



Mahidol Migration Center

Institute for Population and Social Research
Mahidol University



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Thailand's Low Skilled Migration Policy: Progress and Challenges

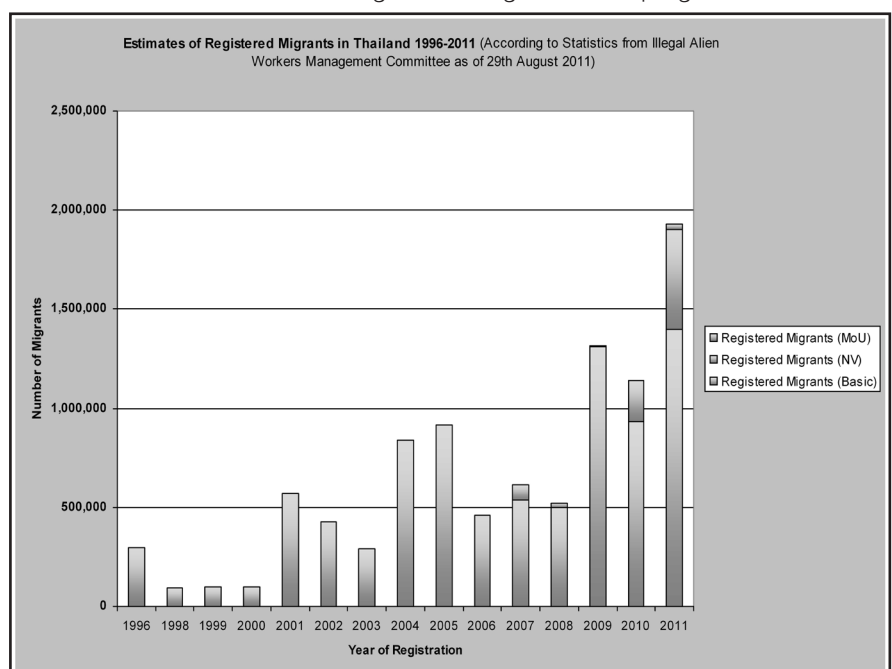
Stage ONE: Thailand's Semi-Regularisation of Low Skilled Migrant Workers

In the late 1980s, the Thai Government (TG) began to acknowledge significant numbers of low-skilled migrants from neighbouring Cambodia, Laos PDR and Myanmar within its borders. At this time of rapid economic development and labour shortages, employment laws disallowed low-skilled migration however. Smuggling networks flourished to fill labour shortages created by the absence of legal labour import and operated with ease due to porous borders and ineffective interception.

Since the early 1990s, low skilled migrants smuggled into Thailand have been the subject of semi-regularisation programmes. Reflecting tensions with regards national, economic and human security, ad hoc Cabinet resolutions have allowed undocumented workers to register to work, generally for one year only, as "labourers" or "domestic workers." Originally limited to border provinces and a few work sectors, by 2001 migrant registration was rolled out across the country and in all low skilled sectors of work. Once registered, a worker remained "illegal, pending deportation" due to original irregular entry. Since 2004, in recognition of increased numbers of children born to migrants, registration of dependents has been granted intermittently also. Low skilled workers from Bangladesh,

China and Vietnam who also work in Thailand have never been officially recognised by the TG.

Migrant registration generally lasts 30 days and has been restricted to workers who registered previously. The ineffectiveness of this semi-regularisation policy was apparent in plummeting registration figures and increasing numbers of unregistered migrants as workers continued to be smuggled into the country, without genuine interception attempts, but were ineligible to register. In response, the TG in 2001, 2004, 2009 and 2011 announced larger semi-regularisation programmes when all



undocumented migrants in Thailand could register. More than 1.3 million migrants were registered after the 2009 registration and almost 2 million are now registered following a recent 2011 registration (discussed below).

