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Different Stream, Different Needs, and Impact: Managing International Labor Migration in ASEAN: Thailand (Immigration)

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Philippine Institute for Development Studies
Surian sa mga Pag-aaral Pangkaunlaran ng Pilipinas

**Different Stream, Different Needs,
and Impact: Managing International
Labor Migration in ASEAN: Thailand
(Immigration)**

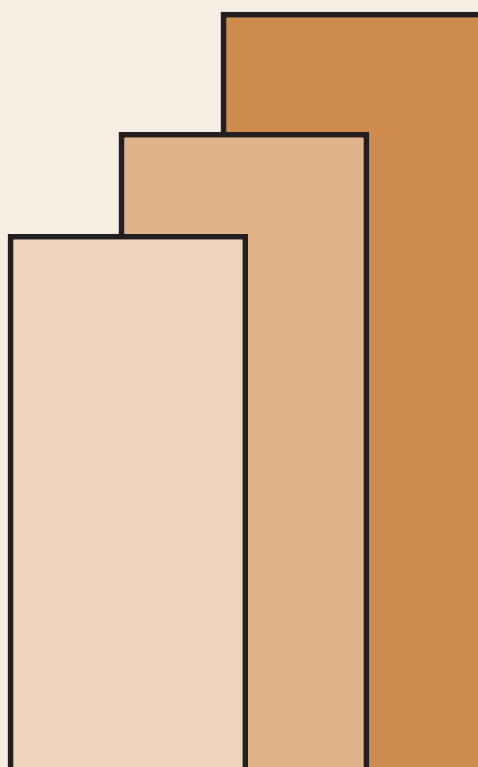
Srawooth Paitoonpong

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Abstract

Different Stream, Different Needs and Impact: Managing International Labor Migration in ASEAN: Thailand

The study on “Managing International Labor Migration in ASEAN: Thailand aimed to study policies and institution arrangement for managing international migration as part of regional cooperation initiatives and bilateral agreements. The study emphasized on the finding out why the current management of sending workers and protecting workers has not been effective.

The data used for the analysis came from two main majority sources; 1) the quantitative data, including primary data on possible solutions, strategies, the secondary sources from Socio-Economic Survey (SES) and information where necessary to explain the socio-economic impact of migrant worker families; and 2) the qualitative study where collected from interview of key informants, focus group discussion with families of migrant workers, governments, brokers, and etc. As data allow, cost benefit analysis for out migration as well as in migration from government intervention programs was applied.

The theory of push and pull factors were used for describing reasons forced migrant workers to work overseas. As of the study, there was the evidence that pointed out that poverty and indebtedness were push factor for both emigration and immigration while higher income in the destination countries was the pull factor. The study further found that both of emigration and immigration were beneficial in various aspects including increase the Gross Domestic Product (GDP) in both country of origin and the destination country. Remittance was an important source of the country development budget, increase the level of national saving, and improve income distribution.

However, it was due to the fact that most of migrant workers were from low educational background, thus most of them become victims of exploitation and human trafficking from the agencies and employers in particular undocumented workers. Even though, Thai government has many of laws and regulations regarding prevention and protection migrant workers, such as Labour Law and Labour Protection Act; and the Memorandum of Understandings (MOUs) in regional and bilateral level, these have not been effective due to the weakness in law enforcement of the authorities.

Key words: international migration, emigration, immigration, undocumented workers, migrant worker

**Different Stream, Different Needs, And Impact:
Managing International Labour Migration in ASEAN:
THAILAND
(Immigration)**

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15 May 2011

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ABBREVIATIONS

ADB – Asian Development Bank
AEA –Alien Employment Act or Foreign Worker Employment Act
ARCM- Asian Research Center for Migration
B.E. – Buddhist Era
BOI- Board of Investment Promotion
CI – Certificate of Identity
CIMWA – Committee on Illegal Migrant Workers Administration
CLM – Cambodia, Lao PDR and Myanmar
DAN – Development Analysis Network
FDI- Foreign Direct Investment
FWA - Office of Foreign Workers Administration
GMS – Greater Mekong Sub-region
HIV – Human Immunodeficiency Virus
ILO – International Labour Organization
Lao PDR – Lao People’s Democratic Republic
MOL – Ministry of Labour
MOU – Memorandum of Understanding
NESDB – National Economic and Social Development Board
NGO – nongovernment organization
NSO – National Statistical Office
NV – National verification
OED – Operations Evaluation Department
OFWA –Office of Foreign Workers Administration
PSDC – Public Sector Development Commission
RGT – Royal Government of Thailand
RO – Revolutionary Order or Order of the Revolutionary Council
TDRI- Thailand Development Research Institute
TP – Temporary passport
WVFT - World Vision Foundation of Thailand

I. INTRODUCTION²

In the context of international labour migration, Thailand has transformed from a net labour emigration to net labour immigration country during the past decade when taking into account undocumented workers from neighboring countries. The country receives more than a million migrant workers from Myanmar, Lao P.D.R, Vietnam, Cambodia and other countries. This has been mainly due to the fact that the Thai economy achieved remarkable development during the mid-1980s and early 1990s. In these periods, the rapid growth in the manufacturing sector was contributed by foreign direct investments from Japan, Europe, the United States, Taiwan and Singapore. The consequences of early development of manufacturing products were heavily concentrated in the central part of Thailand e.g. Bangkok and its provincial vicinity.

The increase in cross border labour immigration has become more evident especially before the economic crisis. The existence of a tight labor market during economic boom with low level of unemployment, increasing wage and better living standard until the mid-1990s is a major pull factor. The structural change of the labor market was interrupted shortly by the economic crisis. The transition from low-end labor intensive operation to more capital or technology intensive manufacturing cannot be achieved by all producers. A wave of layoffs spread mainly in industries that sold their products to the domestic market. During this hard time, the Thai government also occasionally introduced policies to promote migration of Thai workers to work abroad. Meanwhile, industries that attempted to maintain their competitiveness in labor-intensive industries employed a large pool of cheap labor from neighboring countries which have become readily available to Thai industrialists.

The massive cross-border migration flows into Thailand have created impacts on domestic economy, labor market and others impacts both positively and negatively. The positive impacts include the provision of much needed supply of unskilled workers and the contribution of such labour to the country economic growth. On the other hand, the negative impacts include the pressure on wages of Thai workers, the slowdown of technological intensity as well as labour productivity. Migrant workers are often linked with social

² The present study is confined to international labour migration of Thailand excluding refugees, asylum seekers, displaced persons and temporary border immigrants (under Section 7 of the Working of Alien Act B.E. 2551).

problems, human trafficking, and national security. This trend of immigration and its impacts will continue for some time unless there is socio-economic and political improvement within neighboring countries and there is improvement in relative disadvantages of those countries compared with Thailand and appropriate international labour migration policy and management in both Thailand and countries of origin.

This paper is a constituent part of a country study of Thailand in project “Different Stream, Different Needs, and Impact: Managing International Labour Migration in ASEAN”, coordinated by the Philippines Institute for Development Studies with financial support from International Development Research Centre. The country study of Thailand consists of 2 parts, immigration and emigration. This paper deals with the international labour immigration into Thailand, excluding refugees, asylum seekers and displaced persons.

The objectives of this part of the study is mainly to review/analyze policies and institutional arrangement for managing international labour migration, particularly labour immigration, as part of regional cooperation initiatives and bilateral or multilateral agreements; and to examine the characteristics of legal as well as illegal (irregular or undocumented) migrants with a view to situating the particular problems in general development agenda and recommending solutions for regularization of undocumented migrants. Because of the scale and complex nature of the problem, in the part on policy and management of immigration, a major emphasis will be given to irregular migrant workers from 3 neighboring countries of Thailand, namely, Cambodia, Lao PDR and Myanmar (hereafter to be intermittently called CLM).

II. OVERVIEW OF LABOUR IMMIGRATION IN THAILAND

Labour immigration in Thailand has a long history. During Ayudhya period, a number of Portuguese were among the first who came to Thailand in the 16th century. Other migrants during that time include the Dutch, French, Chinese and Japanese (<http://th.wikipedia.org/wiki>, accessed 15/2/2011). During the Ratanakosin era, a large number of Indians, Chinese and Malays assimilated into Thai society and, particularly during the 19th century, European traders settled in Thailand both to trade with the local population and to act as a segment of worldwide commercial networks. During World War II, Western forces and Japanese contingents intersected in Thai territory. In more recent times, war and civil conflicts throughout the region have forced large numbers of people to

seek refuge in the relatively stable environment of Thailand. With the return of international peace to the area and a growing Thai economy, immigration has been spurred by global exchanges brought about by the expanding tourism sector and by the industrial demand for high-skilled and, later, for low-skilled labour (Sciortino and Punpuing 2009, 49).

The meaning of a migrant worker in the present day in Thailand can be referred to the Alien Employment Act B.E. 2551³ (AEA 2008). According to Section 5 of the Act, "alien" or "foreigner" means a natural person who is not of Thai nationality and "working" (or "employment") means a working by physical strength or knowledge whether or not intended for wages or any other benefits. Thus, a migrant worker can be defined as an alien or a foreigner who temporarily enters the Kingdom and works, legally or illegally. Accordingly, migrant workers can be classified into 2 major types, legal migrant worker and illegal migrant worker as shown in Figure 1

A. Legal migrant workers: Trend and composition

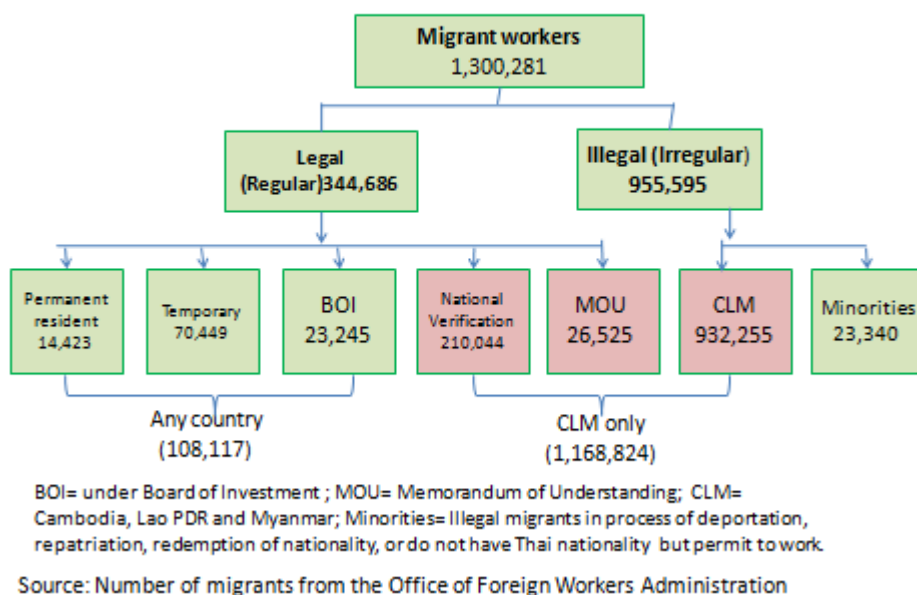
By Thai law, a legal migrant worker is an alien who temporarily and legally enters the Kingdom under the Immigration Law⁴ and receives a work permit under the AEA 2008 (or 1978 and 2001 if came before 2008). Legal migrant workers can be classified into 5 types according to the conditions specified by law (the Office of Foreign Worker Administration 2010, 24).

1. Temporary or general permit migrant– An alien who is granted a work permit to work in the occupation stipulated by the ministerial regulation under Section 7 (of AEA 2008). Usually a migrant worker under this category possesses high skill and/or high position, who may be sent from the headquarters outside the Kingdom that invests in the Kingdom or who comes to work temporarily with high level of skill or technology or language proficiency, or come work with joint-venture partner or spouse' business. As of December 2010, there are 70,449 migrant workers with temporary work permits.

³ Sometimes called Working of Alien Act (Prakorn Nilrapunt, Office of the Council of State (www.krisdika.go.th) accessed 15/2/2011; This term is used by Sciortino, R. and Sureeporn Punpueng 2009, 21)

⁴ The Immigration Act B.E.2522.

Figure 1. Migrant workers in Thailand by category, December 2010



2. *Permanent resident or lifetime permit migrant*– An alien who receives work permit issued under the Revolutionary Party Announcement, No. 322, dated 13 December 1972 (Section 58) which states that “a work permit granted to an alien who had resided in the Kingdom under the Immigration Law and had worked before December 13, 1972, is valid for the lifetime of that person except he/she changed his/her occupation.” (the Office of Foreign Worker Administration 2010, 24): According to Sciortino and Punpueng (2009, 49), from 1937 to 2007 about 962,819 foreigners were granted permanent resident status, of whom 705,463 have died, left the country or changed nationality. In the 1980s, 270,000 foreigners who had entered Thailand before 1972 received permanent resident status and life-long work permits. As of December 2010, there are 14,423 migrants with permanent resident status.

3. *National verification permit migrant*- This category of legal migrant workers refers to formerly illegal migrant workers from CLM who have changed their status from illegal to legal through a process of national verification (NV) and receive a temporary passport (TP) or a Certificate of Identification (CI) which allows them to stay and work for 2 years. The NV was started in 2007 based on bilateral agreements between Thailand and CLM countries to verify their nationality of origin. Migrant workers under NV are limited to manual labour or domestic work. As of December 2010, there are 210,044 CLM workers under this category.

Migrant workers in 1 to 3 are under Section 9 of AEA 2008.

4. *Migrant worker under Section 11 or MOU* – A migrant worker from CLM who is imported under the MOU (Memorandum of Understanding) between Thailand and the CLM. The MOU was signed with Lao PDR in 2003 and with Cambodia and Myanmar in 2004 but its implementation has underperformed (Sciortino and Punpueng 2009, 59). Up to 2009, migrant workers under this category are from Lao PDR and Cambodia only. Migrant workers from Myanmar under MOU started in 2010 with 4,641 workers. As of December 2010, there are 26,525 CLM migrants under MOU.

5. *Migrant worker under Section 12 or BOI* – A migrant worker who comes to work in the Kingdom under Investment Promotion Act or related laws. As of December 2010, there are 23,245 workers under this category.

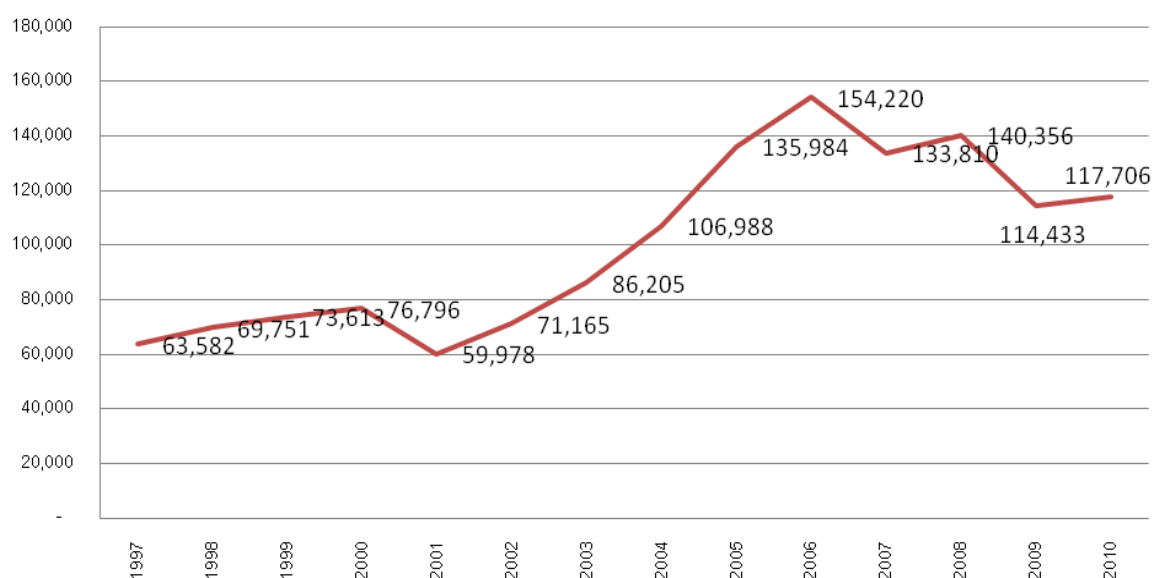
6. *Migrant workers under Section 14 or border workers* – A migrant worker who has residence and nationality of the country borders with Thailand and temporarily enters Thailand with travel documents (passport or border pass) and is permit to work temporarily or seasonally in the border area. The statistics of this category of migrant workers is not usually shown the annual report of the OFWA nor in Figure 1.

In addition to these 6 categories of migrant workers, there are other groups of working foreigners who are not covered by AEA 2008 due to diplomatic privileges. According to Section 4, this Act does not apply to the performance of specific duties by the alien in the Kingdom in the following capacities: (1) as a member of a diplomatic mission; (2) as a member of a consular mission; (3) as a representative of member countries and official of the United Nations and specialised institutions; (4) as a personal servant coming from foreign countries to work regularly for the person under (1) or (2) or (3); (5) as a person who performs duties or missions in accordance with agreements between the Government of Thailand and foreign government or international organisation; (6) as a person who performs duties or mission for the benefit of education, culture, art, sports or other activities as may be prescribed by the Royal Decree; (7) as a person permitted, with or without any condition, by the Cabinet to enter and perform any duty or mission.

