

## Chapter 3: In-depth Study: Arrest, Detention and Deportation



This chapter discusses the issues relating to arrest, detention and deportation (ADD) of migrants which were the thematic focus for the MMN 2005-2006 collaborative research. In the first section (International Human Rights Framework on ADD), the current international laws relating to the ADD are summarised in order to provide a human rights lens through which to view the findings of the MMN research. In the following sections, specific findings regarding the ADD in Thailand, China, Vietnam and Cambodia are discussed. In the final section, the regional recommendations concerning the ADD are presented.

Photo courtesy of Yang Chi Oo Workers Association



Migrant workers around the world face arrest on grounds such as irregular state border crossing, use of false documents, leaving of their residence without authorisation, irregular stay, and breaching or overstaying their conditions of stay. Mae Sod, Thailand, 2006.

## International Human Rights Framework on Arrest, Detention and Deportation

*The [Global] Commission [on International Migration] endorses the principle that entering a country in violation of its immigration laws does not deprive migrants of their fundamental human rights, nor does it affect the obligation of states to protect migrants in irregular situations.*

As the multi-country studies for this book developed, the teams collecting data realised how frequently they, the migrants, and the authorities referred to international law regarding refugees, trafficking and smuggling, compared to how rarely they consulted international laws related to arrest, detention and deportation. This was the case despite the fact that migrants are arrested and deported on a daily basis for not being documented, for having the wrong documentation, for being in the wrong place, for having a communicable disease, for being pregnant and for a whole host of other non-criminal reasons, and that these arrests are a matter of international concern since they involve at least two countries.

This section aims therefore to summarise current international law relating to the arrest, detention and deportation of migrants, and to provide a human rights lens through which to view

the findings of our research.

All UN Member States have accepted – in part or in whole – the six core human rights treaties: two key covenants protecting civil, political, economic, social and cultural rights, and four conventions which provide more specific protections – for children and for women, against racial discrimination, and against torture. These treaties are understood by the Member States as constituting legal obligations to which their national law and policy must conform, and which protect everyone, both citizen and non-citizen. The central principles are non-discriminatory and egalitarian; human rights, therefore, cannot be linked to citizenship but are instead universal. Although States are allowed to make some distinctions between citizens and non-citizens, any denial of rights must serve a legitimate State objective and be proportionate. States parties' interpretation of their obligations to non-citizens under these human rights treaties is vague and open to various interpretations. This leaves migrants vulnerable and subject to the often unfettered discretion of particular States or global trends in attitude.

### 1. The Right to Move

The right of human beings to move freely is enshrined in the Universal Declaration of Human Rights and other international conventions.<sup>1</sup>

“Everyone has the right to leave any country, including his own, and to return to his country.”<sup>2</sup>

(Article 13(2) Universal Declaration of Human Rights). However, modern-day concepts of national sovereignty, national borders and nation states challenges the realisation of this

freedom of movement. On a practical level, the Human Rights Committee has stated that “Since international travel usually requires appropriate documents, in particular a passport, the right to leave a country must include the right to obtain the necessary travel documents”.<sup>3</sup> According to international law, no State may expel its nationals, and all States are expected to readmit their citizens. This notion, embedded in international law, is not reiterated in the ASEAN Declaration on Migrant Workers as an obligation of the sending countries.<sup>4</sup> Regarding the entry or presence of non-citizens, according to the international framework, it remains the sovereign prerogative

#### Glossary:

(a) “**Arrest**” means the act of apprehending a person for the alleged commission of an offence or by the action of an authority;

(b) “**Detained person**” means any person deprived of personal liberty except as a result of conviction for an offence;

(c) “**Imprisoned person**” means any person deprived of personal liberty as a result of conviction for an offence;

(d) “**Detention**” means the condition of detained persons as defined above;

(e) “**Imprisonment**” means the condition of imprisoned persons as defined above: Body of Principles for the Protection of All Persons under Any Form of Detention or imprisonment,

**Deportation:** The act of a State in the exercise of its sovereignty in removing an alien from its territory to a certain place after refusal of admission or termination of permission to remain. (IOM)  
Deportation is generally done directly by the government's executive apparatus rather than by order or authority of a court, and as such is often subject to a simpler legal process (or none), with reduced or no right to trial, legal representation or appeal. (Wikipedia)

**Exclusion:** the formal denial of an alien's admission into a State

**Expulsion:** An act by an authority of the State with the intention and with the effect of securing the removal of a person or persons (aliens or stateless persons) against their will from the territory of the State.