Migrants and their employers often fail to take part in registration processes viewed as cumbersome, confusing, expensive and limited in time span. Migrants who register are restricted to a province of registration given their “illegal” status also. Much more needs to be done by the TG to ensure the benefits of registration or semi-regularisation for migrants are realised, including by further recognising the rights of registered workers (particularly through increased social protection) and taking strong preventive measures against harassment of registered workers, including by state officials.

Stage TWO: Thailand’s Migrant Worker Regularisation Framework

With semi-regularisation processes continuing for low-skilled migrants, the TG, with prodding from National Security Council (NSC), began discussions with neighbouring countries in 1999 on formal regularisation to solve migration challenges at their source. The discussions culminated in the signing of MoU (Memoranda of Understanding) on employment cooperation with Cambodia, Laos PDR and Myanmar during 2002 and 2003. The Ministry of Labour (MoL) was assigned to develop policies for legalisation of irregular migrants and a strategy was duly prepared and approved by the Cabinet.

The two methods devised by the TG for combating irregular migration were: (a) Nationality Verification (NV) of registered (but “illegal”) workers already in Thailand to enable them to acquire a legalised status by means of temporary passports (TP) or certificates of identity (Col); and (b) Import of workers directly from neighbouring countries with TP’s and COI’s. The registration of migrants already “illegally” in Thailand would continue only until these two principal means of regularisation were achieved. Regularising dependents of migrants (particularly children) continues to be considered between Thailand and home countries of migrants but clear progress forward remains to be seen.

NV requires registered migrants to provide biographical data to home countries for verification to receive a TP or Col, a visa and a valid work permit to remain in Thailand legally for two years, extendable for two years, before they must return home for at least three years. On completing NV, migrants should receive more rights than semi-regularised workers including access to official social protection denied to them previously (social security and work accident compensation), motorbike licences and unrestricted travel within Thailand and between Thailand and home countries. Procedures for import of workers from neighbouring countries involve agents, embassies and a plethora of government departments and officials. Imported

workers with TPs, COIs and visas are entitled to the same rights as workers who pass NV.

Stage THREE: Thailand’s Experiences of Regularisation

Since 2008, the TG announced plans to prioritise migrant regularisation, particularly NV for documented migrants already in the country, which by 2010 totalled 1.3 million persons. Negotiations between the TG and Myanmar to prevent Myanmar migrants, who make up around 80% of all migrants in Thailand, from having to return home to complete NV had been relatively unsuccessful over the years. The Governments of Cambodia and Laos PDR were amenable to sending officials to Thailand to carry out NV and issue Col’s and passports to their nationals. NV of Myanmar migrants actually began at the end of 2009, 3 years after the start of the process for Cambodian and Laotian migrants. Myanmar’s opening of a NV center in Ranong Province in Southern Thailand in July 2010 was a significant step forward for Thailand’s regularisation efforts. Many Myanmar migrants in Northern Thailand still must return to Tachilek Province in Myanmar to complete NV however



(Photo: Migrants from Myanmar in Samut Sakorn attend a Seminar on Migrant NV Registration in February 2010)

The former Thai Prime Minister and Minister of Labour both sought opening of more Myanmar NV centres in Thailand during visits to Myanmar in late 2010 and early 2011 in order to speed up completion of NV. Towards the middle of 2011, Myanmar hinted at plans to open two more NV centres in Thailand during visits by its senior officials to the country. From July 1st 2011, Myanmar extended the validity of its TP’s from 3 years to 6 years to ensure its workers could remain in Thailand for the 4 years agreed upon in the 2002 MoU with Thailand.

According to the most recent statistics (11th April 2011) from Thailand’s Ministry of Labour, between March 2010 and March 2011, a total of 439, 081 migrants from Myanmar had completed NV from the total number of 812,984 migrants who had agreed to the process by February 2010. During the same time period, 28, 404 Cambodian migrants and 34,909 Laotian migrants also passed NV. Importing migrants into

Thailand has been widely discussed by the TG but between October 2010 and March 2011, only 553 migrants from Myanmar, 23, 061 from Cambodia and 5, 081 from Lao People's Democratic Republic entered Thailand through official MoU import processes.