The trend of legal immigration into Thailand (excluding CLM migrants) during 1997-2010 is given in Figure 2. Because of lack of earlier data, the trend starts from 1997 which is the year of financial crisis. Since migrant workers under this category (especially general permit and BOI) usually possess high skill and/or high position (see Table 1), who may be sent from the headquarters outside the Kingdom that invests in the Kingdom or who

comes to work temporarily with high level of skill or technology or language proficiency, or come work with joint-venture partner or spouse' business, their trend is closely related to FDI and economic cycles. Figure 2 shows that during 1997 when there was a global financial crisis the number of legal migrant workers were very low. The trend recovered in later years corresponding to economic recovery in Thailand and dropped again during 2008-2010 reflecting economic downturn in Thailand possibly due to the Subprime crisis in the USA. It should be noted that the trend of legal migrant workers in Figure 2 include 3 categories of legal migrant workers, namely temporary or general permit migrants, BOI migrants and permanent or residence migrants. The official figures of these migrants are not consistent in various tables of the government sources. But the variance is not significant.

Figure 2. Trend of legal migrant workers , 1997 - 2010



Note: Legal migrant workers with work permit include lifelong migrants, temporary migrants and migrants under investment promotion laws

Source: 1997-2007 from (Sciortino and Punpueng 2009, Table 12); 2008-2010 from (Office of Migrant Workers Administration, tables 14, 18 and 19)

The composition of legal migrant workers reflects countries which significantly invest in Thailand namely Japanese, Chinese, British, Indian and American (Figure 3). Japan, the largest long-term investor in Thailand, has had the most legal migrant workers. According to Sciortino and Punpueng (2009, 51), Filipinos has the fastest growth in number of legal migrants since 2003. In 2010, about 65 percent of the Filipinos are teachers or

lecturers and about 11 percent are in the entertainment industry (Office of Migrant Workers Administration 2011).

Figure 3. Composition of legal migrant workers by country, 2010

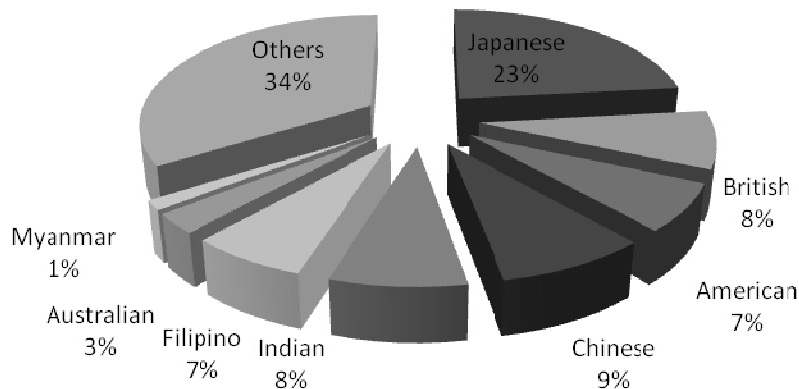
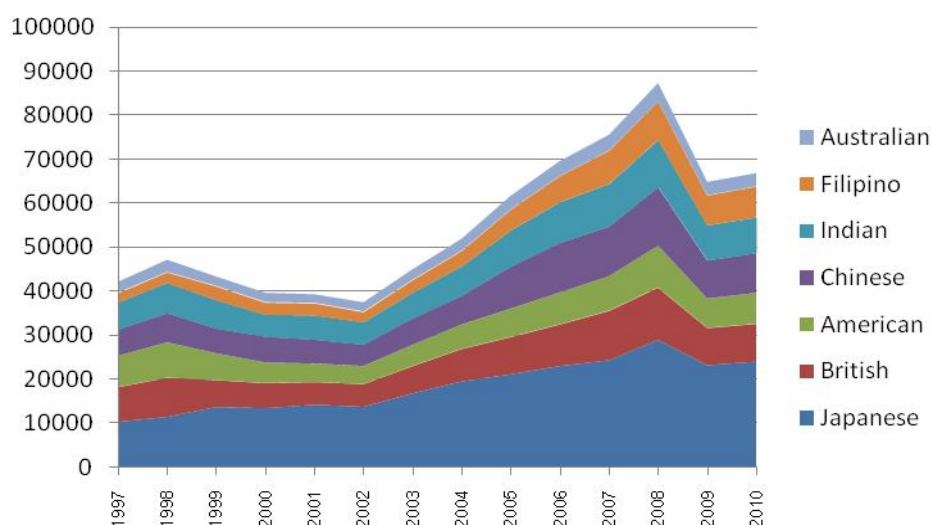


Figure 4. Trend of legal migrant workers by major countries



Source: Data from the Office of Migrant workers Administration

The composition and trend of legal migrant workers in Thailand by major countries is given in Figure 4. The sharp drop of trend for all major FDI countries is possibly due to the Subprime crisis in 2008-2009. The trend, however, started to rise again in 2010.

As shown in table 1, more than 90 percent of the legal migrant workers (from countries other than CLM), are professionals, executives, managers and technicians. The

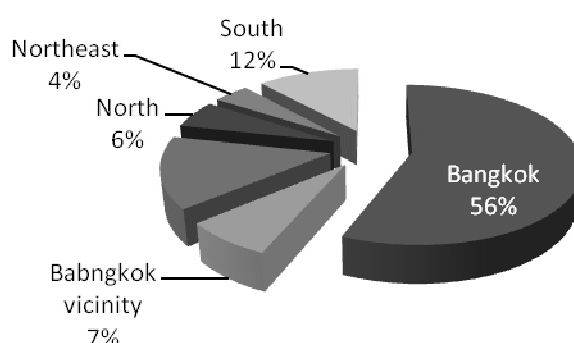
proportion of production or operation managers is the largest with 42.8 percent of the total legal migrant workers. (the production or operation managers represent 35.5 percent of migrants with temporary permits and 64.4 percent of those with investment promotion (BOI) privilege). The proportion of low or semi-skilled workers are only 1.4 percent and 1.3 percent for domestic workers and office clerks respectively. It should be noticed that the second largest group accounting for 18.5 percent is with teaching occupation. These workers are not quite related to FDI.

Table 1: Number of legal migrant workers by occupation, 2010

	Total	%	Temporary	%	BOI	%
Production, operation managers	44,159	42.8	27,517	35.5	16,642	64.4
Teachers, lecturers	19,100	18.5	16,439	21.2	2,661	10.3
CEO, executives	18,932	18.3	16,433	21.2	2,499	9.7
Business, entertainment or law professionals	6,206	6.0	4,735	6.1	1,471	5.7
Brokers, salesmen	2,912	2.8	2,343	3.0	569	2.2
Engineering, computer, electronic technicians	2,140	2.1	1,716	2.2	424	1.6
General managers	1,956	1.9	1,541	2.0	415	1.6
Architects, engineers	1,496	1.4	1,244	1.6	252	1.0
Domestic workers, cooks	1,420	1.4	1,222	1.6	198	0.8
Office clerks	1,381	1.3	1,202	1.6	179	0.7
Others	3,581	3.5	3,057	3.9	524	2.0
Total	103,283	100.0	77,449	100.0	25,834	100.0

Note: Not including permanent resident, NV or MOU
Source: The Office of Foreign Workers Administration
2011, tables 7 and 11.

Figure 5. Composition of legal migrant workers by region, 2010



Source: Data from the Office of Migrant Workers Administration

The distribution of legal migrant workers by sub-national region is shown in Figure 5. The majority of legal migrant workers (mostly white collar or professional, technical or managerial levels) are in Bangkok and vicinity and the Central region.

B. Illegal migrant workers: Trend and composition

In the context of labour immigration in Thailand and according to AEA 2008 (Section 13), there are two major groups of illegal migrant workers in Thailand: migrant workers from CLM and ethnic minorities. In 2010, there were 935,255 illegal CLM migrant workers and 23,340 workers of minorities granted work permit.

In fact, as shown in Figure 1 above, migrant workers in Thailand are dominated by CLM migrant workers, both legal and illegal, of 1,168,824 persons, accounting for 89.9 percent of the total migrant workers. Migrant workers from other countries and minorities were 108,117 persons and 23,340 respectively.

The trend of illegal migration from CLM is shown in Figure 6. CLM workers have come into Thailand since 1988 starting with Burmese. Those from Lao PDR and Cambodia followed when Thailand change its policy from “battle field to market places” in 1989. The first registration effort started in 1992 with very limited coverage, by allowing employers in 7 provinces along Burmese border to bring migrant workers for registration. There were 706 migrants reported and registered.

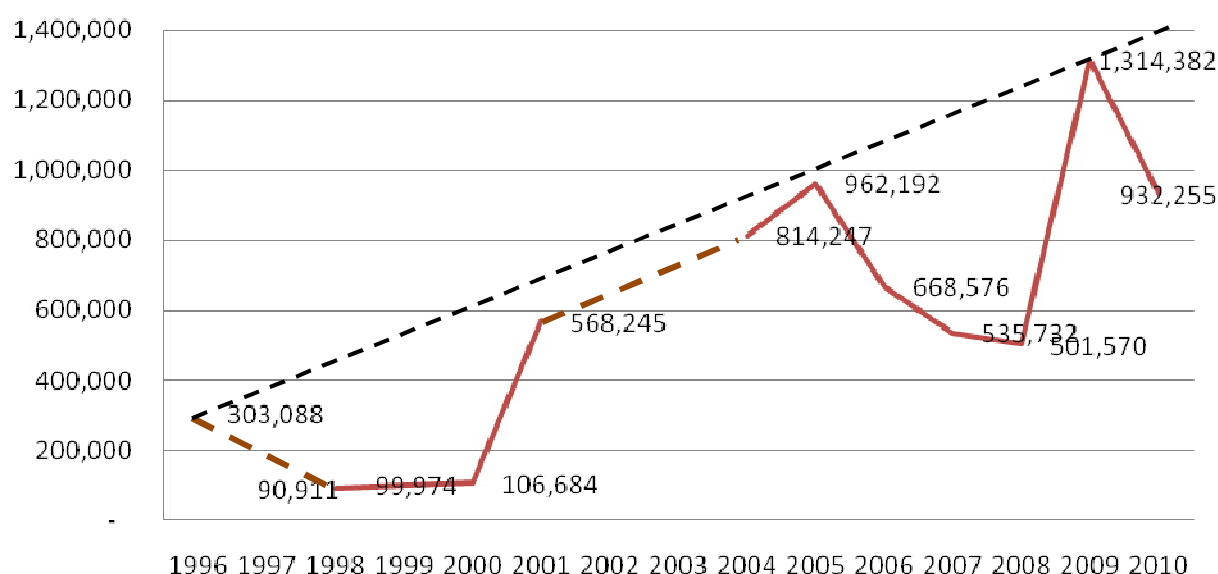
Later in 1993, there was an amendment of the law allowing migrant workers to work for Thai marine fishing boats in 22 coastal provinces, provided that their employers bring them to register but there was not applied for fisheries until the law was amended in 1996.

In 1996, there was another round of migrant workers registration. The government issued a lenient measure on employment of illegal migrant workers from Myanmar, Lao PDR and Cambodia for temporary work. The duration allowed was not more than two years. These workers could work in 43 provinces, specifically to eight industry groups including agriculture, construction, marine fisheries, fishery-related, stevedore, mining, manufacturing, and housemaids. These industries are allowed to employ migrant workers in

36 occupations. There were 372,000 migrants registered of which 263,782 or 87 percent were from Myanmar, and 303,088 work permit granted (Sciortino and Punpueng 2009, 56).⁵

Figure 6

**Trend of CLM migrant workers with work permit
1996-2010**



Source: Data from (Sciortino and Punpueng 2009, 56-57) and the Office of Migrant workers Administration

In 1998, after the financial crisis in 1997 the government issued another lenient measure to extend an employment of migrant workers for one more year, with a limit of not more than 158,253 persons. This was due to the results of economic crisis starting by the end of 1997 that the government tried to alleviate the unemployment problems of Thai workers by repatriation of CLM migrant workers. There were only 90,911 migrant workers brought for registration by their employers (79,057 from Myanmar, 10,953 from Cambodia and 1,261 from Lao PDR).

In 1999, the government again issued another lenient measure to allow employment of migrant workers in 18 industries in 37 provinces, comprising 10 border

⁵ The number of work permit granted in this year was 293,654 according to (NESDB, NSC and Khonkaen University 2004, 1-2) and (Chalamwong and Prugsamat 2009, 3); It was approximately 280,000 according to (Ajwanijkul and Prasartkul edit. 2003, 131).

provinces, 18 marine fisheries provinces, and 9 provinces at the early stage of industrial development. There were 99,974 migrant workers reported and registered (89,318 from Myanmar, 9,492 from Cambodia and 1,164 from Lao PDR).

In 2000, the Cabinet Decision maintained the previous number, area, and industries permitted. This standpoint suggests a further policy of non-increasing migrant workers. There were 99,656 migrant workers reported and registered (90,724 from Myanmar, 7,921 from Cambodia and 1,011 from Lao PDR).

During 2001-2005, a total number of illegal migrant workers from Myanmar, Lao PDR and Cambodia, receiving work permit was 568,249 person, 409,339 persons, 288,780 persons, 849,522 persons, and 705,293 persons, respectively. It can be noted that the new registration policy issued in 2001 and 2004 increased a number of migrant workers, while the re-registration policy issued in 2002, 2003, and 2005 resulted in a decreased number of registers. This was due to problems and difficulties in the process such as unofficial changes of employers, employment lay off, high labor turnovers in agriculture and marine fisheries, and perception of high registration cost. During this period, Thailand signed MOU with Lao PDR on 18 October 2002, with Cambodia on 31 May 2003, and with Myanmar: signed on 21 June 2003. The main purpose of the MOU is to establish a bilateral agreement between the 3 countries and Thailand with regard to the importation of their workers into Thailand legally.

In 2005, the Cabinet allowed migrant workers who received work permit in 2004 and their dependants to stay and work for one more year. A registered person had to undertake medical test and get a work permit. It is noted that there were 705,293 migrant workers extending work permit, while employers requested a quota of 1.77 million migrant workers. The government then limited an increase of only 500,000 persons, by bailing 300,000 registered workers under Section 17 and Section 54 of Alien Act and 200,000 importations by the MOU. This resulted in even less number of registered workers of 256,899 persons. In addition, there was a permission of day workers and seasonal workers along the border.

In 2006, the migrant workers administration remained its leniency to those received work permit in 2005, and allowed another year of extension. There were 460,014 migrant workers extending work permit, which apparently decreased from those in 2005.

Meanwhile, the Cabinet cancelled the bailing measure and allowed this group, totaling 208,562 persons, to stay on until 28th February 2007.

In 2007, the government allowed both groups to extend their work permits to 28th February 2008 and 30th June 2008, respectively. The number of workers whose permits expired at the end of February totaled 208,562, but only 141,289 or 67.74percent have got their permits extended (121,448 from Myanmar, 9,559 from Lao PDR, and 10,322 from Cambodia). The number of workers whose permits expired at the end of June totaled 460,014, but only 394,443 or 85.74percent have got their permits extended (367,834 from Myanmar, 12,140 from Lao PDR, and 14,469 from Cambodia). Moreover, the government has also established the Special Development Zone for Migrant Workers in the 5 Southernmost Provinces plan with the registration in 2007. There were 10,540 migrant workers granted new work permits in these Special Development Zone.

In 2008, the Cabinet allowed all three groups to extend their worker permit, which were those whose permits was expired the end of February, May and March 2009. There were 412,783 or 75.56percent extended their work permit. In addition, the government allowed migrant worker who had Tor/Ror 38/1 to grant new permit. As a result, 88,787 migrant workers granted new work permit. The total CLM illegal migrant workers became 501,570.