*Source: International Organization of Migration*

of States to regulate the presence of foreigners on their territory. States do not have unqualified rights to regulate who enters and leaves their country, however, as international human rights law places some restrictions on the exercise of this power, particularly when there would be an infringement on other human rights, as in the case of refugees.

## 2. Deportations/Expulsions

Within the international human rights framework exist three types of protection related to deportation or expulsion, substantive protection against deporting people who would consequently face serious human rights violations; procedural safeguards during the deportation procedure; and protection regarding the method of expulsion.

Adopted in 1951, the Refugee Convention was the first international instrument to place legal restrictions on State parties' power to expel foreigners. Article 33 lays down the prohibition of "refoulement" according to which no State party "shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." Since all asylum seekers are presumed to be refugees until proven otherwise, they benefit from the protection afforded by Article 33, until their claim to refugee status is rejected. However, such protection against "refoulement" cannot be invoked by refugees who pose a security threat to the country or who have committed a particularly serious crime. This principle of "non-refoulement" has become a cornerstone of international refugee law and, it has been argued, is now part of customary international law.

While Article 33 of the 1951 Refugee Convention applies only to refugees, Article 3 of the Convention against Torture, adopted in 1984, has expanded the scope of the protection against expulsion since it explicitly prohibits States parties from seeking to "expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture".

Article 7 of the International Covenant on Civil and Political Rights, adopted in 1976, has been interpreted as including a prohibition of expulsion if there is a risk of torture. Indeed, when commenting on Article 7 of the Covenant, the Human Rights Committee held "State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement." The Committee has also decided that a person should not be returned to a country where his illness - which was in whole or in part caused by the State party's violation of his

"Common principles on removal of irregular migrants and rejected asylum seekers" submitted by the INGO Coalition, August 2005, includes the following principles:

1. voluntary return should always be the priority,
2. vulnerable persons should be protected against removal,
3. persons subject to a removal order should have access to effective remedies,
4. detention pending removal should be the last resort,
5. family unity should be respected,
6. independent monitoring and control bodies should be created,
7. re-entry ban should be prohibited, and
8. legal status should be granted to persons who cannot be removed.

See <http://hrw.org/english/docs/2005/09/01/eu11676.htm>.



Photo courtesy of John Hulme

Arrested strikers from the Nasawat apparel factory in Mae Sod being taken away for deportation. Thailand, 2006.

rights - cannot be treated<sup>5</sup>.

The Convention on the Elimination of Racial Discrimination, adopted in 1969, does not contain any specific provisions on expulsions. Nevertheless, the Committee on the Elimination of Racial Discrimination has adopted a General Recommendation on Discrimination against non-citizens in which it has made several pronouncements on expulsions. The Committee recommended that national laws on expulsion should not discriminate, in purpose or effect, against foreigners on the basis of race, colour, or ethnic or national origin, and that non-citizens should have equal access to the right to challenge expulsion orders. It reiterated that non-nationals should not be returned to a country where they are at risk of serious human rights abuses. Finally, the Committee recommended that State parties avoid expulsions of foreigners, especially long-term residents, which would result in disproportionate interference with their right to a family life.