Table: Statistics on Migrant Worker Regularisation (NV and Import) (11th Apr, 2011)

Migrant Worker Measure	Total Migrants	Myanmar	Laotian	Cambodian
Completed Nationality Verification (Mar 2010 – Mar 2011)	502, 484	439, 081	34, 999	28, 404
Migrants Imported and Received Work Permit (Oct 2010 to Mar 2011)	28, 695	553	5, 081	23, 061

Source: Ministry of Labour, Thailand

Whilst regularisation processes significantly increase both confidence of migrants and access to rights and freedoms given the enhanced legal status involved, challenges to regularisation continue to include: (a) an inability to develop efficient systems with other countries concerned; (b) the highly complex nature of NV/import processes and absence of one-stop services; (c) lack of information among employers and migrants about what the processes entail; (d) high costs from unregulated and exploitative brokers; (e) delays caused by migrants from Myanmar having to return home for NV; (f) continued inability of migrants to easily change employers after completion of NV; (h) failure of employers to register NV migrants for the Social Security Scheme leaving regularised migrants without health insurance; and (i) exclusion of migrant children as part of the NV process.

Stage FOUR: A Fluctuating Migrant Regularisation Policy

During the past few years, the TG has fluctuated on its migrant regularisation policy, often seemingly in response to tensions between national security and economic necessity, but also in response to diplomatic, UN and human rights advocacy. Originally in 2009, a 28th February 2010 deadline was set for 1.3 million registered migrants to complete NV. The TG insisted undocumented workers in Thailand must leave as there would be no further openings for registration and the only way to work legally for undocumented migrants was to return home and legally enter from their home countries. Very few migrants had completed NV by late 2009 however, notably only around 10, 000 people from Myanmar. On 19th January 2010, the Cabinet issued a Resolution that these 1.3 million registered migrants had until 28th February 2010 *only to enter* NV by submitting biographical information to home countries and if workers did not comply they would be deported. The Resolution also extended the NV completion deadline to February 2012.

Over 930, 000 migrants met the 28th February 2010 NV

deadline but over 300, 000 failed to register. Reports suggest a significant number of migrants entering NV did so with false information to receive permission to stay in Thailand until February 2012, particularly given the backdrop of threats of deportation and confusion stemming from a lack of public awareness. The input of false information seemed likely to not bode well for the success of NV if information was genuinely screened. However, very few instances of migrants failing NV

have been evidenced, raising doubts regarding the genuineness of the NV process. Given estimates of a million un-

documented migrants already in the country but not entitled to enter NV, by March 2010 the majority of migrants in Thailand were undocumented.

On 2nd June 2010, former Prime Minister Abhisit Vejjajiva issued Order No. 125/2553 (Establishment of a Special Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground) to affect a deportation policy for migrants in Thailand who did not enter into NV processes by 28th February 2010. This order confirmed the TG's migrant regularisation policy consisted only of NV, legal import and deportation as opposed to further registration (semi-regularisation) openings for undocumented migrants already working in the country. This order raised concerns from the UN Special Rapporteur on the Human Rights of Migrants as well as the National Human Rights Commission of Thailand and attracted intensive domestic and international media attention. The initial enforcement of the Prime Minister's order led to significant arrests together with allegations of extortion and serious deportation abuse in Ranong province and in Mae Sot district of Tak that brought further international attention to the plight of migrants in Thailand. No change in border security measures to prevent further smuggling of migrants into Thailand was apparent.