In 2009, on 26 May the cabinet approved the CIMWA's recommendation of 2/2552 dated 27 April 2009 to allowed illegal migrant workers to register their stay and work in Thailand. The registered period was extended twice, the first by the cabinet's resolution dated July 28, 2009 and the second by the cabinet's resolution dated November 2009. As a result, the number of CLM illegal migrant workers increased from 501,570 in 2008 to 1,314,382. (OFWA 2010, 9) Of the 501,570 migrant workers who had their work permit expiring in 2009, 382,541 or 76.27 percent renewed them. This consisted of 370,711 Burmese, 6,130 Cambodians and 5,700 Laotians. In addition to the yearly work permit renewal, in July 2009 the government opened a new registration round to allow unregistered migrant workers the opportunity to obtain a temporary stay registration (Tor/Ror 38/1) and a work permit that will expire at the end of February 2010. As a result, the total of illegal CLM migrant workers registered was 1,314,382 persons, consisting of 1,078,767 Burmese, 110,854 Laos and 118,183 Cambodians. By the cabinet resolution, the registration expanded

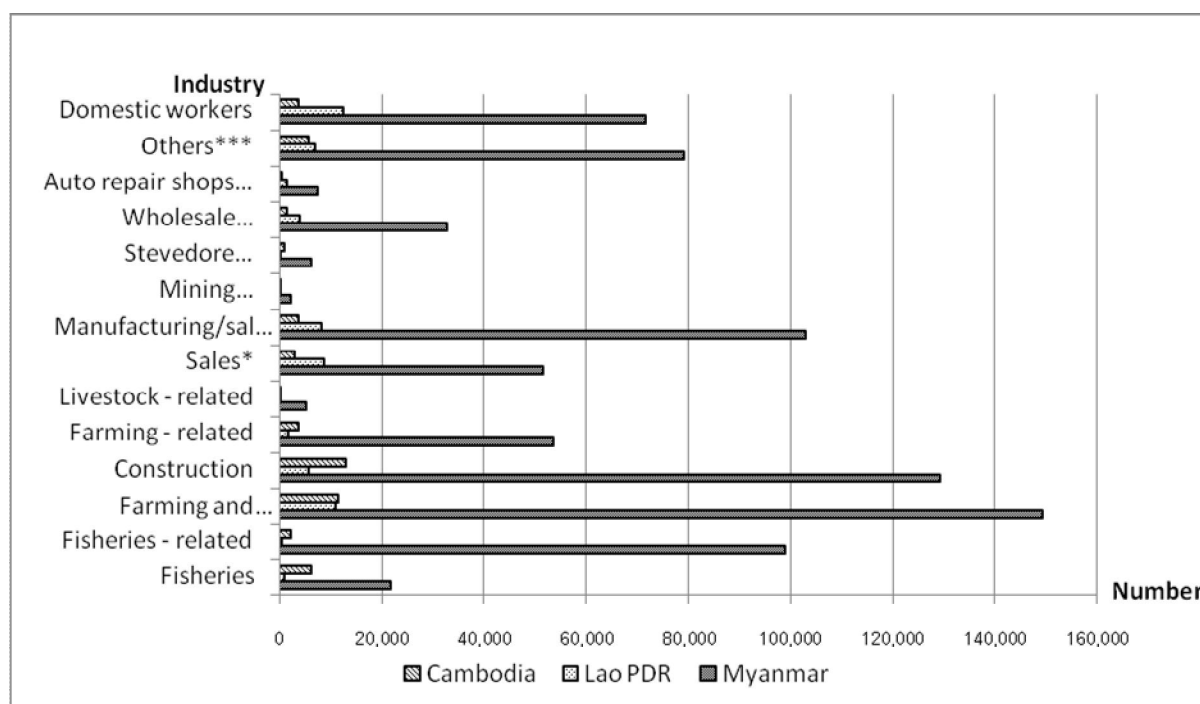
the area of work that can be performed by CLM migrant workers to 24 areas or types of activities (as shown in Table 2)

In 2010 illegal migrant workers were required to go through national verification process. By February 24, only 200,000 migrants registered for verification and the Thai government extended the deadline until March 2. By this date 850,000 migrant workers from CLM had visited local employment offices and signed agreements to complete the procedure by March 31, whereupon they would be given 2 year work permits (Slipper 2011). As of December 2010, the number of CLM migrant workers reduced to 932,255 persons consisting of 812,984 Burmese, 62,792 Laos and 56,479 Cambodians. According to an informal discussion with a senior official of the Department of Employment (15 March 2011), the reduction of the number of CLM registered migrant workers has been due to two major reasons. First, it is a phenomenon of the registration of migrant workers that about 30 percent of them does not show up in the following registration. Second, some of the migrant workers who were registered in 2009 have changed their status to being legal through “national verification” after they are verified by the process. It can be observed that the number of migrant workers under the category of national verification increased from 77,914 in 2009 to 210,044 in 2010.

On 26 April 2011, the cabinet approved 5 measures submitted by the Ministry of Labour to tackle the problems of illegal migrant workers from CLM– including another round of registration for those who missed the February 2010 deadline and restructure of CIMWA to become a department under MOL.

Figure 7 and Table 2 show the number of illegal migrant workers (CLM) granted work permits by types of work or industry and nationality as of December 2010. The top 3 industries that absorbed the most CLM illegal migrant workers are farming and livestock (171,857 workers), construction (148,211) and fisheries related (101,849). Manufacturing and sales related activities summed together is also a large sector that employs CLM illegal workers. (According to Figure 7, more than 100,000 illegal Burmese and about 10,000 illegal Laos are in this sector).

Figure 7. Number of registered CLM illegal migrant workers by industry, 2010



Source: Office of Migrant Workers Administration, Ministry of Labour.

*Including Metal product, Food and beverage

** Including Potter and clay & related production, Construction materials, Garments, Plastic, Paper, Electronics.

*** Including Recycling, School, foundation, association and health services, other services.

With regard to nationality, the proportion of Burmese, Laos and Cambodian was 87.2 percent (812,984), 6.7 percent (62,792) and 6.1 percent (56,479) respectively. Obviously, Burmese workers outnumbered other nationalities in all sectors.

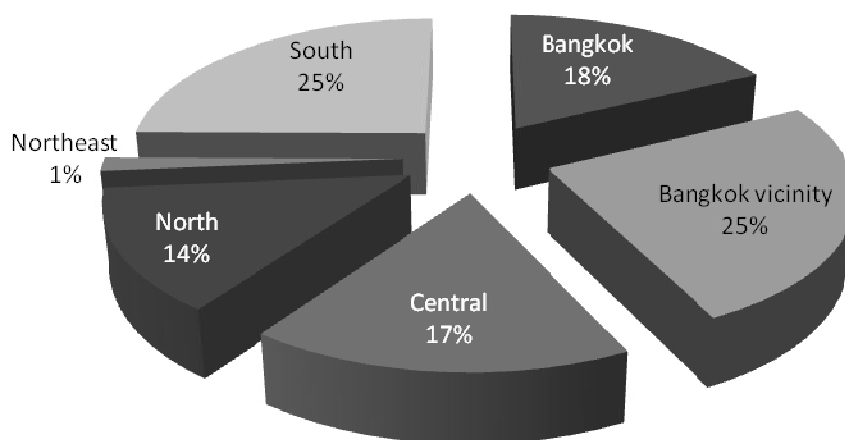
In 2010, registered CLM migrant workers are concentrated in Bangkok and vicinity (43 %) followed by the southern region (25%), the central region (17 %). The northeastern region has the least proportion of registered CLM migrants workers (1%) (Figure 8). Two provinces with the highest number of registered CLM illegal migrant workers are Bangkok (165,650) and Samutsakorn (124,454) (Figure 9).

Table 2: Number of illegal foreign workers from CLM by industry, 2010

Industry	Workers			
	Total	Myanmar	Lao PDR	Cambodia
Total	932,255	812,984	62,792	56,479
1. Fisheries	28,918	21,781	906	6,231
2. Fisheries-related	101,849	99,031	519	2,299
3. Farming and livestock	171,857	149,333	11,048	11,476
4. Construction	148,211	129,353	5,812	13,046
5. Farming -related	59,106	53,633	1,836	3,637
6. Livestock - related	5,775	5,228	362	185
7. Recycling	11,954	9,725	854	1,375
8. Mining/quarrying	1,224	1,187	25	12
9. Metal product sales	14,000	11,745	1,521	734
10. Food and beverage sales	49,472	39,863	7,269	2,340
11. Potter and clay & related production/sales	5,231	4,866	238	127
12. Construction materials manufacturing/sales	15,359	12,991	1,208	1,160
13. Quarrying and related production	1,220	1,035	37	148
14. Garment manufacturing/sales	66,870	61,211	4,520	1,139
15. Plastic manufacturing/sales	20,139	17,376	1,826	937
16. Paper manufacturing/sales	3,314	2,856	297	161
17. Electronics manufacturing/sales	4,149	3,626	231	292
18. Stevedore, land transport and warehouse	7,577	6,321	216	1,040
19. Wholesale, retail and stall shops	38,521	32,900	4,000	1,621
20. Auto repair shops and car clean services	5,550	4,517	752	281
21. Gas stations	3,971	3,041	706	224
22. Schools, foundations, associations and health services	1,045	923	83	39
23. Other services	79,017	68,671	6,024	4,322
24. Domestic workers	87,926	71,771	12,502	3,653

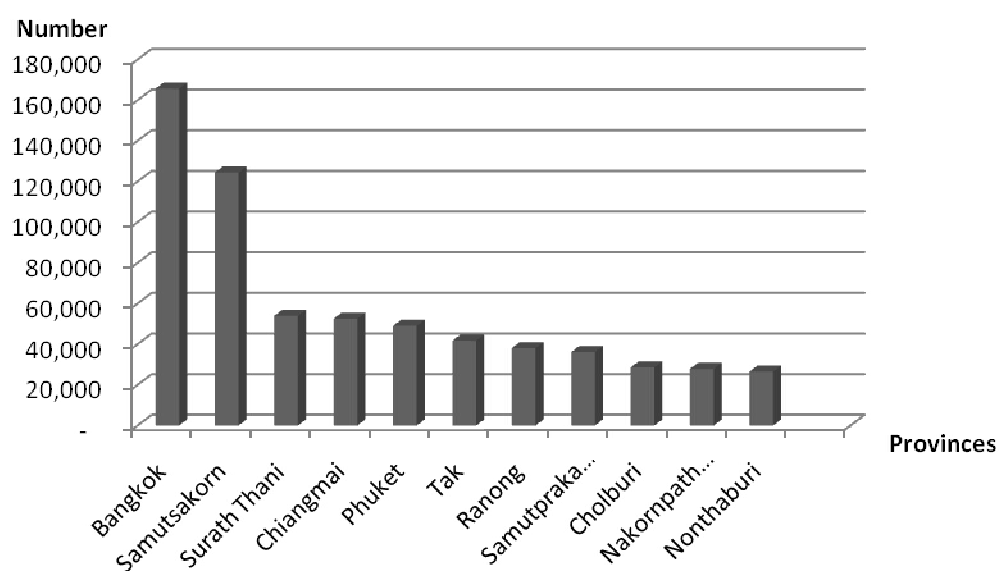
Source: Office of Migrant workers Administration, Ministry of Labour.

Figure 8. Composition of registered CLM illegal migrant workers, 2010



Source: Office of Foreign Workers Administration

Figure 9. Top 11 provinces with the highest number of CLM illegal migrant workers, 2010



Source: Data from the Office of Foreign Workers Administration

III. IMPACT OF IMMIGRATION⁶

Today, international research on migration is increasingly documenting the economic benefits and costs that migration has on host countries. On the other hand, immigration from less developed countries is always related to social problems such as crime, human trafficking, contagious diseases, etc. In general, CLM illegal migrants are always to blame for various kinds of problems from drug trafficking to illegal logging (Sciortino and Punpueng 2009, 74).

A. Impact of immigration on the economy and labor market

The impact of immigration from CLM to Thailand has been mixed. It has been asserted that CLM immigration had prolonged the life of agricultural industries under threat of extinction because of high labour costs and rural-to-urban migration. CLM labour immigration had also contributed to the growth of the regional economies (Athukorala et. al. 2000, 77). Similarly to Malaysia, it had reduced the costs of structural change and the transition to higher-technology industries. This especially applies to work in the low cost or non-tradable activities like construction, which supports both the building industry and improved communications necessary for industrial upgrading. Some labour intensive firms in industries such as garments have survived largely due to migrant labour.

The presence of migrant workers has been found to reduce wages and slow structural change. Chalongphob estimated the impact of immigrants to Thai GDP using a Computable General Equilibrium model and found that in 1995, when there were 750,000 migrants accounting for 2.2 percent of Thai labor force, migrants increased Thai GDP by 0.5 percent, contributing \$839 million of the then \$168 billion Thai GDP at current prices, and \$600 million of the \$120 billion Thai GDP in 2000 constant price (Sussangkarn, 1996). Martin (2007, 8) applied the same methodology and assumed that the 1995 Social Accounting Matrix-Computable General Equilibrium (SAM-CGE) found relationships remained valid in 2005, when migrants increased to 5 percent of the Thai labor force, the migrant contribution would be 1.25 percent of Thai GDP, \$2 billion at current prices or \$1.8 billion in 2000 constant prices. Different assumptions of migrants' labour productivity were also applied. It was found that if migrants were as productive as Thai workers in each sector, their total

⁶ For a good review of studies on the impacts of immigration from CLM into Thailand see (Sciortino & Punpueng 2009, 74-79).

contribution to output would be in the order of \$11 billion or about 6.2 percent of Thailand's GDP. But if they were less productivity (say only 75 percent of Thai worker output) their contribution would still be in the order of \$8 billion or 5 percent of GDP. Therefore, migrants contribute anywhere from 7 to 10 percent of value added in industry and 4 to 5 percent of value added in agriculture (Martin 2007, 8).

Another study found that CLM migrant workers contribute positively to the real national income, averaging 2.3 per cent, or 760 million baht (about US\$ 25.3 million) per year (Pholphirul and Rukumnualykit in Sciortino and Punpuing 2009, 75). The same study also specified that employing migrant workers increases the country competitiveness, with migrant unit labour costs lower at an equal level of productivity than Thai workers (Ibid.) It was also thought that migrant workers' expenditures in Thailand increase Thai GDP by US\$ 2 billion (Martin in Sciortino and Punpuing 2009, 75). However, Sussangkarn used to argue that the presence of migrants results in a loss to low educated Thais because it suppressed the wages of less educated Thai workers by 3.5 per cent although it kept those of more educated up (Sussangkarn in Martin 2007, 7 and in (Sciortino & Punpuing 2009, 75). Sussangkarn was among the first Thai academicians who thought about levy. He postulated that if a levy of 20 per cent were imposed on migrant wages (and paid by employers because migrants were already at the minimum wage), employers would pay more for migrants and there would be fewer of them, but low-educated Thais would gain (Martin 2007, 8).

Martin, however, maintained that it is difficult to measure the impacts of migrants on the wages and employment choices of local workers. Migrants can have little effect on wages, if all or many workers in the industry or occupation are paid the minimum wage, which can prevent wage depression when migrants in fact receive the minimum.⁷ Martin argued that migrants are both substitutes and complements for national workers. Their presence affects both the wage rates and employment options of local workers, and the degree to which migrants are substitutes for or complements to national workers varies with factors that range from migrant and national workers characteristics to technologies of production and the nature of labour and product markets. He also raised the question of the

⁷ This assumption may not hold in the case of Thailand. A study (Paitoonpong et. al. 2010) found that illegal CLM migrant workers are paid less than minimum wage by at least 50 percent. A study by (Chalamwong, Yongyuth 2007, 31) said that migrant workers' wage rate is less than Thai workers'. Survey results from the Asian Research Center for Migration (ARCM, 2000 in (Pholpirun et al., 2010, 24)) at Chulalongkorn University indicate that migrants are not treated equally in terms of wage compensation. According to the study, migrants should be paid, on average, around 70% as much as Thai workers.

impacts of migrant workers on local wage if the demand for labour curve is not smooth or kinked in particular sectors with the schedule more elastic at higher wage rates and more inelastic at lower wage rates, then as migrants were removed from the labour market, wages rise, but at some critical wage (in the part of elastic demand for labour), the quantity of labour demanded falls sharply with less proportion of the wage rise. In other words, the removal of migrant workers will raise wage rates very little in such a case. Martin, however, did not elaborate why the demand curve for labour will be kinked.

In 2010, there was a comprehensive study on economic impacts of migration into Thailand by Pholpirun and others. (Pholpirun et. al., 2010). The study tried to examine 7 economic impacts of foreign migrant workers to the Thai economy, namely, on production, productivity, labor cost, competitiveness, innovation, skill development, and investment. Due to limited data on immigration, only the first two impacts were assessed at all three levels, namely the economy-wide level, sector level, and firm level, the rest were studied at the sector and firm level.

Three methodologies were used: (1) macroeconomic simulation, (2) growth accounting approach, and (3) econometric estimation. The simulation applies the macroeconomic model created by the Fiscal Policy Office of Thailand's Ministry of Finance by adding migration shares to the production part of the model and an analysis was made of the impacts on various economic indicators, e.g. output, employment, wage, profit, and external balance. The growth accounting technique is built upon the potentially restrictive assumption of perfect competition and constant returns to scale to quantify how immigrants are contributing to the overall economy and to output growth by sector. However, cost shares or output elasticity are determined flexibly based on the data rather than constrained to be constant across the time horizon. The use of the growth accounting technique is limited not only by the restrictive assumptions of perfect competition and constant returns to scale, but also the availability of immigrant data for which there is only data available between 2006-2008. A standard econometric model was employed to help mitigate the weaknesses by analyzing immigrants for longer periods. The Cobb-Douglas Production Function was used to analyze the impacts of immigrants on real GDP growth. The study estimated pooled-regression and fixed-effect panel data by introducing the natural logarithm of migrant workers $\ln(M_{it})$ as another input and quantifying the impacts of immigrants on the overall output growth by controlling time-trend variables. The estimated period could cover only 19

years (1990-2008) for the three productive sectors (agriculture, manufacturing, and services). The three techniques were found not contradictory, but rather, complementary.

Through various methodologies, the authors found that migrant workers have affected Thai economy and labour market as follows.

1) Immigration and production (GDP): The macroeconomic simulation model showed that if migrant workers were removed real GDP will contract by -0.75% or 31,823 million Baht. The loss of real GDP was seen mostly in agriculture (-1.33 %), followed by manufacturing (-0.9 %), and services (-0.53 %). The findings show that immigrants help to contribute to economic output, which can be especially seen from unskilled migrants working in the agricultural sector. Employing immigrants helps to increase the quantity of the labor supply and expands the production frontier. The simulation model indicates that migrant workers help increasing the production of manufacturing goods around 0.9 percent in the year 2007.

At firm level, it was found that the importance of migrant workers to a particular industry depends on their skill level, and the economic benefits of migrant workers to Thailand have increased for almost two decades due to larger amounts of cross-border migrants coupled with the needs to employ those migrants in some particular sectors. This is particularly true in the case that labour market failure in terms of incomplete information on labor supply causes uncertainty of output production. At firm level, employing migrants help stabilize the labor supply in these sectors to prevent uncertainties in production and fill in job vacancies.

