workers will grow “dramatically” this year, he said.

Some are working well with their IDs. Nam Mo Khan, 36, a Shan woman construction worker who works in Chiang Mai and who had a work permit said she earns 120 to 135 baht per day. Also tsunami survivor Aung Kyaw Win now has a visa and work permit and lives in Chiang Mai. He earns more than 15,000 baht per month working in a tailor shop.

But many workers who have work permits still live in a fearful state.

“One night last May, I went to the Karaoke. Then the police came and arrested me and other migrant workers,” said Ko Ye Naing, who works at a Samut Sakorn fisheries dock. I stayed in police custody four days. Then my boss came and took me out. I have an ID card. But my boss took it from me. So like other workers without an ID, I always live in fear.”

Like Ko Ye Naing, many registered worker always have to worry because their boss keep their ID. An estimated 95 percent of documented workers have to give up their IDs to employers, according to MAP Coordinator Jackie Pollock.

Aye Thida’s fear is perhaps deeper because she has no work permit.

“Every time I go to sleep, I am worrying that I will hear someone scream ‘run....run....’. Some nights I can’t sleep by worry. At day times I also have to worry and fear,” said Aye Thida.

## THE VULNERABLE & EXPLOITED

By Nguyen Thi Cam Thuy  
*Photo World Magazine*  
*Vietnam*

“I want to go home.”

This is the dream of a 23-year-old slim, long dark-haired Vietnamese woman, Thi Ai, who left her family in Dak Lak, a province in the center of Vietnam, for Ho Chi Minh City, to look for jobs when she was only 16 years old. She was trafficked to Malaysia for one year to work as a sex worker and had to serve men from five to six tables a day without any salary except for tips from customers. She was arrested in Thailand after escaping from Malaysia. Now she is living in the Home for Girls, in Pakred Island, Thailand.

Hers is not the only story. In the far northern part of Thailand, Pong Hai Village, Mae Aye District, Chiang Mai Province, 37-year-old Nauui Yamsauuat, a small, white and pale-faced woman, has not much time for dreaming. She has been infected with HIV/AIDS since 1998. Leaving her family in a poor mountainous area filled with lychees to look for a job in Chiang Mai in 1986, she was tricked to work as a prostitute.

Chiang Mai has been a destination not only for Thai people but also for foreigners. Living in crowded, ramshackle shanties with other Burmese workers in construction sites, Ma Nan Mu Khan, a 36-year-old woman, has to do all kinds of jobs like men do, but she is paid only 135 Baht per day in comparison with 180 Baht for men.

Here and there, not only in Thailand but also all over the world, migrant women are among the most vulnerable to exploitation and abuse, mainly because they are outside the legal protection of their homeland and because they work in jobs - as domestic servants, prostitutes, entertainers, contract manual laborers - which are not covered by labor legislation. Their situation is made worse by the fact that they are usually young and poor, living in fear of losing their jobs; they do not speak the language of the host country; are unaware that their rights are being infringed; and normally do not know where to go for

help. Many also end up in a situation of debt bondage, having borrowed money to pay for the costs of obtaining an overseas job or having been duped by unscrupulous agents or employers, according to research by the International Labor Organization (ILO), which was updated Feb. 21, 2005.

In 2000, worldwide, an estimated 175 million migrant workers, permanent immigrants, refugees and their dependents were living outside their country of origin or citizenship, according to ILO's statistics. By the year 2005, this number rose to 185 million, according to recent statistics by the International Organization of Migration. Women account for an increasing proportion of international migrants, from 47 percent in 1960 to 49 percent in 2000, reflecting the rising importance of family reunification, according to ILO's research.

In Thailand, there are at least 2 million migrant workers, 89 percent of whom are from Burma; 55 percent of those are women. Most of them work in seafood factories or at construction sites. Women constitute only 25 percent of Cambodian migrant workers, but among Laotians, more women than men are migrant workers, according to 2004 statistics from the Migrant Action Programme (MAP), an NGO based in Chiang Mai. This is due to the fact that Laotian men are not skillful in fishing - an industry occupied by many migrant men, according to Raks Thai Foundation. Most migrant workers who were asked about their motivation for migrating said they wanted to earn more money.

“My parents opposed my decision, but my family was so poor at that time. My father was sick; my mother had a problem in her leg. We needed money,” Nauui said. A couple persuaded her to come to Chiang Mai to work as a bar waitress, but trafficked her as a prostitute. She earned 1,500 Baht per month in Chiang Mai, but her savings was only 500 to 600 Baht per month, due to the 2,000 Baht her owner had to pay police each month not having an ID card, she said.