While the Convention on the Rights of the Child does not contain any specific provisions on expulsions, the Committee on the Rights of the Child has recently adopted a detailed General Comment on the treatment of unaccompanied and separated children outside their country of origin, which does address the subject. In that General Comment, the Committee stated that States parties should not return a child to a country “where there are substantial grounds for believing that there is a real risk of irreparable harm to the child, such as, but by no means limited to, those contemplated under Articles 6 and 37 of the Convention”. The Committee further specified that whether the harm was inflicted by non-State actors was irrelevant. It

Photo courtesy of John Hulme



An arrested strike organiser. Arrest, detention and deportation are often used as a deterrent for migrant workers filing a complaint. Mae Sod, Thailand, 2006.

added that “the assessment of the risk of such serious violations should be conducted in an age and gender-sensitive manner and should, for example, take into account the particularly serious consequences for children of the insufficient provision of food or health services”. With reference to Article 38 of the Convention, in conjunction with Articles 3 and 4 of the Optional Protocol to the Convention on the Rights of the Child, which address the involvement of children in armed conflict, the Committee also suggested, “States shall refrain from returning a child in any manner whatsoever to the borders of a State where there is a real risk of underage recruitment, including recruitment not only as a combatant but also to provide sexual services for the military or where there is a real risk of direct or indirect participation in hostilities, either as a combatant or through carrying out other military duties”.

The 2000 Protocol to Prevent, Suppress and Punish Trafficking of Persons, Especially Women and Children, supplementing the Convention against Transnational Organized Crime, contains very few provisions dealing with the protection of victims of trafficking. Article 7 of the Protocol merely provides that State parties “shall consider adopting legislative or other appropriate measures that permit victims of trafficking in persons to remain in their] territory, temporarily or permanently, in appropriate cases”. In doing so, State parties shall “give appropriate consideration to humanitarian and compassionate factors”. Article 8 of the Protocol deals mainly with inter-State cooperation to facilitate the repatriation of victims of trafficking, yet, it merely provides, “[S]uch return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary”. Mention should be made here of the OHCHR

**International Convention on the Protection of the Rights of Migrant Workers and Their Families Article 22**

1. Migrant workers and members of their families shall not be subject to measures of collective expulsion. Each case of expulsion shall be examined and decided individually.
2. Migrant workers and members of their families may be expelled from the territory of a State party only in pursuance of a decision taken by the competent authority in accordance with law.
3. The decision shall be communicated to them in a language they understand. Upon their request where not otherwise mandatory, the decision shall be communicated to them in writing and, save in exceptional circumstances on account of national security, the reasons for the decision likewise stated. The persons concerned shall be informed of these rights before or at the latest at the time the decision is rendered.
4. Except where a final decision is pronounced by a judicial authority, the person concerned shall have the right to submit the reason he or she should not be expelled and to have his or her case reviewed by the competent authority, unless compelling reasons of national security require otherwise. Pending such review, the person concerned shall have the right to seek a stay of the decision of expulsion.
5. If a decision of expulsion that has already been executed is subsequently annulled, the person concerned shall have the right to seek compensation according to law, and the earlier decision shall not be used to prevent him or her from re-entering the State concerned.
6. In case of expulsion, the person concerned shall have a reasonable opportunity before or after departure to settle any claims for wages and other entitlements due to him or her and any pending liabilities.
7. Without prejudice to the execution of a decision of expulsion, a migrant worker or a member of his or her family who is subject to such a decision may seek entry into a State other than his or her State of origin.
8. In case of expulsion of a migrant worker or a member of his or her family, the costs of expulsion shall not be borne by him or her. The person concerned may be required to pay his or her own travel costs.
9. Expulsion from the State of employment shall not in itself prejudice any rights of a migrant worker or a member of his or her family acquired in accordance with the law of that State, including the right to receive wages and other entitlements due to him or her.

Recommended Principles and Guidelines on Human Rights and Human Trafficking, in which Guideline 6 provides that the State should “ensur[e] the safe and, where possible, voluntary return of trafficked persons and explor[e] the option of residency in the country of destination or third-country resettlement in specific circumstances (e.g. to prevent reprisals or in cases where re-trafficking is considered likely)”.