2) Immigration and productivity: The relationship between immigration and productivity depends firstly on whether migrants are substitute or complementary to native workers. Pholpirun et al. found that a percentage increase of migrant share (to total labor force) causes a reduction of overall labor productivity of manufacturing sector (by around 0.88-1 percent) and service sector (by 1.35 percent). In addition, the calculation of the Allen partial elasticity (AES) confirms that there is high substitution effect between migrants and natives, especially in the low skilled sectors⁸. Furthermore, estimations from the firm-level

⁸ This seems a tautology for workers with no skill can be simply replaced by any worker with no skill. Besides, as noted by the authors, AES is not an appropriate measure of substitution for an input with a small cost share, such those of migrant workers (Pholpirun et al. 2010, 21)

data also give another interesting answer by reconfirming that a 10 percentage increase of employing unskilled migrant workers should cause a drop of the labor productivity by around 5 percent. Employing 10 percentages more of skilled migrant workers, on the other hand, helps enhancing the labor productivity by around 28 percent.

3) Immigration and labor cost: Domestic firms in Thailand can save wage cost by employing low-skilled migrants from neighboring countries. The availability of cheap migrant labor was viewed as a factor reducing the opportunities for employment of native workers and their wages. The result reconfirms previous studies that migrant workers prompt the concerns about negative effects on Thai wages.⁹ From simulations, it was found that employing migrants in agricultural sector tends to reduce total employment by 0.67 percent and reduce wage rate by around 4.34 percent from the base case. By using firm-level data, regression reports that approximated 5,746 baht per person per year can be saved to a firm that employs additional 10 percent more of unskilled migrants. This result is straightforward to a firm with labor-intensive production, for example in textile industry, that can save up to 24,144 baht per person per year.

Lathapipat (2010) also investigates the impact of low-skilled immigration on the industry structure across the provinces of Thailand. In contrast to Thai workers with comparable education, he found no evidence of the Heckscher-Olin absorption of foreign labor in any immigrant-intensive industry.¹⁰ This is primarily due to the temporary nature of the migrant workers. Furthermore, as in previous studies, the negative effects of immigration on low-skilled Thai wages tend to be small. The adverse impacts on existing migrant workers are much larger in comparison. Younger workers with less than a high school education suffer disproportionately more than their older counterparts. Finally, immigrant inflows are found to benefit high-skilled Thai workers with high school and college education.

⁹ Previous studies in this case of Thailand are Bryant and Rukumnuaykit (2007) and Kullkolkarn and Potipiti (2007). Bryant and Rukumnuaykit (2007) explained that, due to the absence of an employment effect, immigration appears to cause the adjustment of wage reduction rather than employment reduction. A 10 percentage increase of migrant share is found to cause only a reduction of 0.23 percent of domestic wage. This small effect of wage reduction is similar to Kullkolkarn and Potipiti (2007) which confirm that immigration does not reduce the wages of Thai workers.

¹⁰ The Heckscher-Olin international trade model asserts that geographical differences in the relative supplies of a type of workers can be absorbed by a shifting industry structure, that is, through the expansion or contraction of industries that are intensive in the use of that particular type of labour input, and with little or no change in relative wages. (Lathapipat 2010)

4) Immigration and competitiveness: Even though employing migrant workers, especially those unskilled from neighboring countries, help firm by saving wage cost and gaining price competitiveness, overall productivity is found to decrease especially in sector that migrant workers and native workers are highly substituted. Using the unit-labor cost (ULC) as a ratio of average wage divided by labor productivity to measure competitiveness, even though higher 10 percentage more of unskilled migrant workers help saving wage cost by approximate 5,746 baht per person per year, it however cause a reduction of the labor productivity by 5 percent. Therefore, results of regressions from firm-level data show that there are no significant impacts of employing migrants to the unit labor cost.

5) Immigration and innovation: Even though employing unskilled migrant can help improving firm's cost competitiveness by saving some labor cost, there are some thought, on the other hand, that employing unskilled migrants might be expected to blunt the firm's incentives in innovative investment or reducing the training of workers. The results show strong supporting this argument. By using firm-level data, there are three dependent variables measured a firm's innovative investment namely 1) probability of upgrading machine and equipment in the last two years, 2) probability of having positive expenditure on R&D, and 3) amount of R&D expenditure. Estimated results show that a 10 percentage increase of employing unskilled migrants tends to reduce a firm's probability of R&D investment by around 4 percent. This negative impact tends to be even stronger to firms locating in border provinces. There is also an evidence of "labor-saving technology" in textiles firms and rubber and plastic firms that reduce their probability for R&D investment by 2.1 percent and 1.2 percent respectively from having 10 percentages more of employing unskilled migrant workers. There is nevertheless the opposite result to Thai firms in the garment industry which able to raise probability of R&D investment by around 54 percent from employing skilled migrant workers.

6) Immigration and skill development: There is an argument to support need to shift of Thai workers to higher-skilled position when supply of labor is greater due to employing more immigrants in low-skilled position. Estimated results from in firm-level data however do not significantly support this argument. There is however a reverse result. A firm locating in border provinces and employing unskilled migrants are expected to provide less training (about 3 percent less probability from 10 percent employing unskilled migrants).

7) Immigration and foreign/domestic investment: A number research papers explain that, in case of host country, immigration and foreign direct investment should be related. First, an influx of migration, especially the unskilled migrants, increasing labor supply in Thailand would possibly be causing marginal product of capital and return on investments to be raised, and thus attract foreign direct investment. Second, skilled migrants should favor growth-enhancing through technological transfer that should encourage more foreign investment. We find a positive relationship between immigration and FDI inflows. A firm will have about 22.9 percentages more of foreign ownership with 10 percentages more of skilled migrants. The reverse comes true in the case of unskilled migrants where employing more 10 percent of unskilled migrants, on the other hand, reduce foreign ownership by around 2.3 percent. Complementary effects of skilled migrants and FDI inflows are also prominent in a range of sectors. For example employing unskilled migrants by 10 percentage point reduce foreign ownership by 3.3 percent in processing food industry.

The findings of the reviewed studies on the impacts of immigration on the economy and labour market should receive a closer review with regards to the methodologies, the data used and the calculation as well as assumptions. An obvious limitation of these studies is on illegal immigration data and methodologies to get away with it. For example, for the study at firm level Pholphirul et. al. study used the Productivity and Investment Climate Survey (PICS) data, which is firm-level data funded by the Royal Thai Government with technical assistance from the World Bank. The data were collected in two rounds of surveys. The first round (PICS 2004) was conducted between March 2004 and February 2005, and surveyed 1,385 manufacturing establishments. The second round (PICS 2007) was conducted between April 2007 and November 2007, and surveyed 1,043 manufacturing establishments. 426 manufacturing firms participated in both surveys. Two problems can be observed, first, the survey period of the first survey was one year while that of the second survey was 8 months, thus the reference periods were not comparable. Second, based on these surveys, the authors found “a substantial increase of employing unskilled immigrant from 0.31% in 2004 to 4.19% in 2007”, while according to the official data from the Ministry of Labour, the total number of registered illegal migrant workers reduced from 814,247 in 2004 to 535,732 in 2007. Thus, the number of migrant workers found by the surveys may be doubtful. Nevertheless, since most of the findings have been based on good theoretical grounds, they are acceptable to a great extent.

B. Immigration and social problems

While economic impacts of immigration from CLM are accounted for, their social impacts to Thailand are more difficult to measure. CLM migrants are scapegoated for various kinds of social problems from drug trafficking to illegal logging. They are also accused of spreading diseases and perpetrating crime, even if reliable evidence to substantiate such claims is lacking (Paitoonpong et.al. in Sciortino and Punpueng 2009, 74). Examples of social impacts caused by or related to CLM migrants include, security and crime, contagious diseases, HIV/AIDS, human trafficking, prostitution, child labor, poor labor standard, drug trafficking, illegal logging and timber trafficking, ethnic minorities and the Mekong River ecosystem monitoring, rural or agricultural economy, way of life and community, stateless children, public task forces, and social integration. Some issues are briefly presented below.

(1) Contagious diseases, HIV/AIDS

HIV/AIDS is a long standing issue for countries in the GMS region, particularly during the last decade. The region was known to be the epicenter of Asia's HIV/AIDS pandemic. At the end of 2001, of the estimated 40 million people living with HIV/AIDS (PLWHA) worldwide, about 6.6 million were from Asia and the Pacific. Of the 6.6 million PLWHA in Asia and the Pacific, nearly one million were from the four countries of lower Mekong region – Cambodia, Lao PDR, Thailand, and Vietnam (see Table 3).

Table 3: Number of people living with HIV/AIDS (PLWHA) in the GMS, 2001

Country	Total population	Estimated number of PWLHA
Cambodia	13,411,000	170,000
Lao PDR	5,403,000	1,400
Thailand	63,584,000	670,000
Vietnam	79,175,000	130,000
Total	160,603,000	971,400

Source: UNAIDS, 2002 (quoted in USAID, Bureau for Asia and the Near East, 2003. HIV/AIDS in the Mekong Region)

According to a USAID study (2003), the first cases of HIV in the Mekong region were found in males who have sex with males in Thailand in 1984. Heterosexual transmission of HIV was detected in the country in 1985 and then began to occur on a wider

scale by 1989. Early on, Thailand documented high HIV prevalence levels in female sex workers and injecting drug users (IDUs). Lao PDR and Vietnam reported their first cases of HIV in 1990. HIV prevalence was still low in Lao PDR. In Cambodia, the first HIV infection was found in a man donating blood in 1991, though the virus was found in Cambodia refugees in Thailand as early as 1989. Since then, Cambodia experienced the fastest growing HIV/AIDS epidemic in Asia.

There are a number of reasons why HIV/AIDS spreads very fast in the Mekong region. First, drug use injection is a significant problem throughout the region. The “Golden Triangle,” comprising parts of Myanmar, China, Lao PDR, and Thailand, is a leading supplier of opiates, particularly heroin. Drug trafficking routes dissect the Mekong region and provide easy access to illicit drugs. Second, the movements of people across the borders are a major factor for HIV/AIDS contacts. The border and urban areas in the Mekong region are sites for the booming sex industry in Southeast Asia. Mobility, increased tourism, the presence of peacekeeping forces, the opening up of formerly centrally-planned economies, human trafficking, a lack of educational and economic opportunities for women and girls, poverty and other factors have contributed to the rapid growth of sex industries. (USAID 2003, 1 in (Paitoonpong 2006))

Migrant workers were claimed to be vulnerable to HIV/AIDS contacts and transmitting. A study to confirm this hypothesis had been undertaken in 1999 by CARE Thailand/Raks Thai Foundation with the support of the Japanese Foundation for AIDS Prevention. The study does not, however, provide information with regard to the evidence or the extent of HIV/AIDS among migrant workers. Rather it tried to identify risk behaviour of migrant workers in three areas, namely, Samutsakorn and Samutprakarn, Trad, and Chiang Khong.

According to a villager in Wang Mon, Sa Keao, “Many Cambodians who are hired for paddy harvesting also sell sex, as many as 7-8 girls out of 10; the rest of which are too old and the beginning ages 11-12 years old. Sex workers are not only girls, but there are also 11-12 years old boys and older. Service fees range from 300-500 baht, at wherever they choose to do so. These sex workers might spread the HIV too” (TDRI in Paitoonpong 2006, 12).

Cross-border fishing is also a venue for HIV/AIDS transaction. Thai fishermen who fished in the Cambodia waters had a high chance of contacting HIV. The over fishing in The

Thai waters in the Gulf of Thailand has led an increasing number of Thai fishermen into Cambodian waters. This leads to increased contact among peoples of the three nations: Thailand, Cambodia and Vietnam. A study (Anthony et al 1995 in (Paitoonpong 2006,) maintains that the fishermen were linked to the outbreaks of HIV in Bangladesh, Vietnam and Irian Jaya. The prevalence data among fishermen in Ranong showed an increasingly high levels of HIV from 7% in 1991 to 14 % in 1992 and 22% in June 1993. Fishermen traveled more than other people in other occupations. In particular, they had many chances for docking at Cambodian and Vietnamese ports during a single trip that could extend over months. Fishing boats had to dock occasionally in order to refuel, load ice, sell fish, allow the crew to rest and have recreation, repairs equipment, stock up on food, meet friends and colleagues, engage in sex, go to bars and gambling dens, and avoid monsoon storms. It was very common among fishermen (captains and boat crews) to have sex with prostitutes along the ports they visited. And the study indicates that the condom use by Cambodian and Thai men in commercial sex establishments is extremely low. Besides, men who were clients and sex workers themselves had many misconceptions about AIDS, such as: it is curable; if one is healthy one cannot get AIDS; bad-looking commercial sex workers do not have AIDS; clean people do not have AIDS; one cannot get AIDS by having sex with a virgin in a brothel

The HIV/AIDS pandemic is an example of the negative side of economic integration and free movements of people across borders. Nevertheless, it can also be argued that it is because of income disparity and poverty that causes the problem and economic integration should be considered as a mean to solve the problem.

(2) Human trafficking

Migrant workers in Thailand have been related to a number of social issues in the context of regional economic integration. One of the major problems is human trafficking as, by and large, human trafficking is closely related to cross-border irregular migration. The illegality of much of this undocumented migration clearly makes migrants vulnerable to exploitation – to becoming victims of human trafficking. However, in the GMS it has been noted that, in the vast majority of cases, the actual movement aspects of the trafficking are generally “voluntary” in the sense that the person himself or herself has made the decision to travel for work, within the limited range of the choice available (Marshall 2001, 3).

In Thailand, there is a dearth of in-depth research on the extent of human trafficking and the problems confronting the victims. In the context of migrant workers, there are several issues regarding trafficking and exploitation. Migrants must pay brokers to help them enter the country. They are at risk of being cheated or being arrested on the way. They have virtually no information or any commitment regarding their respective jobs. Some are coerced into forced labor or prostitution, or being sexually assaulted. Many of them have a very poor working environment and living quarters (WVFT 2004, 1 in Paitoonpong 2006). Some migrant workers from Myanmar were forced to trafficking drugs by swallowing condoms filled with drugs, after which they crossed the border (Thai Rath, 31 December, 2005).

Human trafficking may be classified into three types. The first and largest category of trafficking is migrant workers who are brought into the country to take jobs of a low standard. It is a combination of migration and labor exploitation in a range of forms including debt bondage, low or no wages, excessive working hours, unsafe conditions, etc. Some migrant workers are charged a high fee for traveling into Thailand as well as the additional costs associated with job seeking. Some of them have been robbed along the way; women have been raped. At the destination, industries hiring a high proportion of irregular migrants include factories and fisheries as well as domestic labor. These places are vulnerable to labour exploitation and human trafficking.

The second but highest profile form of trafficking is prostitution or sex work. Although in some ways similar to the other forms of labor exploitation mentioned previously, it falls into a slightly different category as it often has an illegal or ambiguous status.

The third category of trafficking is those forms of “labor” that address demand, which society generally finds unacceptable. This includes the trafficking of young children for begging, such as from Cambodia to Thailand. It also includes the abduction of young boys in China and the trafficking of Vietnamese and Burmese women into China to become brides for sale. (Paitoonpong 2006)

There is also a dearth of data on number of trafficked persons because of the difficulty in assessing and distinguishing between (poor innocent) trafficking victims and economic migrants who are in the business on a voluntary basis. For the first category of

trafficking victims, the migrant workers who are given poor jobs in sub-standard working conditions, the number of people at risk can be an indicator. For the third category, migrant child beggars, the number can be observed from those arrested by the Thai authorities, some of whom are deported to Cambodia. The number of children beggars from Cambodia is estimated to be more than 10,000 (TDRI, 2007).

For the number involved in cross-border prostitution from neighboring countries, a rough estimate has been made: long time ago in 1996, at least 12,607 women out of 77,094 prostitutes in Thailand were migrants (Ajwanijkul and Kerdsawang 1997, 24). This number is said to be extremely underestimated. While it is difficult to differentiate between Thai prostitutes and migrant prostitutes, it is even more difficult to say who are trafficking victims and who are not.

Although it is difficult to quantify the number of person involved or the extent of human trafficking in Thailand, two major studies provide more information about the activity. One is a study by Ajwanijkul and Kerdsawang (1997), entitled “The Route of Women Workers from the Neighboring Countries into the Sex Industry in Thailand.” Another is a study by the World Vision Foundation of Thailand (WVFT) in collaboration with the Asian Research Center for Migration (ARCM 2004) entitled “Research Report on Migration and Deception of Migrant Workers in Thailand,”. The former study describes characteristics of the trafficked victims and their problems as well as the process of trafficking of women into the sex industry in Thailand. The study is based on a survey of 128 female migrant workers (33 employed in the sex industry and 95 in other occupations) and 30 Thai women working in the sex industry. An in-depth interview was also conducted of 62 female migrant workers in the sex industry, 11 Thai female sex workers, 6 operators of brothels, 11 Public Health officials, 7 persons from NGOs, and 2 leaders of minority groups in Myanmar. The study was conducted in 18 provinces of Thailand.

The WVFT publication is a survey analysis of 1,187 Burmese migrant workers in three areas: 395 from Mae Sai, 399 from Mae Sot, and 393 from Ranong. Among other things, it has been found that traffickers were classified into three groups by scale of operation: large organizations, medium-size organizations, and small ones. Most of the organizations in Thailand are small ones (Ajwanijkul and Kerdsawang 1997, 57 in Paitoonpong 2006). The study by Chantavanich (2000) indicated that the process of trafficking can happen at the later stage of cross-border migration. For example, most

migrant workers (96.5percent) said that they were not deceived while they were in their hometowns. Only three respondents (0.8 percent) claimed that they were forced to walk to Thailand; one of the respondents was deceived and one was threatened. Deception while traveling, deception while seeking jobs and deception at the workplace accounted for 1.9, 1.1 and 4.1 percent of the total respectively (WVFT 2004, 41-42). Marshall (2001, 4) divides traffickers into two categories: organized crime and cottage industry. Within the GMS, he maintains that trafficking resembles a cottage industry more than organized crime, with a range of small-scale operators along the way. It has been said that those people who facilitate migration which results in trafficking may often be the same as those who facilitate other forms of less exploitative migration. Such agents and even traffickers or smugglers are often seen as providing a service to the community.