In early May 2010 the Board of Investment (BoI) announced it would relax its policy so companies receiving grants and tax privileges could employ non-Thais, given increasing labour shortages. But the former Prime Minister Abhisit Vejjajiva requested this policy be reconsidered on the basis of national security, concerns about Thai workers' unemployment and need to ensure labour shortages were genuine. Employers again demanded in July 2010 the right to hire more migrants stressing a shortage of labour was starting to impede economic growth. In September 2010, BOI granted permission to hire migrants with conditions attached which were breached and resulted in Thai worker layoffs and protests.

In August 2010, rights groups campaigned for re-opening of migrant registration due to an increasing number of undocumented migrants in Thailand, increasing reports of extortion and corruption and so as to allow all migrants to enter NV. At the same time, employers called for a new registration to address ongoing shortages of low-skilled workers. Despite the Government's insistence that no new migrant registration would be allowed and only unregistered migrants returning to home countries and entering through MoUs could work legally in Thailand, in September 2010 the MOL announced there may be a new registration to ensure one million workers could become legal after all.



(Photo: Migrants from Myanmar celebrate traditional Buddhist festivals in Central Thailand)

On 27th October 2010, following extensive news reports of extortion and trafficking relating to arrest and deportation of unregistered migrants, and a day after a visit to Thailand by the UN Secretary General during which migrant rights abuse claims were raised, Former Prime Minister Abhisit Vejjajiva issued order number 282/2553 (Setting up of a Centre to Suppress, Arrest and Prosecute Alien Workers Working Underground and Human Trafficking Processes). The words "and human trafficking processes" distinguish this Centre from the Centre established by Order No. 125/2553 on 2nd June 2010. The new Centre would extend the previous June 2010 crackdown on migrants working in Thailand underground to financial backers involved with trafficking such as smugglers, harbouring persons or employers. The former Deputy Prime Minister ordered mobilisation of forces to inspect, suppress, arrest and prosecute unregistered migrants, their employers, smugglers and those harbouring undocumented migrants in November 2010. No crackdown ever took place however, and again, no change in border security measures to prevent further smuggling of migrants into Thailand was apparent.

At the end of 2010, former Prime Minister Abhisit Vejjajiva frequently stated the need to respond genuinely to migration challenges in Thailand. He also often spoke about the need to come up with reliable estimates of the number of migrants in the country alongside genuine labour requirements and Thai unemployment statistics to assist in long-term migration policy

development. During 2010 and into 2011, increasingly frequent negotiations to increase effectiveness of NV and labour import were held between Thailand and neighbouring countries as a sign of the strengthening intention to formalise migration flows. Myanmar authorities took a more active role in negotiating for speedier regularisation of its nationals. The amount of information being disseminated regarding NV increased.

On 26th April 2011, Thailand's Cabinet approved a Resolution 'Measures to Systematically Solve the Problem of Illegal Migrant Workers.' Key features of this Resolution were:

1. A new registration for undocumented workers from Cambodia, Laos and Myanmar currently working and residing in Thailand. Registration extended to accompanying children not over 15 years of age also. Once registered, such persons would be granted permission to stay in Thailand for no more than 1 year to work legally, pending deportation for 'illegal' entry. The measure was another round of semi-regularisation as has been used during the past two decades.
2. An emphasis on strict and continued interception, suppression, arrest and prosecution of undocumented migrants and the prevention of new arrivals before, during and after the new registration. Similar punitive measures would be taken against employers and those providing work or refuge to undocumented migrants.
3. An increased focus on 'legal' import of migrants from Myanmar, Laos and Cambodia to respond to the low skilled labour needs of employers in Thailand.
4. Restructuring of the Illegal Alien Workers Management Committee (Kor Bor Ror) to allow wider coverage of migrant issues and decentralisation to the provinces.