While Article 13 of the International Covenant on Civil and Political Rights applies only to aliens who are lawfully in the territory of a State party to the Covenant and, according to the Committee, does not allow “illegal entrants and aliens who have stayed longer than the law of their permits allow” to invoke its protection. Article 22 of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, however, applies to all migrant workers and members of their families, regardless of their immigration status. The procedural guarantees contained in Article 22 are much more extensive than those contained in Article 13 of the Covenant. (see box)

Mention should also be made of Article 23, which deals with consular or diplomatic

protection. It provides that, in the case of expulsion, the person concerned shall be informed without delay of his or her right to have recourse to the protection and assistance of the consular or diplomatic authorities of the State of origin, and that the authorities of the expelling State shall facilitate the exercise of such right. Like Article 22, Article 23 applies to all migrant workers and members of their families, regardless of their legal status.

In contrast, Article 56 applies only to migrant workers and members of their families who are documented or in a regular situation. It provides that they may not be expelled from a State of employment, except for reasons defined in the national legislation of that State and subject to the safeguards listed above. It also prohibits expulsions, undertaken for the purpose of depriving a migrant worker or a member of his or her family of the rights arising out of the authorisation of residence and the work permit. Finally, Article 56 provides that in reaching an expulsion decision, consideration should be given to the humanitarian considerations and the length of time that the person concerned has already resided in the State of employment.

*[This section was adapted from Expulsions of Aliens in International Human Rights Law, OHCHR Discussion paper, Geneva, September 2006.]*

### 3. Collective Expulsions/Mass Deportations

Migrant workers are entitled to protection against arbitrary or collective expulsion under Article 13 of the ICCPR and Article 22 of the Migrant Workers Convention.

It is also considered a general prohibition since the body of law safeguards against arbitrary expulsions whereby each migrant is entitled to an individual decision on his or her expulsion. The collective nature makes it impossible for a government to provide the necessary guarantees or to monitor who may be entitled to remain in the country. Mass expulsions run a very high risk of preventing the proper identification of people entitled to special protection, such as refugees, victims of trafficking, women at risk of systematic rape etc. In some cases, legal residents or even nationals are entangled in such mass deportations. Further, it is not possible to execute mass deportation in a humane and dignified manner; mass deportations run serious risks of exposing migrants to dangers, and of increasing stigmatisation and discrimination against migrant communities.

#### **Concluding Remarks of the OHCHR Discussion paper on Expulsions of Aliens in International Human Rights Law, Geneva, September 2006.**

A legal framework regulating States' powers to expel foreigners from their territories has gradually emerged. Indeed, several general provisions have been interpreted in such a way as to provide some protection to persons who are subject to expulsion orders. These jurisprudential developments are relatively recent, dating back only to the early 1990s. It is now well-established that no one should be returned to a country where there is a real risk of torture, or cruel, inhuman or degrading treatment, and this prohibition has been held to be absolute. In addition, some expulsions should not be enforced where they would result in a violation of the right to private and family life of the person concerned. The scope of the procedural safeguards suggests that collective expulsions are unlawful under international and regional human rights law. In contrast, methods of expulsion are not specifically mentioned in any of these instruments, but there is no doubt that the general provisions on cruel, inhuman or degrading treatment apply in this respect and that no one should be expelled in a manner that would put his life or physical integrity at risk.

#### 4. Methods of Deportation and Expulsion

There are no provisions in international and regional human rights instruments which explicitly deal with methods of expulsion. Even though human rights abuses may take place during deportations, migrants who have already been returned to their countries of origin are unlikely to bring proceedings against those who deported them. Therefore, the lack of protection is particularly problematic. However, general provisions of human rights standards should still apply. When executing a deportation order, States are still bound by their obligations to respect the right to life or physical integrity and should not subject any person, including any foreigner being expelled from the country, to cruel, inhuman or degrading treatment. The former Special Rapporteur on the human rights of migrants stated that “the expulsion, deportation or repatriation of undocumented migrants should be carried out with respect and dignity”.<sup>6</sup> In other regions of the world, recommendations and guidelines for expulsion procedures have been developed.<sup>7</sup> However, the ASEAN Declaration on Migrant Workers makes no reference to the deportation of migrants, nor do the MOUs signed between Thailand and neighbouring countries contain any provisions to ensure safe deportations.