The types of exploitation and abuse among women migrant workers found by the WVFT study are shown in Table 4: seven women migrants (1.8%) were forced into prostitution, and nine (2.3%) were assaulted sexually.

Table 4. Types of misconduct and violation

	Number	Percentage
None	337	84.5
Being forced into prostitution	7	1.8
Being assaulted sexually	9	2.3
Being forced into labor	16	4.0
Being forced into slavery	3	0.8
Escaped from arrest	3	0.8
No answer	24	6.0
Total	399	100.0

Source: WVFT 2004, Table 3.11.

The WVFT study has more limitation in terms of areas covered, which may have some relationship with the degree of trafficking. It is possible that the deeper that migrants move into inner cities or urban areas, the higher is the risk they face of being exploited. Another reason is that at Mae Sot, Mae Sai and Ranong, there are higher concentrations of migrant workers than in the inner cities. Whether this hypothesis holds true is a subject for more research.

In a little more up-to-date study in 2007, entitled “Reviewing the Poverty Impact of Regional Economic Integration in the Greater Mekong Sub-Region”(TDRI, 2007), we found that, in Mukdahan province, cases of human trafficking had been found in some areas such as Ban Wan Yai, Don Tan, and Nong Lom as these areas are far away from strict immigration inspection. And in Sa Kaeo province there had been also cases of human trafficking of Cambodian in Dong Ngu and Nong Prue. A serious fact is that Sa Kaeo is sensitive to the national security since its international gate is very close to Bangkok. Any illegal migrant can make his way to Bangkok easily, although there are a number of arrests in each year. In practice, illegal migrant would seek a border pass and spend a night near the border before making their journey. It is often that they pay fees to a broker in order to have an overnight accommodation and a place on a pick-up truck. In addition, the research team also learns that there are a small group of Vietnamese enter Thailand illegally through Thailand-Cambodia border gate.

As mentioned earlier, a number of trafficking victims end up in commercial sex. In the case of the two provinces under the project, the research team gathered information from youths, adult workers, health officials and village leaders. It was informed that there were various situations of commercial sexual activities in the surveyed villages of Mukdahan. At the time of the survey, there was an increasing number of sex workers in Mukdahan municipality. Most of them were Laotian girls who worked in the restaurants near the Mekong riverbank. Most of Laotian sex workers got paid from a few hundred up to 1,000 or 1,500 baht each time. It was usually the case that they were registered as domestic workers but later became workers in restaurants and karaoke venues which were prohibited occupations for alien workers. The research team also heard from the villagers about the trafficking of Laotian girls for commercial sex workers in Bangkok or Pattaya. The service fee there was more than what they could get in Mukdahan.

In Sa Kaeo, the situation of commercial sex was more plagued with the problems in spite of the government’s effort to suppress it for more than five years. Commercial sex work was permitted in Cambodia and Thai men were frequent customers there. The service charge had been 100 baht earlier and at the time of the survey was up to 200 baht. Cambodian girls used to cross a small river to Dong Ngu, to sell sex to Thai men in the wood, and sometimes in the upland fields. At the time of the study, the number of such sex service was much lower due mainly to strict enforcement by concerned officials. There was

a story about Cambodian girl workers coming to Thailand as hired labor in harvesting rice and ended up selling sex.

The Thai government has been active in international and regional fora to combat trafficking. At the global level, Thailand has signed the United Nations Convention on Transnational Organized Crime in 2001 together with the accompanying protocols to prevent and control trafficking of persons, especially women and children, and the “smuggling of migrants by land, sea and air” (United Nations in IOM, 2009), and has ratified other relevant ILO conventions such as the ILO Convention No. 29 and No. 105 on Forced Labour and the ILO Convention No. 182 on the Worst Forms of Child Labor (Supang et al. in IOM, 2009). Thailand also cooperates with several OECD destination countries, such as Japan, Germany, the United Kingdom, and Australia on return and reintegration programs for Thai trafficking victims.

At the regional level, in 1997 Thailand signed the ASEAN Declaration on Transnational Crime, including trafficking, and in 2004 the ASEAN Declaration against Trafficking in Persons Particularly Women and Children, reaffirming international protocols and committing its members to undertake concerted efforts against trafficking. Also in 2004, Thailand subscribed with other GMS countries to the MOU on Cooperation against Trafficking in Persons in the Greater Mekong Sub-region produced under the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT), establishing priority actions to address human trafficking in the region. In previous years, a detailed agreement on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of abovementioned MOUs with Cambodia, Lao PDR and Myanmar on Cooperation for the Employment of Workers to reduce irregular migration and improve the repatriation process of trafficked victims (Burke and Ducci and Vital Voices Global Partnership in IOM, 2009). Thailand and China’s Yunnan Province have further set up focal points for joint action against transnational organized crime, including human trafficking.

These international and regional agreements have been built on Thailand’s long-standing legislation against trafficking. In 1928, Thailand had already passed the Trafficking in Women and Girls Act B.E. 2471 to counter the perceived increase of foreign women in Thai brothels. In more recent times, the two main legislative tools to counter trafficking have been: (i) the Prostitution Prevention and Suppression Act, B.E. 2539 issued in 1996, which put emphasis on punishment of pimps, procurers, traffickers and other parties

involved in prostitution, and (ii) the Measures in Prevention and Suppression of Trafficking in Women and Children Act, B.E. 2540 or 1997. Even though the 1997 Act included provisions for the protection of trafficked boys in exploitative work situations, the priority concern of both laws has been on the elimination of sexual exploitation through tightening the border, clamping down on prostitution, and repatriation of the victims. The scope of these traditional measures, however, is bound to be broadened with the enactment of the new Act to Prevent and Suppress Human Trafficking B.E. 2551 or 2008, and the Draft Guidelines on the Prevention and Protection of Victims of Human Trafficking developed by the Ministry of Social Welfare and Human Security and the MOL, with support from ILO. Both legal measures go well beyond exploitation in the sex industry and child labour to include cheated and exploited adult migrant workers of either sex in their definition of “victims of trafficking” (The Nation and Bangkok Post in IOM, 2009). They further comprise humanitarian provisions for the victims to temporarily remain and work in Thailand until they are rehabilitated and their compensation claims settled. This, however, is pending the MOI’s permission. Without such permission, according to the Immigration Law, trafficked migrant workers remain liable to be deported immediately, albeit “under conditions of safety and well-being” (Chantavanich in IOM, 2009). The persistent focus on rehabilitation and repatriation has provoked concerns among migrant advocates that the key issues of regulating labour migration and providing labour protection to migrant workers in Thailand may not be adequately addressed through a trafficking framework and should be covered by specific immigration legislation. Principal considerations apart, it remains a question how the enforcement of these measures will differentiate between “trafficked” and “smuggled” migrant workers, and what degree of exploitation at work will be considered trafficking (IOM, 2009).

C. Remittances

Remittances reflect both economic and social impacts of immigration in Thailand on the sending countries. Remittances contribute a lot to the well-being and income security of the family of migrant workers who are left-behind. It is estimated that migrant workers remit around 12.6 billion baht back home annually (Paitoonpong et. al. 2008). However, this is only a tentative estimate as there is no definite system in place yet to account for these remittances and only the remittances sent back by registered migrant workers can be accounted for.

From our case study (Paitoonpong et. al. 2008), we estimated total financial costs and benefits of migration of Cambodian and Laos migrant workers in Thailand and found that net return of migration of the legal migrant from Cambodia (under MOU) was the highest in spite of the higher costs of their migration. It was reasoned that this was because the legal migrants got more secure and better paid jobs as compared to irregular migrants in other categories who were subject to lower pay and more risk of exploitation (Table 5). The study is, however, based on a small sample size¹¹ and is subject to a degree of sampling bias.

Table 5: Summary of total costs and benefits of migration of Cambodian and Laos migrant workers by category

Item	Cambodia			Lao PDR ^a	
	Legal worker (under MOU)	Irregular worker (With document)	Irregular worker (Without document)	Irregular worker (With document)	Irregular worker (Without document)
Total benefit	10,091	6,510	7,713	6,194	4,023
Total cost	7,387	4,116	5,361	4,011	2,102
- Fixed cost	747	150	217	56	106
- Variable cost	6,640	3,966	5,144	3,955	1,996
Net return to migration	2,704	2,394	2,352	2,183	1,922

Note: ^a/ No survey made on the case of migrant worker on MOU

Source: Paitoonpong et al., 2008.

Because of the positive net return from migration, it can be anticipated that there is some savings that can be sent home. According to the study, about 70 percent of Cambodian migrants sent remittances home. A larger proportion of the Lao PDR migrants, (89 percent) sent remittances home although their (reported) average earnings is less than that of the Cambodian. Among those who send remittances home, about one percent of migrants from each country have sent more than \$1,563.

The majority of Cambodian migrants (69 percent) sent remittances through private agents compared to the majority of Lao PDR migrants (50 percent) sent their remittances through relatives or friends. About one fourth of Cambodian migrants brought remittances

¹¹ The case study of Laos was conducted in Ubonrajathani and the case of Cambodians was conducted in the Choburi and Rayong.

home in person compared to the figure of Lao PDR migrants of 18 percent. About 32 percent of Lao PDR migrants also used the service of private agent to send remittances.

On uses of remittance, Khine (2007) found that in the town of Mawlamyine, located in the Mon State, Myanmar, most interviewed migrant households used remittances for household consumption, repayment of debts and religious and social events. Similarly to Myanmar migrant workers, in Prey Veng, Cambodia, migrant household used remittances to satisfy basic needs, especially covering health expenses and paying for food, and repaying debts (Maltoni in IOM, 2009). And in the Lao PDR, in 2007 remittances contributed to improving household conditions, with the greatest used to repair and build houses and for daily expenditures, and the remaining mainly used for enhancing agriculture production, paying for children's education and acquiring durable goods (Souksavat and Voladet in IOM, 2009).

IV. GOVERNMENT POLICIES

The scope of this section is on labour immigration policy on illegal migrant workers, particularly from CLM. In fact, such policies can be classified into two major groups, policies on the employment of migrant workers, i.e. on the management of migrant workers and policies towards the social inclusion and protection of migrant workers in Thailand. The first group of policies has implications, to some extent, on latter policies. This section focuses on the former. The section starts with a review of laws and regulations on immigration and employment of migrant workers as they are the basis toward unskilled migrant workers, followed by a discussion on the process of immigration which deals with how migrant workers get in Thailand, and government policies on migrant workers.

A. Laws and regulations

As already mentioned in section II, migrant workers can be classified into 2 major types, *legal* migrant workers and *illegal* migrant workers. Legal migrant workers include (1) under Section 9 of AEA 2008, temporary or general permit migrant, permanent resident or lifetime permit migrant, and national verification permit migrant; (2) migrant workers under Section 11 or MOU; (3) migrant workers under Section 12 or BOI; and (4) migrant workers under Section 14 or border workers. In addition, there are other groups of working foreigners who are not covered by AEA 2008 due to diplomatic privileges. They are either (1) members of a diplomatic mission or (2) members of a consular mission or (3)

representatives of member countries and official of the United Nations and specialised institutions or (4) personal servants coming from foreign countries to work regularly for the person under (1) or (2) or (3) or (5) persons who performs duties or missions in accordance with agreements between the Government of Thailand and foreign government or international organization or (6) persons who performs duties or mission for the benefit of education, culture, art, sports or other activities as may be prescribed by the Royal Decree or (7) persons permitted, with or without any condition, by the Council of Ministers to enter and perform any duty or mission.

In the context of labour immigration in Thailand and according to AEA 2008 (Section 13), there are two major groups of illegal migrant workers in Thailand: migrant workers from CLM and ethnic minorities.

Regulations of these different groups of migrant workers differ, particularly in details. Here the regulations of migrant workers are grouped into 4 major topics, namely, immigration law or requirements, AEA 2008 or work permit, irregular migrant worker registration and memorandum of understanding (MOU) of the employment of workers from Cambodia, Lao PDR and Myanmar. In addition, migrant workers are also protected by the Labour Protection Act B.E. 2541 and B.E. 2551, the Social Security Act B.E. 2533, and the Criminal Code.¹² On the other hand, Thai workers working outside Thailand are protected by the Act on Employment Agencies and Job Seeker Protection 1985.

1. Immigration law

According to the 1979 Immigration Act, entry into Thailand requires an entry visa except for the case of special agreements such as the ASAEN cross border agreement that allows the people of ASEAN member countries to enter Thailand without a visa for a given period. Basically, those entering without visa and/or acting in breach of the immigration law are illegal and may be deported and or penalized by other sanctions. Thus migrant workers who enter without visas or work without work permits are liable to be

¹² With regard to labour relations, there are the Labour Relations Act 1975 and the State Enterprise Labour Act 2000. There is some differentiation between Thais and non-Thais in regard to these laws. Under the first Act, membership of the Board of such Union is only open to Thai nationals (Section 101). Also, only Thai nationals can set up a Trade Union in a State enterprise under the second Act (Section 41). While there is no prohibition against foreign nationals becoming members of such Unions, in practice a migrant worker with an irregular status is unlikely to be accepted as a member. (Muntarbhorn 2005, 16)

deported. However, Section 17 of the Act provides the Minister of Interior with discretion in applying (or not applying) the strictures of the Act. This has provided a window for exempting irregular migrant workers from being deported, at least when they come out into the open to be registered. There is a key linkage between immigration law, national security and national policy; the national policy reflecting national security shapes the application of the Immigration Act. Thus the various Cabinet decisions noted above offer leverage in applying the Act and interplay with the half-open door policy which was practiced in recent years towards migrant workers. (Muntarbhorn 2005, 13)

To regulate the entering into the Kingdom, Thailand has 2 types of visa, tourist visa, and non-immigrant visa. A tourist visa is issued to applicants wishing to enter the Kingdom for tourism purposes. The holder of the visa is not allowed to work or conduct business. A tourist visa is valid for 60 days and can be extended 30 days. The fee is 1,900 baht. Most western countries do not need a Tourist visa.

A non-immigrant visa is required for a foreigner who wants to stay or work in Thailand. With reference to Section 34 of the Immigration Act B.E.2522, this type of visa has 12 categories: Diplomatic visa (D) is for those employed by an embassy; Business visa (B) or a mass media visa (M) are for accredited business or press representatives; Expert visa (EX) are for those performing skilled or expert work; Investor visa (IM)¹³ is for foreigners who set-up their companies under the Board of Investment BOI; Study/education visa (ED) is for teachers or educational study or observation; Official (F) for performers of official duties (involving the Thai government); Investment (with concurrence of the ministries and departments concerned), BOI (IB); Missionary work (R); Scientific research or training, or study in an educational institution in the Kingdom (RS); Participation in an officially recognized sports event (S); and Others "O" which includes dependents and retired persons. (<http://www.thailawforum.com/database1/immigration-law-mejesty-5.html>; accessed on 1 July 2011)

In addition there are Transit visa, Immigrant visa, Non-quota immigrant visa, and Courtesy visa. (www.thaijaidee.com/forum; accessed 1 July 2011)

¹³ A new category of visa with issuance is controlled by the Board of Investment. This visa can carry a residence permit for applicant and immediate family if a specified amount of capital is brought into Thailand for investment.

For commuters in the border areas along Cambodia and Lao PDR, other forms of visa is applied. At the Khlong Luek gate in Sa Kaeo, for example, the documents used are as the following.

- Passport: A passport holders could go anywhere in Thailand and Cambodia.

Border pass: A Cambodian border pass holders can work in Sa Kaeo and nearby provinces. On the other hand, Thai people who live in Aranyaprathet district could obtain a border pass and could stay only one day in Cambodia.

- Temporary border pass: A Cambodian temporary border pass holder can cross the border to work, on the daily basis, in Rong Kluea market only. The pass costs 10 baht per entry. There are special temporary pass for a cart pusher and a trader, allowing him to cross (in and out) the border four times per day (two round trips per day), and to cross (in and out) the border two times per day (on round trip per day) respectively. Recently the Cambodian immigration authority allows temporary border pass holders to pay the fee by week.

In practice, regulations are not usually followed. Those with tourist visas are not permit to work but they sometimes do. To get away with the visa length of stay, a tourist has to leave the country every three months to renew his/her visa. Some people have been making quarterly “visa runs” to nearby countries’ city like Vientiane or Penang and returning to the country to resume paid employment for many years. According to the law, tourists can come into the country for three months at a time as long as they keep their tourist visas current. This can be done as long as they don't work. This is illegal to work under a tourist visa.

If the tourists wish to stay on and get a job, they need to have their tourist visa changed to a non-immigrant visa for business. Or they need to have the right visa in the first place before entering the country. Some of “tourists” do not even try to renew their visa but “over stay” and do not report to the Thai authority, thus become a type of illegal migrant workers.

2. Alien Employment Act

The Revolutionary Order 281 (1972) announced on 24 November 1972 was probably the first Thai law dealing specifically with the employment of foreigners. Its Article 3 defines “alien” or “foreigner” as a normal person or legal body who does not have Thai nationality and Article 7 specifies the qualification of an eligible foreigner. Article 4 forbids a foreigner from 12 occupations under List A, and 36 occupations under List B. Exemptions for occupations under these lists can be done through a Royal Decree. There are 14 occupations under List C that a foreigner can apply for permission from the Director General of Trade Registration.