Similar to Nauui's case, Thi Ai (not her real name) was told to come to Malaysia to work as a housemaid with a salary of thousands of dollars per month. “I have never dreamed about such a large amount of money,” she sadly smiled. Her mother died when she was only 6 years

old. Her father married another woman. She decided to leave her family to live on her own in Ho Chi Minh City. She left her job as a bar waitress for Malaysia, where she was trafficked to work in a

karaoke bar without any salary in one year. “I had to fulfill my debt of 3,000 USD to the karaoke owner for giving me a job. I got tips of 2,000 – 3,000 Ringgits (520 – 780 USD) from customers each month, but I used it up for meals, accommodation and cosmetics,” she said.

However, some women said they migrate for other reasons than money.

Mar Mar, a single, university-graduated, 44-year-old Burmese woman, said that she opened an art gallery in Mandalay, a central city in Burma, with her friends in 1989. The government then closed the gallery and arrested some of her friends, accusing them of being communists. After that, she opened another gallery in 1993 in Tachileik, a Burmese town near the border of northern Thailand, but it was closed again in 1996 because fighting between the Burmese Army and the Mong Tai army broke out in Tachileik. She decided to move to Chiang Mai to open her art gallery again. “Living and working in Chiang Mai is quite comfortable,” she said.

Mar Mar’s is a special case in Thailand. Almost all migrant women work in the agricultural sector, domestic jobs, entertainment, food processing, garment factories, sex service, and even in construction, according to “Untangling Vulnerability: A Study on HIV/AIDS Prevention Programming for Migrant Fishermen and Related Populations in Thailand” by Brahm Press from Raks Thai Foundation.

Migrants are often relegated to the “three Ds” – dirty, dangerous, and degrading – jobs that national workers reject or are not available for, according to ILO. Ma Nan Mu Khan is living with her family in a crowded camp for Burmese workers at construction sites in Chiang Mai. More than ten cramped cottages without any beds, tables, kitchens or toilets are crammed into about a 100-square-meter place. Forty residents share one toilet and an outdoor place in front of their accommodation for bathing and washing clothes. A woman living there earns only 135 Baht per day while a man doing similar work can

earn 180 – 200 Baht per day. This is because women cannot work as hard as men, though they also work eight hours a day, as some Burmese men and women at a construction site in Chiang Mai said.

Most migrant women suffer in unhealthy, sometimes abusive conditions. “I had to work from 5 pm to 5 am every day,” Thi Ai said. “I was locked in a 20-square-meter room with about 16 women; most of them were Vietnamese and Cambodian.” They were not allowed to go out. Meals and drinks were brought in when needed, she said.

“The first night with an American man was really terrible for me.” Her voice became softer. “I was very scared and cried a lot. The karaoke owner threatened to beat me if I did not satisfy that man.” A customer asked her to use ecstasy so that she could fully satisfy him. “That made it impossible to sleep then,” she said.

Some women are even sexually abused. A 14-year-old Burmese girl who works as a shrimp peeler in Samut Sakorn, a southern province near the sea, was raped three months ago by a shrimp factory owner’s son, according to Mr. San Tun from Raks Thai Foundation.

Health is another problem for migrants. The Thai public often regards over 1 million migrant workers in Thailand with illegal status as the source of diseases. Yet these migrants and their dependents are not allowed easy access to health information and medical treatment, according to Raks Thai Foundation.

Migrant women easily catch skin diseases, stress, lung diseases, malaria, dengue fever, elephantitis and other diseases. By necessity, many migrants are forced to live with up to 10 or more people in close quarters, and conditions are ripe for spreading contagious diseases like tuberculosis. Two of the most dangerous health situations facing migrant women are HIV/AIDS and unsafe abortions, said Jackie Pollock, project coordinator of Migrant Action Programme.

Nauui, from Pong Hai, knows this risk very well. “When I knew that I was infected with HIV, I was horribly desperate. In my work place in Chiang Mai, 30 women had died of AIDS-related diseases.” Another four have AIDS and remain alive. “Including me.”

## WOMEN MIGRANTS' SHATTERED DREAMS

By Manivone Luangsombath  
*Lao Women Newspaper*  
*Lao PDR*

Nalo was one of many women in Thailand who dreamed of going to Bangkok to find a job and earn more money. But her dream was not realized, because she could not get the good job of her dreams; she was forced to work as a prostitute. Unfortunately, when she went back home to Pong Hay village in Mae Aye District of Chiang Mai Province, she was infected with HIV.

Nalo, 37 years old, married a man when she went back home. She has two sons; they are very lucky to be HIV negative. Nalo is skinny and looks unhealthy. "Sixteen years ago, my sister and I went to Bangkok because we hoped it would be easy to find jobs and earn more money than working in the garden," says Nalo.