The Berne Initiative, following consultations with governments from around the world, made recommendations on “mandatory return” in their meeting in December 2004. It was suggested that mandatory return policies should be transparent, humane and fair; that mandatory returns be conducted in safety and with dignity; that forced return to conditions of danger should be avoided; that mandatory return should be in conformity with international law standards; and that mandatory return should be implemented with the full knowledge and agreement of the country of origin.<sup>8</sup>

Declaration on the Human Rights of Individuals who are not nationals of the country in which they live, adopted by the UN General Assembly in 1985: Nothing in this Declaration shall be interpreted as legitimizing any aliens’ illegal entry into and presence in a State, nor shall any provision be interpreted as restricting the right of any State to promulgate laws and regulations concerning the entry of aliens and the terms and conditions of their stay or to establish differences between nationals and aliens. However, such laws and regulations shall not be incompatible with the international legal obligations of that state, including those in the field of human rights. UNGA Res 40/114 Art 2(1) 13 Dec 1985

#### 5. Arrest and Detention<sup>9</sup>

Migrants, as with nationals, have the right to liberty and to freedom from arbitrary detention, according to Articles 3 and 9 of the UDHR, Article 9 of the ICCPR, and Article 16 of the Migrant Workers Convention. This has been reaffirmed by the Human Rights Committee in General Comment No 8, which states that these provisions are also applicable in cases of immigration control. Migrant workers around the world face arrest on grounds such as irregular State border crossing, use of false documents, leaving of their residence without authorisation, irregular stay, and breaching or overstaying their conditions of stay (E/CN.4/2003/85 of the Special Rapporteur on Migrants). While the arrests may be within the law, the motivation behind arrests of migrants is often not related to the actual breaking of immigration law. Crackdowns and arrests of migrants are used as a deterrent for potential migrants, as a political

show to campaign for support, or to persuade the population that the government is actively fighting terrorism and protecting national security. There has been a pattern towards an increase in the use of detention by governments, either as an administrative measure pending deportation or expulsion, or under criminal law for acts such as overstaying, breaching conditions of stay, or use of false documents. In her reports, the UN Special Rapporteur has criticised the high degree of discretion and the broad powers to detain, which are given to immigration and law enforcement officials in many countries and which can give rise to abuses. She has expressed concern about prolonged detention periods, the arbitrary nature of detention decisions, detention of trafficking victims, overcrowding and poor hygienic conditions, and the absence of legal assistance and judicial review procedures.

The UNHCR has developed Guidelines on the Detention of Asylum Seekers, but there are no such guidelines for the detention of migrants. Nevertheless, the conditions of detention of migrants should be consistent with the Standard Minimum Rules for the Treatment of Prisoners ([www.unhcr.ch/html/menu3/b/h\\_comp36.htm](http://www.unhcr.ch/html/menu3/b/h_comp36.htm)) and the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment Adopted by General Assembly resolution 43/173 of 9 December 1988. ([www.unhcr.ch/html/menu3/b/h\\_comp36.htm](http://www.unhcr.ch/html/menu3/b/h_comp36.htm)). According to the latter, all persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person (Principle 1). Principle 6 states, “No person under any form of detention or imprisonment shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. No circumstance whatsoever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment”. Principle 8 states, “Persons in detention shall be subject to treatment appropriate to their unconvicted status. Accordingly, they shall, whenever possible, be kept separate from convicted criminal prisoners”. According to Principle 14 of the Body of Principles and Article 16.5 of the Migrant Workers Convention, a migrant who does not adequately speak or understand the language is entitled to receive the necessary information promptly and in a language which he or she understands, and to have the assistance, if necessary, of an interpreter, free of charge, in connection with legal proceedings subsequent to his or her arrest.