Less than a month later, on 13 December 1972, Revolutionary Order 322 (RO 332) was promulgated to deal directly with foreign workers. First, this decree defines “alien” or foreigner simply as “a regular person who does not have Thai nationality” and “work” or employment as any work performed by using physical ability or knowledge for oneself or other for income or other compensation. Second, the enforcement of the law was under the jurisdiction of the Minister of Interior and Director General of Labour. Third, different types of work permit were specified. Article 19 established a “Committee on Employment of Alien” comprising of representatives of various civil ministries except the Ministry of Defense. Article 5 stipulated that occupations prohibited to aliens must be specified by a royal decree. The RO 332 is probably the origin of the Alien Employment Act B.E. 2521.

In 1978 the Revolutionary Order 281 was amended by an Act (called An Amendment of the 28 November B.E. 2515 Revolutionary Order 281 B.E. 2521) to include irregular migrant workers or foreigners who unlawfully entered the Kingdom. Under this law, the permission for irregular migrants to perform an occupation is under the Cabinet (instead of the Director General of Trade Registration. (The Revolutionary Order 281 was amended again in 1992 to redefine foreigner legal body.)

On 8 July 1978 the Alien Employment Act B.E. 2521 was promulgated. Article 3 abolished RO 332. In essence, this act was the same as RO 332. Article 12 is similar to RO 281 amended B.E. 2521 which had dealt with directly with irregular migrant workers or foreigners who unlawfully entered the Kingdom. The enforcement of the law was the same as RO 332 which was under the jurisdiction of the Minister of Interior and Director General of Labour. The act was amended in 2001 by the (Second) Alien Employment Act B.E. 2544 to fix fees for extension of work permits.

The introduction of the Alien Employment Act B.E. 2551 (2008), replacing the Alien Employment Act B.E. 2521 (1978) is another step in creating the sound and comprehensive body of legislation for managing labor migration in a more targeted manner, taking economic and security needs into account. The new legislation contains 4 sections; namely, type of work allowed for migrant workers to engage, repatriation of foreign worker funds, committee to review the employment of migrant workers, committee to review appeal on work of migrant workers, monitoring and oversight, penalties, and provisional clauses. The salient features of the new Act are that it defines the categories of immigrant eligible for engaging in temporary employment, establishes a list of occupations which are allowed for migrant workers, sets the deportation fund, collects the levy from employers, allows migrant to change employers and workplaces, and provides the involvement of trade unions and employers in the Committees for review the employment of migrant workers and for appeal on the employment of migrant workers. The controversial provisions are that the authority may enter and search in the workplace, without any court warrant, for irregular migrant workers; the rewards for apprehension of illegal migrant workers; and the deduction from wage of migrant workers for the deportation fund (Pracha, 2009).

Moreover, the Act formally regulates the hiring of low-skilled and semi-skilled migrant workers from Cambodia, Lao PDR and Myanmar, structuring their contract employment through a Singapore-type system of dependency ceiling, sector-specific restrictions, and employer levies (Yongyuth, 2008). The Act also gives permission to employ cross-border contract workers on the border or in areas adjacent to the border (IOM, 2008).

.3. Labor Protection Act

From the angle of protection of all workers, the Labour Protection Act 1998 provides the most comprehensive coverage and is, to a large extent, consistent with the international labor standards. In principle, it applies to all migrant workers, irrespective of their status migration status. The law includes the following key provisions:

- The general provisions which cover the collateral funds and its redemption, the gender equality in employment and remuneration, the termination of work contract, and the sectors exempted from the coverage of the Act;

- The employment provisions which cover hours of work, overtime work, annual leaves, maternity leaves and holidays;
- The employment of women, child labour, and youth which covers the prohibitions of women, children, youth to engaging in certain kinds of jobs, and the limitation on number of working hours and age of the children and youth;
- The wage, overtime and compensation for holiday work;
- The establishment of the National Minimum Wage Committee, the National Labour Welfare Committee, the Enterprise-based Welfare Committee, the National Occupational Safety and Health Committee, the Enterprise-based Occupational Safety and Health Committee; and National Employee Welfare Funds to assist workers in distress situations; and
- Other provisions such as suspension from work, severance payment, lodging complaint mechanism, labor inspection, and penalty clauses.

However, the gap between law and reality has been frequently witnessed for non-application in accordance with the minimum wage and overtime regulations, the uncompensated extended working hours, the use of child labour, the practices which tantamount to forced labour in the factory and in fishing industries, the termination of contract of pregnant migrants. In addition, the law does not cover some occupations which the migrant are usually hired such as agriculture, domestic work, transport, fishing, etc.

The challenge for the Thai government is to revise the law/regulations to provide more comprehensive protection to migrant workers, especially to extend to the coverage to sectors which are outside the jurisdiction of the present Act. The government should ensure the participation of migrant workers in the Enterprise-based Welfare Committee, the Enterprise-based Occupational Safety and Health Committee, and the National Employee Welfare Fund (Pracha, 2009).

The Labour Protection Act 1998 was amended and replaced by the Labour Protection Act (Second) B.E. 2551 (2008). The new law does not have a significant change with regard to migrant workers. Article 11/1 may have an implication on migrant workers in

the sense that sub-contracted or leased migrant workers become the responsibility of the owner of an establishment not the sub-contractor.

4. Other Labour Laws

With regard to labour relations, linking with the freedom of association and the collective bargaining, there is the Labour Relations Act 1975, in which it provides some differentiation between nationals and the non-nationals in regard to the formation of a trade union. Under this Act, membership of the board of the trade union is only open to Thai nationals. While there is no prohibition against foreign nationals becoming members of such unions, only a few migrant workers are accepted as member of the Thai trade unions (Pracha, 2009).

B. Process of immigration from CLM

According to the Immigration Act B.E. 2522, foreigners who wish to stay and/or work in the country, must first meet immigration requirements by obtaining a visa, except for visitors from countries under special agreements who may attain border passes at frontier checkpoints or are exempted from visa requirements. Immigrants who enter the country without a visa and/or act in breach of the Immigration Act, including refugees, are illegal and may be penalized and deported (IOM, 2009). As earlier mentioned, Thailand has 2 types of visa, tourist visa, and non-immigrant visa. A non-immigrant visa is required for a foreigner who wants to stay or work in Thailand. For commuters in the border areas along Cambodia and Lao PDR, other forms of visa is applied such as border pass and temporary border pass.

In practice, regulations are not usually followed. Those with tourist visas are not permit to work but they sometimes do. To get away with the visa length of stay, a tourist has to leave the country every three months to renew his/her visa. Some people have been making quarterly “visa runs” to nearby countries’ cities like Vientiane or Penang and returning to the country to resume paid employment for many years. This is illegal to work under tourist visa. According to the law, tourists can come into the country for three months at a time as long as they keep their tourist visas current. This can be done as long as they don't work.

If the tourists wish to stay on and get a job, they need to have their tourist visa changed to a non-immigrant visa for business. Or they need to have the right visa in the first place before entering the country. Some of “tourists” do not even try to renew their visa but “over stay” and do not report to the Thai authority, thus become illegal migrant workers.

In addition to overstaying or visa runs, illegal migrant workers from CLM can enter Thailand’s border illegally in many ways because Thailand has long borders with Cambodia, Lao PDR and Myanmar¹⁴. Between Cambodia and Thailand there are a few international gates which are officially monitored while there are a number of informal or cultural gates which are usually open for cross-border trade during the week end or daily. These informal gates are not strictly controlled. In some of the international gates, there are uncontrolled crossing tracks which can be used as channels to cross border without border pass or traveling documents. In some cultural gates, villagers from both sides can cross borders virtually freely. Similarly, borders between Thailand and Lao PDR and Myanmar consist of both official international gates and informal gates where border crossing can be done. In addition to these types of access, considerable number of illegal migrants are smuggled or trafficked into Thailand through jungles or rivers. There are many occasions that some of them die during the process of “transportation”. .

In the case of Burmese migrants, there are three major phases of the flow from Myanmar (Caouette, et.al. 2000 in Martin 2004, 17). First, between 1945 and 1983, there were ethnic minorities on Thailand-Myanmar border who fought the central Government in Yangon especially after Myanmar declared itself a socialist country in 1962. Burmese who fled to Thailand before March 9, 1976 were called “displaced persons of Burmese nationality”. Second, from 1984 to 1987 there was a Thai-Burmese rapprochement that led to fighting between Karen and Mon and the Government of Myanmar, and resulted in many Burmese near the Thai border fleeing to Thailand. Third, since 1988, the State Law and Restoration Council (SLORC) in Myanmar promoted Thailand’s investment in Myanmar. Many Thai and foreign investors chose to invest in Thailand near the Thai-Myanmar border, so that products such as garments could be made with Burmese labour in Thailand and exported from Thailand, avoiding sanctions on Burmese exports. Since 1988 onward, migrant

¹⁴ Thailand has a land boundary of approximately 5,656 kilometers: 2,401 with Myanmar, 1,810 kilometers with Lao PDR, 798 kilometers with Cambodia and 647 with Malaysia. The sea boundary is about 1,840 kilometers on the Gulf of Thailand side and 865 kilometers on the Andaman side. (www.chatvariety.com/space/read.php?tid=10997; accessed 1/4/2011)

workers from Myanmar keep coming to Thailand mostly through arrangements by agents or trafficking. In the early 1990s when regional integration and its economic and demographic divides produced a strong increase in intra-regional immigration to Thailand and a shift in the nature from politically-caused to economically-induced (World Bank 2006 in Sciortino and Punpueng 2009, 54).

C. International labour migration policy formulation

1. Committee on Illegal Migrant Workers Administration (CIMWA)

The main body in charge of irregular migrant workers administration is the Committee on Illegal Migrant Workers Administration (CIMWA) established by the Office of the Prime Minister regulations in 2001 and its revision in 2003. The major responsibility of the Committee is to formulate policies, guidelines, work plans, and measures to manage and monitor actions against illegal migrant workers both in the short-run and long-run. The responsibility also includes preventive actions, suppression, and other necessary measures to manage illegal migrant workers.

CIMWA consists of 8 sub-committees to be responsible for each strategy including;

1) Overall Illegal Migrant Workers Administration Sub-committee

This sub-committee is chaired by the Minister of Labour with the Director-General of Department of Employment acting as its secretary. The main jurisdiction and duties of the sub-committee are to formulate policies, guidelines and measures on overall illegal migrant workers administration to CIMWA, to supervise, oversee and monitor an implementation, to call for person, document and data from agencies concerned with alien worker and perform any other duties as entrusted by CIMWA.

2) Sub-committee on the Prevention of Illegal Migrant Workers

This sub-committee is chaired by the Chief of Staff (of the Royal Army) with the Director of Policy and Planning Agency, Directorate of Operation, Ministry of Defense acting as its secretary. The main jurisdiction and duties of the sub-committee are to formulate policies and measures to prevent the in-coming of illegal migrant workers, to set up a guideline for operation of agencies concerned with preventing illegal migrant workers, to propose measures and processes to combat the influential and to perform any other duties as entrusted by CIMWA.

3) Sub-committee on the Employment System and Standard Setting of Illegal Migrant Workers

This sub-committee is chaired by the Chief of the National Competitiveness Section, Ministry of Labour with Director of the Office of Migrant Workers Administration acting as its secretary. The main jurisdiction and duties of the sub-committee are to formulate a framework, guideline and process of migration legally, to set up a guideline and build the network for operation of agencies concerned with the working of alien, to propose appropriate industry, occupation and area for employing alien worker, to give recommendation on work permit format, to set up alien worker employment system consisting labour protection, condition of employment, compensation, social insurance and other law, to set up guideline and work plans on alien worker employment system to comply with MOU, to formulate procedure and give recommendation on alien repatriation fund and to perform any other duties as entrusted by CIMWA.

4) Sub-committee on Public Relations

This sub-committee chaired by the Permanent Secretary of the Prime Minister Office with and the Executive Director of National Policy and Planning Development Office, Public Relation Department acting as its secretary. The main jurisdiction and duties of the sub-committee are to formulate policies, measures and work plans of public relation according to policy on alien worker laid down by CIMWA, to dissemination and conduct public relation concerning the performance of CIMWA and to perform any other duties as entrusted by CIMWA.

5) Sub-committee on Suppression, Arrest and Prosecution

This sub-committee is chaired by the Deputy Commissioner General (Special Task Force), Royal Thai Police with the Commissioner of Crime Suppression Division, Royal Thai Police acting as its secretary. The main jurisdiction and duties of the sub-committee are to propose measures to suppress, arrest and prosecution illegal migrant workers and employer who hire them, to propose measures and processes to combat the influential, to coordinate with other related agencies according to suppress, arrest and prosecution culprit under the 1979 Immigrant Law and the 2008 Employment of Alien Worker Law and other related law, called for person, document and data from related agencies concerned and to perform any other duties as entrusted by CIMWA.

6) Sub-committee on Repatriation

This sub-committee is chaired by the Commissioner, Immigration Bureau with the Commander, General Staff Division, Immigration Bureau acting as its secretary. The main jurisdiction and duties of the sub-committee are to negotiate with the governments of Myanmar, Lao PDR and Cambodia to set up illegal migrant worker repatriation system as well as to set up an agreement framework, measures and work plans on legal migrant worker repatriation system between government to government, to set up a guideline for operation of agencies concerned with pushing and dispatching and to perform any other duties as entrusted by CIWA.

7) Sub-committee on Monitoring and Evaluation

This sub-committee is chaired by the Permanent Secretary, Ministry of Labour with the Director of the Office of Foreign Worker Administration acting as its secretary. The main jurisdiction and duties of the sub-committee are to formulate measures, guidelines and measures to monitor and evaluation according to policy on alien worker laid down by CIMWA, to oversee, evaluation and analyze the implementation of government agencies regarding the alien worker to CIMWA, and to perform any other duties as entrusted by CIMWA.

8) Sub-committee on Directing and Cooperating Security Measures Related to Solving Problems of Illegal Workers of Laos, Cambodia and Myanmar

This sub-committee is chaired by the Secretary of Internal Security Operation Command with the Director of Security Coordination Centre, Internal Security Operation Command acting as its secretary. The main jurisdiction and duties of the sub-committee are to supervise and coordinate government agencies concerned with security policies related to solving problems of illegal migrant workers from Myanmar, Lao PDR and Cambodia, to approve programs and work plans for conducting activities under the framework established, to appoint committee and working group to support the work if necessary, to call for person, document and data from related agencies concerned and perform any other duties as entrusted by CIMWA.

In addition to the 8 sub-committees, there are 3 task forces working on illegal migrant workers including

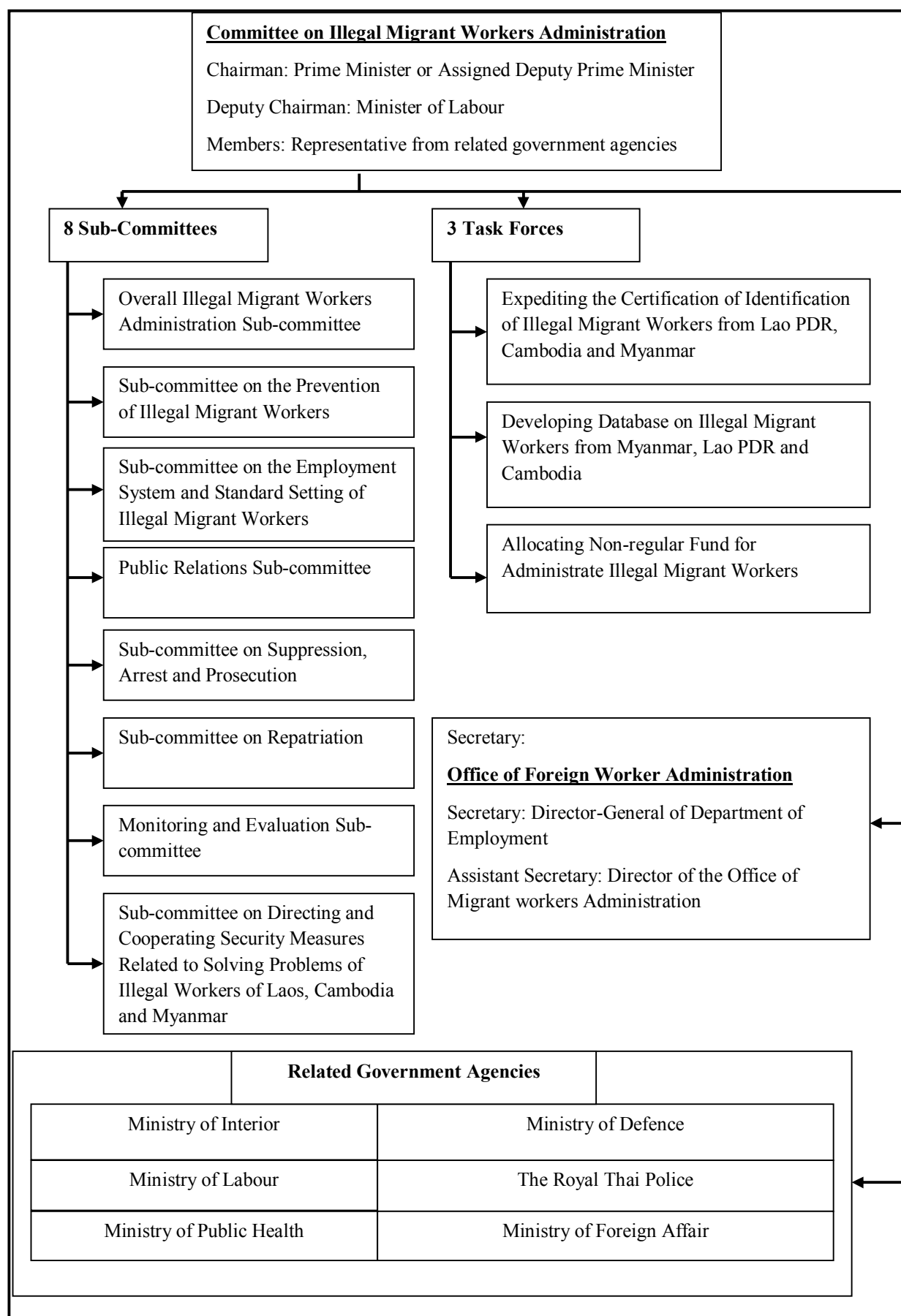
- Task Force on Expediting the Certification of Identification of Illegal Migrant Workers from Lao PDR, Cambodia and Myanmar

- Task Force on Developing Database on Illegal Migrant Workers from Myanmar, Lao PDR and Cambodia, and
- Task Force on the Allocation of the Non-regular Fund for Administrative Illegal Migrant Workers

Figure 10 depicts the organization of Committee on Illegal Migrant Workers Administration.