According to a May 2005 study by the International Labour Organization (ILO), at least 12.3 million people are forced laborers around the world and 49 percent are female migrants. The report states that debt bondage frequently affects minorities, including indigenous people who have long experienced discrimination in the labour market. They are locked in vicious cycles of poverty from which they find it ever more difficult to escape.

Many migrant workers' dreams are shattered when they leave home. Nalo used to work as a lychee gardener to earn some money, but she and her sister moved to Bangkok because they needed more money to take care of their family. Her lychee garden was sold after she left home for Bangkok.

Nalo said, "I went to Bangkok because of word of mouth. My elder sister and I accompanied my friends. Ten people went to Bangkok to earn more money, but all of us were forced to work in sex services in a restaurant in Bangkok. A broker who was the restaurant owner's relative pushed us."

Nalo continued her words with a soft voice and her face looked sad. Says Nalo, "Every day my friends and I had to have sex with customers. We never went out, and had only one meal per day, but I never got any money

from my sex. I worked there for two years, then escaped and returned to my home. Now my friends, who used to be prostituted as I was, already have died of HIV/ AIDS."

According to Mr. Nithad, family planner of the Family Planning Association of Thailand in Mae Aye District, "There were 21 HIV-infected patients in Pong Hai village in the year 1999, but only 11 of them are still alive. They are now patients of the HIV-prevention center of Mae Aye District."

There are some exceptions, lucky women migrant workers who could find good jobs and earn more money as they had hoped. Some of them work in garment factories and seafood factories, as housemaids or construction workers, depending on their skills. A Burmese woman named Ying is working as a shrimp peeler at a factory in Samut Sakorn Province. Ying, 25 years old, is fat and strong in a yellow uniform suit. She says, "I am a Burmese; I came to Thailand because I thought I could find a good job and earn more money. I have been working as a shrimp peeler for four years. Every day, I am able to peel about 20 to 30 kilograms of shrimp, depending on the shrimp's size. The estimated pay is 5 - 10 Baht per kilogram and I can earn about 4,000 to 6,000 Baht per month. I don't want to go back home, because I need more money to support my son for his education when he grows up."

However, many migrant workers are not as lucky as Ying. For instance, a Lao, Hieng, came to Thailand and worked as a maid for five months, but she never even got one Baht. Moreover, her employer abused her by penetrating her left ear with a big needle, making her ear disabled.

A representative of Raks Thai Foundation, an NGO that helps migrant workers, reported that although many migrant workers like to work and live in Thailand, their living conditions in Thailand are generally poor and very overcrowded. The costs of basic necessities such as rent and utilities are often a major trouble for migrants. Factory workers stay in the cheap accommodations provided by their employers or they share a cheap apartment with their friends. Migrants have little, if any, privacy and they cook, eat and sleep in the same small space. They have no access to clean water and toilets are dirty and insufficient.

Tha Phae, a seafood port in Mahaxay District, Samut Sakorn Province located in the central part of Thailand, is a big Burmese migrant workers' community. The population is around 144,000 to 200,000 people or more, including unemployed migrants, followers and children. A Burmese named Thorhakong, 30, works as a shrimp peeler in a factory. Thorhakong says, "My family, together with other families, rent and share room in a flat and we live together. I know it is not convenient for me to share a room with others, but I have to, because the rent for the room is very expensive: minimum 4,000 Baht per room."

According to Ms. Nang, a staff of Migrant Action Program, an NGO that works with Burmese migrant workers, "Many migrant laborers have no access, or are reluctant to use health services or hospitals because they don't have ID cards, don't have money and some of them can't communicate with health or hospital personnel. They therefore resort to self-medication by buying medicine from drug stores. The language barrier also keeps migrants away."

Bouakham is a 35-year-old woman from Burma. She works as a construction worker in Chiang Mai. "We don't like to go to hospital even when we get a health card and pay only 30 Baht for a health check up," she said. "

The result is: the hospital is very far, and when we go to see the doctor, we only receive some medicine with low quality to take. Moreover, we have difficulty with language communication. Therefore, if we are ill we prefer to go to a clinic; even though we spend more money, it is easier and faster."

Living and earning in Thailand are not easy for migrant workers. Some workers say they have to work as animals, and they have to escape to avoid arrest, because they don't have work permits. Some of them work very hard but don't get wages, or they get diseases.

Nalo, the woman at Pong Hay village, said, "I don't know when I got infected with HIV, but I have lived with HIV for 7 years. My health is not well and I have to go to see a doctor every month under the government health scheme and receive ARV medicine, which I take two times a day."

Even though her dreams were shattered, Nalo understands why people leave home for work. "If my son or my relatives need to go and work in the city or somewhere to earn money, I will let them go because I could not control them. But I will remind them that they must know how to earn money and live without disease."



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