(Photo: A Shan migrant construction camp's accommodation in Northern Thailand)

This Cabinet decision was a significant reversal in migration policy as the TG had previously stated that only migrants

Table: Statistics on Migrant Worker Registration 15th June to 13th August 2011 (29th Aug, 2011)

Migrant Worker Measure	Total Employers	Total Migrants	Myanmar	Laotian	Cambodian
Submission of migrant registration documents	168, 065	1, 011, 127	655, 868	105, 586	249, 673
Work permits requested	121, 892	652, 896	419, 686	77, 143	156, 067

Source: Ministry of Labour, Thailand

completing NV or legally imported would be eligible to work in Thailand. The change in policy was welcomed by employers, human rights activists and migrants but suggested policies of the TG in managing migration remained short-term and unpredictable

Thai officials made greater effort to make the latest semi-regularisation process, carried out between 15th June and 14th July 2011, more effective. The registration for fisherman was extended to 2 months (until 13th August 2011) and one stop service centres opened in provinces with many migrants. Public awareness campaigns, although focused mainly on employers and not migrants, seemed more successful than previously, evidenced by steady flows of migrants registering during the 30 day period whereas previously, a rush at the end of registration was evidenced. Over one million migrants registered in 30 days. It remains unclear whether newly registered migrants are eligible for NV or not however.



(Photo: Migrants in Central Thailand gather to listen to information on occupational health and safety and labour rights from NGO workers)

Reflections

Re-opening registration for migrants with unregistered status in Thailand in 2011 was commendable as one potential and effective means to address irregular migration and target efforts to decrease continued exploitation of migrants in Thailand. The TG's moves forward, alongside neighbouring countries, with NV and legal worker import can likewise be praised as potential means to ensure regularised migration which provide migrants with a stronger legal status that can empower them to demand rights and gain better treatment at the hands of their employers.

However, migration management systems in Thailand still face fundamental challenges and much more needs to be done by the TG. There is an urgent need for a long term migration policy in Thailand that places human, national and economic security on an equal footing. Migration has not been prioritised as part of Thailand's 5-year National Economic and Social Development plans in the past. Thailand primary low skilled migration management body, the Illegal Alien Workers Management Committee (or Kor Bor Ror) needs to be significantly strengthened and resourced if its capacity to tackle Thailand's mounting migration challenges are to be increased.

ASEAN should have a central role to play in Thailand's migration debate, despite its regional framework on migration at a standstill and the sensitivities surrounding Myanmar, the source of 80% of all low skilled migrants in Thailand. Thailand, as both a receiving and sending country of migrants within ASEAN, is well placed to take the lead in pushing for a clear, dynamic and rights based ASEAN migration policy. UN agencies and foreign embassies supporting migration policy development should continue to find more innovative ways to assist. The embassies of the home countries of the millions of migrants in Thailand should increasingly help too.

There are genuine challenges for the Thai Government in moving forward with migration policies. But benefits of low cost workers contributing much to Thailand's economic development and social fabric, for more than two decades now, comes with clear responsibilities. Much more effort is required if the situation of migrants in Thailand is to improve. Central to solving migration challenges should be a long term migration strategy that focuses on regularisation and equally prioritises national security, economic security and human security.

Importantly, benefits for the migrants behind this complex social and economic debate should not be forgotten. A sustained and meaningful response is required from the TG and all relevant stakeholders to ensure human rights promotion and protection of migrant's increases so that Thailand can fulfill its human rights pledges on migration to the UN Human Rights Council in 2010.

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MMC Editorial Team

Editor:

Andy Hall, IPSR (prandy@mahidol.ac.th)

Co-Editor:

Kritaya Archavanitkul, IPSR (prkac@mahidol.ac.th)

Layout and Design:

Aek Sawadju (sawadju@hotmail.com)

Contact MMC at

mahidolmigrationcenter@gmail.com



Institute for Population and Social Research, Mahidol University

Salaya, Phutthamonthon, Nakhon Pathom 73170, Thailand

Tel. +66(0)2-441-0201-4 Fax. +66(0)2-441-9333

www.ipsr.mahidol.ac.th Webmaster : prwww@mahidol.ac.th