In addition to the CIMWA, its sub-committees, and working groups, there are other government agencies working hand in hand to regulate and monitor the employment of illegal migrant workers. The key responsible agencies are 1) Minister of Interior 2) Ministry of Labor 3) Ministry of Public Health 4) Ministry of Defense 5) the Royal Thai Police and 6) Ministry of Foreign Affairs.

Figure 10. Organization of Committee on Illegal Migrant Workers Administration



“The Illegal Alien Workers Management Committee, an umbrella of 22 agencies, really doesn’t work. It has very little budget and is a smokescreen for decisions clearly made elsewhere. The ministry is put forward as the face of migration management in Thailand but everyone knows it is clearly not the brains behind it all.” (Hall 2011).

On 26 April 2011, the cabinet approved 5 measures submitted by the Ministry of Labour to tackle the problems of illegal migrant workers from CLM– including reopening registration, restructure of the CIMWA secretariat to become a department under MOL and having sub-committees at sub-national level (The Nation April 27, 2011).

Under the new measures, immigrant workers are allowed to bring in their children under 15 who can stay for one year with each permit. Those due for repatriation are allowed to work temporarily in Thailand under a case-by-case permission.

Drastic action is threatened for Thai employers or those providing illegal migrant with shelter- and the workers themselves who do not cooperate by registering - including blanket inspections and arrests at local factories, together with heavy fines and alternative imprisonment.

Direct employment of workers from Lao PDR, Myanmar and Cambodia is encouraged in Thailand to reduce the number of illegal immigrants, and their subsequent smuggling into Thailand jointly by smugglers and corrupt officials.

Provincial and regional committees will be set up to work on immigrant worker issues under the supervision of a national board, through integration. The former CIMWA secretariat will be upgraded to a new department in MOL, pending the approval by the Office of Public Sector Development Commission. approval.

2. Labour immigration policies

In the old days, Thailand had no direct policy concerning migrant workers. As earlier discussed, there were, however, frameworks for the employment of foreigners in order to preserve some occupations for Thai nationals (RO 218 and RO 322, 1972). As a result, legal migrant workers in Thailand had always been skilled workers and working in higher positions. However, as mentioned in the immigration process, the immigration of unskilled workers from CLM started by 1988 after the political situations in the neighboring countries

became more stable and Thailand's policy of "turning battle fields to market places". In addition the economic boom in Thailand during that period resulted in increasing demand of private sectors for lower-skilled labor, particularly in construction and fishery sectors. The Thai government had to relax its policies concerning migrant workers by allowing illegal migrants to work temporarily as specified by the government under Section 17 of the Immigration Act 1978.

Indeed, the formulation of government policies on irregular migrant workers is a long term process over time, and is reflected through various channels such as laws and regulation, sub-regional or bilateral agreements on the matters, and short-term interventions. These features are discussed below. By and large, as already reviewed in section II of this part, it can be concluded that the Thai government policies on irregular migrant workers are lenient and considerate with regards to fair treatments by international standard.

During the past 10 years, the Thai government has formulated several policies and measures to cope with irregular migration problems. Thailand has regional policy, bilateral policy and national policy to deal with illegal migrant workers (Huguet 2008). As the number of illegal migrant workers was rising, policy makers became concerned about the migrants for two major reasons, national security and trafficking as shall be discussed later. The approach has been taken by successive governments to gain control and better manage this immigration by regularizing the desired magnitude, type and location of migration. The key concern for policy makers has been to prevent illegal migration and to encourage migrants to return home after their work permits expire. In April 1999, Thailand organized an International Symposium on Migration and the Symposium adopted "The Bangkok Declaration on Irregular Migration". The Declaration stated that "international migration, particularly irregular migration, has increasingly become a major economic, social, humanitarian, political and security concern for a number of countries in the Asia- Pacific region", and "comprehensive, coherent and effective policies on irregular/ undocumented migration have to be formulated within the context of a broader regional framework based on a spirit of partnership and common understanding" (Huguet 2008, 5)..

However, the implementation of such policies is not easy and the situation was beyond control in many respects. Recently, efforts have been made to register irregular migrant workers with the Department of Employment and allow them to work in specified occupations. However, migrant workers are often cited as a threat to national security and

attempts have been made to arrest them and send them home. Nevertheless, up to now the Thai policy on illegal migrant workers has been lenient which results in increasing number of illegal migrants workers mainly from CLM. According to Martin (2004 , 16) “Thai law prescribes fines and jail terms for employers of unauthorized foreign migrants, and for unauthorized migrants. However, border and interior enforcement have not prevented the estimated number of migrants from rising steadily in the 1990s”. Another study said that “Thailand’s domestic policy development is not comprehensive; as a result, its migration policies and programmes are marked by omissions and ambiguities. (Hueget & Punpueng 2005, 7; Huguet 2008, 9). The assessment is still valid up to now although in the author’s view, Thailand’s policies on irregular migrant workers is consistently pro-employers (Matichon March 9, 2011).

3. MOU

Thailand has made major advances in international migration management through agreements with its neighbours in recent years. But much more needs to be done at both national and regional levels to optimize the contribution of foreign migrant workers in Thailand and that of Thais working abroad, while protecting their fundamental human rights," says Monique Filsnoel, IOM Thailand Chief of Mission . (<http://www.iom.int/jahia/Jahia/pbnAS/cache/offonce?entryId=24188>)

An integral part of Thailand’s new policy in regulating irregular migrant workers is Memorandum of Understandings (MOUs) that Thailand has now signed with Myanmar, Lao PDR and Cambodia concerning cooperation in regard to migrant workers. This development opens the door to a more systematic approach to manage migration and migrant workers, interlinking between supply and demand, and between source and destination countries.

The MOU between Lao PDR and Thailand was signed on 18 October 2002. It set up channels of cooperation to send back the names of migrant workers to the country of origin in order to verify identity and nationality. The conversion of irregular status to regular status for the purpose of employment covers only those who are already registered as workers in Thailand. There will be more control over employment agencies, while there will be protection of the migrant workers themselves. The two countries will assist each other in the return process concerning migrant workers where the employment contract has ended or has been terminated. There will also be suppression of illegal migration and illegal employment,

as well as follow-up between officials under the MOU. The first follow-up meeting took place on 28 June 2003

The MOU between Thailand and Cambodia was signed on 31 May 2003 and is for the duration of five years. Basically, it provides a governmental channel for sending and receiving migrant workers, guaranteeing their basic rights, while emphasizing that they would abide by local laws. Safety of workers is ensured, and the workers are entitled to send their income home. Employment contracts can be terminated for a variety of reasons, including poor health of the workers and HIV/AIDS.

The MOU between Thailand and Myanmar was signed on 21 June 2003. Like the other MOUs, it establishes a channel to manage migration and to exchange list(s) of potential migrant workers. The implementation of the MOUs, however, is not successful, especially in the case of Myanmar and national verification. More discussion of the NV implementation is given in Section V

V. MANAGEMENT OF LABOUR IMMIGRATION

A. Government agencies involved

For the general management of migrant workers in Thailand, the Office of Foreign Workers Administration (FWA: sometimes referred to as the Alien Workers Administration Bureau), under the Department of Employment, is the main office taking care of migrant workers, as the secretariat of CIMWA. The FWA is the secretariat of CIMWA.

The FWA has the following roles and responsibilities:

- Processing work permit applications of migrant workers who are currently working in the country or who wish to enter the country for work in both formal and informal sectors. This also includes assisting employers in the processing of their migrant worker's applications and helping fill their labor needs.
- Processing cases related to illegal entry and illegal migrant workers who are currently working and residing in the country. In theory, the FWA has no right to arrest an irregular migrant worker. It has to report the case to the Royal Thai Police.

- Managing migrant workers who are working in the country by coordinating with all relevant parties and agencies and following up on all cases related to their work and their employers.

- Disseminating all relevant and important information to all concerned parties about relevant policies, laws, systems, developments, and changes related to the registration system and work permit application. This also extends to educating migrant workers about their rights and privileges along with the relevant policies and laws that they have to follow and abide by.

- Working with other agencies and authorities in gathering relevant information about migrant workers residing and working in Thailand, including studying and analyzing employers' needs, labor market situations, migration trends, and other important statistics and data related to migrant workers.

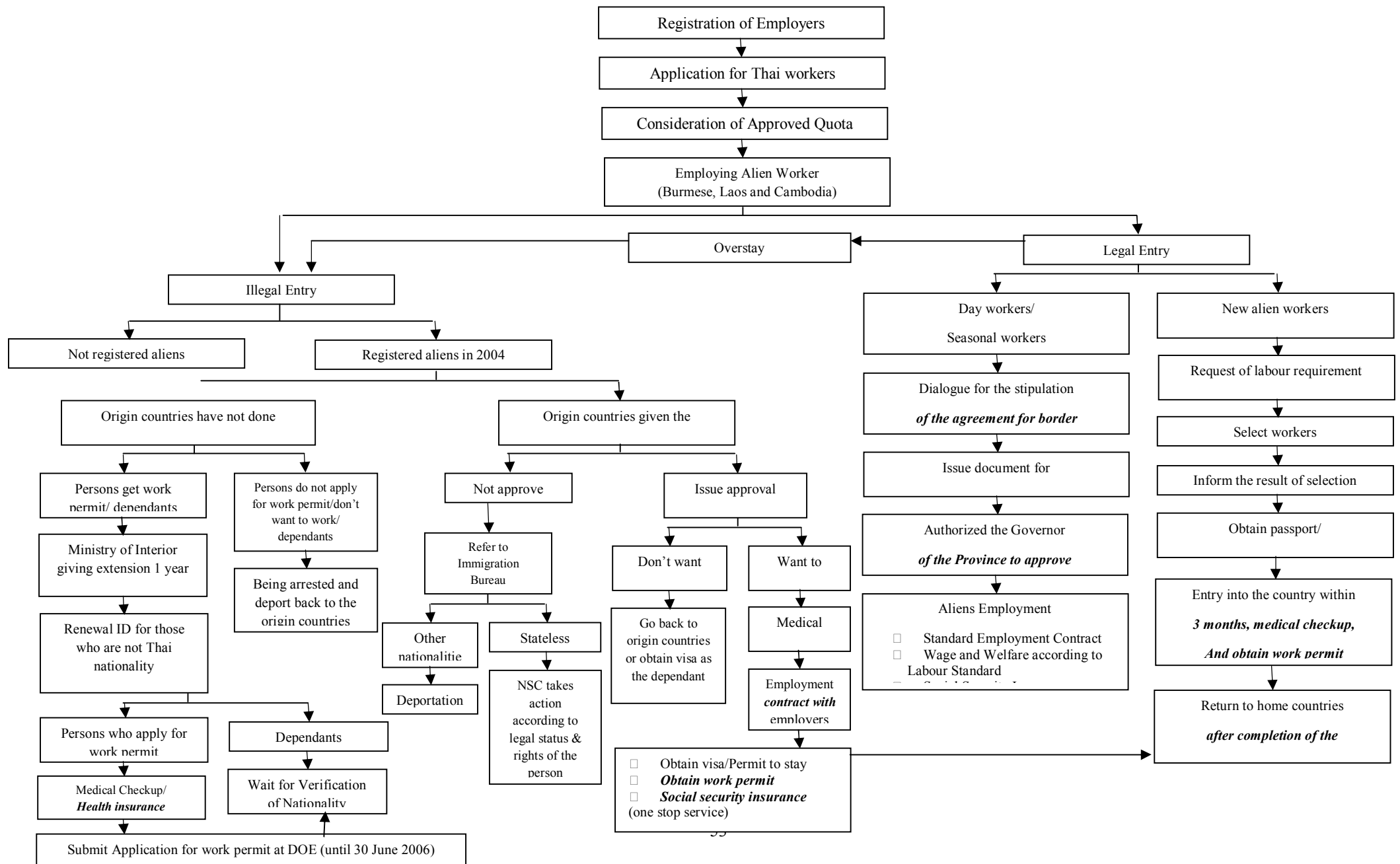
However, the FWA is not responsible for the prevention or suppression of irregular migrant workers. Mainly, the duty of prevention of cross border migration is discharged to another sub-committee of CIMWA, particularly the National Security Council, while the suppression duty belongs to another sub-committee particularly the Immigration Office.

On 26 April, 2011, the cabinet approved the proposal of the Ministry of Labour to upgrade FWA to a new department in the MOL pending the approval of the Public Sector Development Commission (PSDC) (The Nation April 27, 2011). According to the Director General of the Department of Employment, MOL, the new FWA will be charged with authority to arrest the unregistered illegal migrant workers without waiting for reporting to the police or subpoena (<http://www.siamhrm.com/report..php?max=4402>; accessed 5/14/2011)

B. Regulating illegal migrant workers

Figure 11 depicts the process of regulating migrant workers from the CLM in Thailand in 2005. In the Figure, migrant workers from CLM are classified into two major groups, the legal ones (Day workers and MOU workers) and illegal ones (registered and unregistered).

Figure 11. Overview of alien worker management in Thailand as of 2005 (Adjusted from World Bank 2006)



From 1992 to 2002 there had been 7 registrations of undocumented migrant workers from CLM. The policy prior to 2003 for regulating irregular migrant workers was ad hoc and reactive rather than systematic and proactive. In 2003 there was a move towards a less ad hoc approach with a new Cabinet decision of 19 August 2003 and related Announcement from the Ministry of Labour on 16 September 2003 to the effect that those who re-register would be permitted to work for another year till 25 September 2004, with the implication that this is a transition towards a new policy. This extension covered some 409,000 migrant workers, but some 12,000 persons working in factories would not be covered. The re-registration only covered migrant workers from CLM.

In 2003, work/employment for migrant workers was only permitted in six sectors, i.e.: general labor such as in the transportation activity; labor in fisheries-related activities; labor in factories with some exceptions in relation to health; domestic service; labor in animal husbandry; and labor in relation to plantations. This coverage was applied for the whole country; there was no geographic limitation. The figures of those who had turned up to re-register in 2003 were 288,780 (September 2003) according to the MOL. The policy undertone was that after the extension of a re-registration for one year under the 2003 Cabinet decision, another approach would be tried. The new approach would be to adopt a more “open door” policy to manage rather than reject migrant workers. It was worked out with the National Security Council, with the blessing of the Prime Minister, and was forwarded to the Cabinet for approval at the end of 2003. The MOL proposed 7 strategies to deal with the problems: namely, prevention or interception, suppression, repatriation, regulation, determination of employment standard, public relation, and monitoring the implementation of strategies. The cabinet approved the strategies in 2004.

Four key measures were proposed as part of the above strategies:

1. Registration of employers. This was, then, totally new for Thailand as the policies before that were targeted to registering workers rather than employers. Under this strategy, employers will have to provide details of the types and number of workers that they were employing and the manpower gaps to be filled.

2. Openings for Thai workers. Thai workers would be given the opportunity to apply for jobs responding to the manpower gaps identified by employers. The MOL would help advertise positions on this front, and the period open for job applications was 15 days.

3. Permission to employ migrant workers. Where there are not enough Thai applicants to fill the manpower gaps noted, the Committee vested with the power to consider the employment of migrant workers would assess the situation and allow the relevant employers to employ migrant workers as appropriate. Employers were obliged to employ the latter within a year of receiving the permission.

4. Employment of migrant workers. Where an employer received permission to employ migrant workers, other procedures, particularly linked with various Memoranda of Understanding concluded between Thailand and neighboring countries came into play. These included identification of the nationality of migrant workers (national verification: NV), and issuance of a document by the country of origin as evidence of the status of migrant worker(s) so as to facilitate issuance of a visa and a work permit by Thailand. Where the nationality of the persons cannot be identified, these cases could be cross-referred to the Ministry of Interior to verify whether they fall into the 18 groups of minorities (in Thailand) listed by the authorities.

The approach was adopted by Cabinet decisions of 2 March 2004 and 27 April 2004, covering migrant workers from CLM, with three key stages for the regularization of migrant worker status:

- **Registration of both migrant workers and their employers; failure to come forward to register subjects the former to deportation and the latter to punishment;**
- **Medical test which migrant workers have to pass, leading to a medical certificate; failure to do pass the test subjects them to deportation, while passing the test leads to the grant of a work permit as well as medical social welfare parallel to that of the local population;**
- **Grant of work permit for one year, implying also that if they change their jobs or lose a job during the year, they can still stay in Thailand for a year.**

Basically, the **2004 registration** time (initially) expired on 1 July 2004 but it was extended till 15 November 2004. It was not strictly enforced even at the beginning of 2005.

By the end of 2004, some 1,284,000 migrant workers from Myanmar, Lao PDR and Cambodia in Thailand needed to come forward to register. Some 1,220,000 had come

forward to have their photographs and fingerprints taken for the purpose of registration, while some 160,000 had not. This would, of course, not encompass a large number of other migrant workers illegally in Thailand who **were** not covered by official statistics.

The use of cabinet resolutions as the regulatory mechanism for CLM migrant workers has been based on the general belief that their employment would be temporary and that more substantial legislative changes were unnecessary (Chantavanich, 2007). As this belief prove incorrect, in 2002/2003 the Thai government signed MOUs on Cooperation for the Employment of Workers with **CLM** that allow nationals of these countries to enter and work legally in Thailand as contract labor for up to two terms for a total four years. The MOUs further aim at regulating migrant workers already registered in the country by having their nationality verified before granting of stay and work permit. In addition to the MOUs, taking note of high concentration of migrants along the border, the government authorized border provinces to negotiate cross-border agreements for employment of daily and seasonal laborers (IOM, 2009).

The government remained its leniency to those received work permit and allowed another year of extension during 2005-2008. In addition to the yearly work permit renewal, the government also opened a new round of registration to allow unregistered migrant workers to obtain a temporary stay registration and a work permit such as a new round of registration in the Special Development Zone for Migrant Workers in the 5 Southernmost Provinces (Yala, Pattani, Narathiwat, Satun, and 4 districts in Song Khla) to solve severe labor shortages due to the unrest, to keep industries in the area in business in 2007.

In 2009, the Royal Thai government (RTG) continued to regulate low-skilled migrant workers from Cambodia and Lao PDR and took new steps to start **the process with the government of Myanmar**. In addition to the yearly work permit renewal which allowed migrants to renew it for a year, the RTG announced in July 2009 the opening of a new registration round to allow unregistered migrant workers the opportunity to obtain a temporary stay registration (Tor/Ror 38/1) and a work permit. **Work permits had been renewed/issued until 28 February 2010 and migrants had to complete the National Verification (NV) process by this date.** A valid work permit was required in order to apply for NV and to get a temporary passport and visa. If migrants successfully completed the NV by 28 February 2010, they would be allowed to lawfully live and work in Thailand for up to **four years**. If they did not complete the NV by the end of February 2010, they would be

deported. NV for Cambodians and Laotians started in 2006, while for Myanmar nationals it only started as of July 2009. (IOM, 2009)

In 2010¹⁵, on 19 January, the cabinet approved a resolution to extend the national verification deadline and to extend the work permit of CLM migrant workers whose work permit would expire on 20 January 2010 and 28 February 2010 for 2 more years. Other major development on immigration policy includes the enrolment of migrant workers in the social security system, the idea to repatriate pregnant migrants and the collection repatriation fund.

The collection of repatriation fund was very provocative. The government announced the collection of repatriation fee of 2,100-2400 baht per worker to be effective as of 27 December 2010 and to send the first installment of the fee on 15 January 2011. There were protests from a few employers which resulted in the postponement of the collection until March 1, 2012.

According to a senior MOL official, the RTG planned to take a tough measure to repatriate CLM migrant workers if they did not show up for NV. “This is enough now. If migrants still refuse to comply with government rules, then we must send them home.” The source referred to a Feb 28, 2010 deadline for 1.3 million migrants to enter national verification. The same official said on June 26 that “preparations are now under way to set up a committee to suppress alien workers which will be completed by the end of 2010 so new workers can be brought in legally from neighbouring countries to replace illegal aliens”. In this connection, the RTG issued an order in June 2010 to set up a committee to arrest and deport migrants who missed the NV deadline. With the Mae Sot-Myawaddy official deportation route closed, law enforcement officials had nowhere to send Burmese workers, so they either demanded money for their release or handed them to traffickers or people smugglers during deportation. Workers were thus returned to Thailand. In mid-September (2010) after months of debate, the BOI relaxed rules for companies receiving government incentives to employ migrants, citing massive low-skilled labour shortages and despite an ongoing crackdown¹⁶. Stringent conditions were attached to revocation of the rule for BOI companies to employ only Thais. At the end of the same month, the MOL changed positions

¹⁵ The recap of situation in 2010 and 2011 is mainly excerpted from (Hall 2011).

¹⁶ With a condition that the company must have invested in Thailand for a period of not less than 10 years.

on migrant policy in the midst of the crackdown. The ministry stated publicly it was now considering reopening migrant registration in the face of massive low-skilled labour shortages. In the meantime, officials still apparently were trying to work out how to ensure effective deportation of undocumented workers and rapid import of legal workers to replace them in one seamless process.

In October, the government issued a fourth migrant crackdown order and created yet another committee. This was likely a response to petitions to the visiting United Nations secretary-general about deportation and trafficking links in Ranong. The Prime Minister said the Ranong issue would be investigated and stopped. Reports suggest nothing has changed there.

In January 2011, The MOL officials went to Burma. The Burma's delegation raised concerns on exploitation of Burmese workers in Thailand which were "unfortunately being reported too often in the media". They also apparently suggested a new registration was better than a crackdown, agreed to increase NV centres in Thailand and requested the RGT to reduce the NV fee from 600 baht.

In March, the MOL confirmed plans to import migrants from Bangladesh and Indonesia to replace undocumented migrants who would be deported in the ongoing crackdown. With only around 30,000 workers imported legally over eight years from neighbouring countries (only around 1,500 from Burma), labour shortages were threatening Thailand's national and economic security now. Most migration observers laughed off the prospect of employers shelling out hefty airfares to bring such workers in and coping with the cultural difference they would encounter with less passive workers. The importation of workers from Bangladesh and Indonesia could likely be just a media tactic intended to push Burma on the import issue.

A new migrant registration in April 2011 is recommended for approval to the cabinet by CIMWA. Meanwhile, an unregistered migrant worker crackdown continues, NV is ongoing and plans for fresh import for workers from Indonesia and Bangladesh remain in place.

In 2011, there is another round of registration to extend the work permit of those whose permit would expire on 20 January 2011 and 28 February 2011¹⁷. The extension will

¹⁷ The registration was between July 15-August 14, 2011.

last 2 more years. A new approach to deal with illegal migrant workers from CLM has been approved by the cabinet.

C. Problems and obstacles in implementation

Thailand has constantly used the registration of migrant workers as a tool to enable them to work legally. From the first registration in 1996 to the most recent one in 2009, the process repeatedly covers the registration of migrant workers by employers, the health examination, the photo ID card and finger print procedures and the issuing a work permit. In each registration, the government announced policy through the cabinet resolutions. The process required concerted effort from various government offices.

1) Registration system

Despite a decade of experience, the registration system has its own pitfalls and obstacles as follow;

(1) Registration fees: In order to register as of 2009, employer had to pay fees of 3,780 baht, including 80 baht for photograph and documents for registration (Tor Ror 38/1), 600 baht for medical check up, 1,300 baht for medical insurance, 100 baht for application work permit and 1,800 baht for one year work permit. Many employers were not willing to pay because they found the fees were expensive and registering a waste of time although they deducted monthly installments from their employees. (ARCM, 2002)

(2) Awareness of registration: Awareness of the registration system is low, depending on the decision of employers. Most migrant workers have no access to information on registration due to language problem and lack of information. (ARCM, 2006) The Ministry of Labour tried to campaign through media promotion. This can lead to higher number of registration. (TDRI, 2002)

(3) Discontinuity of the measures in the registration policy: From registration in 1992 to 2009, the government policy on registration continued in different measures. There is no standard on area but only specific on occupation or industry make alien workers are spread throughout Thailand, difficulty to control.

(4) Inadequate capacity of government officials: In 2006 there were about 500,000 migrant workers from CLM illegally crossed the border to Thailand and increasing

to 1.31 million migrant workers in 2009. The figures seem to suggest that the trend of irregular migrant workers is rising every year. Although the number of irregular migrants residing in Thailand arrested and deported by the National Police Bureau was increasing every year.

(5) Corruption among government officials: Some employers who hire illegal migrant workers have been ignored by government official by bribery.

(6) Ineffective mandates of the registration: Every time of the registration, there has always a mandate of registration time, duration of work permits, repatriation warning, etc. These mandates have been ineffective by the fact that there have been registrations over and over and the mandates have never been successfully implemented.

2) MOU

(1) The process of MOU is also facing some problems of implementation. The system requires consultations at the senior official and/or ministerial level. Temporary employment of workers is conducted through the permission of authorized agencies of respective countries. MOU states terms and conditions, such as employment of worker shall not exceed two years, which may be extended for another two years. A worker who has completed a four-year contract must take a three-year break, before the next round of application can take place. According to the MOU, the employing country shall set up and manage a savings fund, that every MOU workers makes 15 percent of their monthly wage contribution. This individual savings plus interest earned will be given back to the workers within 45 days after the end of their employment. In addition, both governments are responsible to ensure the return of workers to their permanent address at the end of employment.

(2) In addition, entry of alien workers under the MOU entails relatively high cost. For example, agency and management fees in Laos are about 10,000 baht. Addition expenses when they arrive in Thailand is about 5,000 bah, 1,800 baht a year for work permit, 100 baht for an application fee, 600 baht for medical check up, and transportation cost from the borders to work place. Although it is required that prospective employers assume all expenses, all the expenses are forwarded to the migrant who will pay in installment.

(3) Of the 3 MOUs, the most difficult MOU to implement will be that between Thailand and Myanmar due to the precarious political situation in the latter country. There is also the fact that since there is an ongoing struggle between various minorities and the Myanmar authorities, it is improbable that migrant workers from minority communities will come forward to be managed by a regime with which they disagree. Collection of fees under all three MOUs also need to be realistic, and the bureaucratic red tape needs to be minimized; if the fees are too hefty and if there is too much red-tape, they may drive potential applicants underground and fuel illicit channels of migration again.

(4) Up to December 2009, a number of workers from Lao PDR and Cambodia brought into Thailand under MOUs were 27,187 migrant workers (11,957 from Lao PDR, and 15,230 from Cambodia). And since 2006 and as of 3 December 2009, a total of 121,203 migrant workers had had their nationality verified. Of these 58,430 were Laotians and 59,238 Cambodians. Only 3,535 Myanmar nations had successfully completed the process.¹⁸ While more than 80% of registered migrants were from Myanmar, only 0.4 percent of them got approval for nationality verification. The important causes of the limited progress were from rumors among migrants and employers concerning i) unofficial tax collected from the relatives of migrants in the origin community; ii) migrants' possibility to be arrested by Myanmar government. While there had been no evidences on the unofficial tax and the possibility to be arrest, Thai and Myanmar governments launched various campaigns to eradicate these rumors. (Hulumyong and Punping, 2009)

(5) Like registration system, the effectiveness of MOUs is also questionable too. Obstacles still remain in implementing these bilateral agreements including;

i) High recruitment expense and fees: The entry of alien workers under the MOU entails high cost relatively. For example, agency and management fees in Laos are about 10,000 baht. Addition expenses when they arrive in Thailand is about 5,000 baht, 1,800 baht a year for work permit, 100 baht for an application fee, 600 baht for medical check up, and transportation cost from the borders to work place. Although it is required that prospective employers assume all expenses, all the expenses are forwarded to the migrant who will pay in installment. The wide disparity between the recruitment expenses incurred under the MOU

¹⁸ The process of National verification for Myanmar nations only started on 15 July 2009. (IOM, 2009)

and the informal channel could be a major factor tempting the prospective migrants to illegally travel to Thailand for employment.

ii) Long and complex procedure in processing/obtaining documents within and between the receiving and the sending country, especially the identify verification, passport, and other document: The whole recruitment process in Laos would normally take 3 months or in the worse case over six months before the migrants can travel to the destination country. The duration may be less or longer than 3 months depend on searching process duration in Laos and processing duration in Thailand. The complexity in processing of documents and the unavailable support services at the provincial level have greatly contributed to high cost of recruitment (Pracha, 2007).

iii) Lack of experience among agencies: From the lack of experience among agencies of origin country in the recruitment process make disputes between migrants and their employers and recruitment agencies. The disputed has arisen from misinformed about actual working conditions (especially agreed wage, working hour and other facilities) and recruitment processing duration.

iv) Inadequate capacity of government administration to provide support both the host and the origin country: From the complexity of recruitment process and absence of standard of documentation make employer disrupted. Moreover, sending countries do not have main government agencies taking care of MOUs make coordination between agencies have been delayed.

v) Agencies in the origin country do not have network in village: Agencies do not have their network presence in the local areas to identify and screen the prospective workers from the villages. Rather they depend on local authorities to assist in searching for the prospective migrants, who may not necessary be the right candidates for job aboard (Pracha, 2007).

vi) The restrictive regulations in the labour sending: Lao PDR prohibits the recruitment of migrant to work as domestic helper and the employment aboard has to process through local agencies (Pracha, 2007). In Cambodia passport has issued to migrant aged should not more than 35 years although they already work in Thailand.

vii) Return prematurely: Not all migrant workers under MOUs are successful migrants. There were a number of migrant workers who have ended their work contract and return to origin countries prematurely. There were 3 percent of Lao migrant worker processed through MOUs ran away and returned home whilst return prematurely rate of Cambodia migrant workers were 30 to 50 percent. The disputed has arisen from being misinformed about the actual working

viii) Limitation of Migrant worker: Most of Laos migrant workers are farm labourers and have no experience in working at the factory environment. Hence, they find it difficult to adjust to new work environment.

Moreover, as put by Hall (2011), “..the management systems creating all this are clearly not working. Thailand remains without a long-term migration policy that integrates human, national and economic security”. CIMWA, an umbrella of 22 agencies, really doesn't work. It has very little budget and is a smokescreen for decisions clearly made elsewhere. It is put forward as the face of migration management in Thailand but everyone knows it is clearly not the brains behind it all.

With a view to improving the policy implementation, on 26 April 2011, the cabinet approved 5 measures to tackle the problems of illegal migrant workers from CLM submitted by the MOL. The measures are,

1. Registration measure: Reopening registration for those who missed the February 2010 deadline. Under new guidelines, the registration includes immigrant workers' their children under 15. The registered migrants and their children can stay temporarily in Thailand for one year while waiting for repatriation. Those due for repatriation are allowed to work temporarily in Thailand under a case-by-case permission.

2. Measure of prevention and suppression: The measure will be strengthened with serious and continued enforcement both before and after the new registration and both illegal migrants and unlawful employers of illegal migrants.

3. Measure to encourage importing workers legally: By the cabinet resolution of 20 December 2005, legal importing of workers from CLM is encouraged and will be expedited.

4. Measure to restructuring of CIMWA: The major restructure is to add CIMWA sub-committees at the central and provincial levels.

5. Measure to upgrade the CIMWA secretariat: The secretariat will be upgrade to a department status from currently a division within the Department of Employment. (The Nation May 27 , 2011)

Hall (2011) maintained that the management of immigration of CLM migrants is poor with a circle of exploitation, corruption, and unrealistic targets for migrant deportation and import and protection for around 2-3 million migrants, assistance for good employers and national, economic and human security of Thailand and its people are undermined. He noted that the situation has been the same since the 1980s, with the exception now of increased focus on NV and imports. The re-opening registration for up to one million CLM migrants is commendable. But the migration management systems creating all this are clearly not working. Thailand remains without a long-term migration policy that integrates human, national and economic security. In his conclusion, the re-opening of migrant registration approved by the cabinet on 26 April 2011 proves that the government's previous migration management strategies have dramatically failed.

VI. CONCLUDING REMARKS AND RECOMMENDATIONS

Thailand has transformed from net emigrant to net immigrant during the past decade when taking into account undocumented workers from neighboring countries. Since the mid-1980s, the country has received a million migrant workers from Burma, Lao P.D.R, Vietnam, Cambodia and other countries. The immigration has also become an issue for policy debate regarding the pros and cons of migrant workers with implications on labour policies and implementation. The Thai government has been trying to cope with the problems both from the supply and demand sides, and from many dimensions and principles such as national security, human right, social protection, etc. This is evident in policies and actions to regulate irregular migrant workers such as a series of registrations, MOUs with sending countries, and amendment of the Alien Employment Act (1978) with the Migrant workers Employment Act (2008). Yet, the problem of labour immigration is a complicated one which cannot be solved by one solution, one dimension or one-sided by the Thai government alone. Although it is possible that regional cooperation such as ASEAN Community Blue-print which is aimed at

free movement of skilled workers in 2015, it does not seem to be able to solve the problem of movement of low skill workers.

In conclusion, Thailand's migration policy is inconsistent but pro-employers. There have been endless rounds of registrations which do not promote good climate for regularization of migrant workers and do not let MOU or levy system work. There have been no effective preventive and/or suppressive measures nor other supporting measures to discourage dependency on migrant workers. In addition, the regulation of labour protection law on migrant workers is questionable.

In order to mitigate the problems of labour immigration management, it is recommended the following:

- 1) Thailand needs long-run consistent foreign labour policy & measures.
- 2) CIMWA needs strong leadership and effective secretariat.
- 3) Adequate financing the management of foreign workers should be provided.
- 4) Trafficking of foreign workers must be seriously punished and eliminated.
- 5) International policy for low skilled workers in ASEAN should be investigated, formulated and implemented.

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