Principle 15 of the Body of Principles, the Migrant workers convention and the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (Article 10) establish that migrants have the right to communicate with the appropriate diplomatic authorities without delay regarding the situation surrounding their arrest or detention and that migrants should have adequate access to the legal and judicial system of the receiving states (Article 9). The practice is rooted in the reciprocal interest of all States to safeguard their

### Human rights treaties

The most important basis for the legal and normative framework affecting migrants is to be found in the Universal Declaration of Human Rights and seven UN human rights treaties which give legal effect to the rights in the Declaration: the 1965 International Convention on the Elimination of All Forms of Racial Discrimination; the 1966 International Covenant on Civil and Political Rights; the 1966 International Covenant on Economic, Social and Cultural Rights; the 1979 Convention on the Elimination of All Forms of Discrimination against Women; the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; the 1989 Convention on the Rights of the Child, and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

nationals abroad. The importance of this practice has grown in the contemporary world as labour migration – both regular and irregular – has increased, and some embassies now provide a range of services to migrant workers.

In addition, the UN Working Group on Arbitrary Detention (WGAD) has adopted Deliberation No 5 concerning the situation of immigrants and asylum seekers, recommending that a maximum period of detention should be set by law and that custody may “in no case” be prolonged or indefinite. (WGAD Deliberation No. 5 concerning the situation regarding immigrants and asylum-seekers E/CN.4/2000/4, 28 December 1999)

## 6. Concluding Remarks

Most of the human rights norms protect migrants’ rights after they have entered a country and while they are in the country of destination but are not articulated in a clear and accessible way when referring to actual migration and deportation. The articulation of the rights of migrants during arrest, detention and deportation is dispersed across a number of treaties, customary law provisions and non-binding agreements. This results in a lack of consistency in the implementation of the provisions, with the result that migrants’ rights are afforded less respect. This is particularly worrying when states are increasingly managing migration by defining ever more specific categories of admissible and non-admissible non-citizens, by removing non-citizens whom they decide they do not want, and by making certain benefits and opportunities only available to citizens. States are expanding the categories of non-desirable non-citizens and have increasing support to do this in the name of “the war on terror”. Post 9/11 the UN Security Council adopted resolution 1373 calling on States to prevent the movement of terrorists or terrorists groups by effective border controls and controls of issuance of identity papers and travel documents. It is therefore crucial that migrants’ rights during arrest, detention and deportation be more clearly articulated and, most importantly, more systematically applied.

## Endnotes

<sup>1</sup>International Covenant on Civil and Political Rights (ICCPR) Article 12(2) and (4), the Migrant Workers Convention Article 8 (1) and (2) and the Convention on the Rights of Child (CRC) Article 10 (2) Article 12(2) of the International Covenant on Civil and Political Rights contains a similar provision, while article 12(4) guarantees that “no one shall be arbitrarily deprived of the right to enter his own country”.

<sup>2</sup>This should include the right to return to one’s country of origin, one’s country of nationality and one’s country of habitual residence. (“Living in the Shadows, A Primer on the Human Rights of Migrants”, Amnesty International 2006.)

<sup>3</sup>General Comment No. 27: Freedom of movement (Art.12), 02/11/99. CCPR/C/21/Rev.1/Add.9, General Comment No. 27. (General Comments)

<sup>4</sup>ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers was signed on 13 January 2007 in Cebu, the Philippines, by the heads of state and governments of ASEAN including five of the GMS countries i.e. Thailand, Burma, Lao PDR, Cambodia and Vietnam.

<sup>5</sup>This decision could thus be applied to migrant workers who are injured or contract diseases through negligence on the part of the State to enforce proper occupational health and safety standards.

<sup>6</sup>Report of the Special Rapporteur on the human rights of migrants, Ms. Gabriela Rodríguez Pizarro, E/CN.4/2005/85, 27 December 2004, para.75.

<sup>7</sup>Council of Europe Recommendation 1547 (2002) on expulsion procedures in conformity with human rights and enforced with respect for safety and dignity, and Council of Europe: Twenty Guidelines on Forced Return, September 2005. Last accessed at: <[http://www.coe.int/T/E/Legal\\_Affairs/Legal\\_cooperation/Foreigners\\_and\\_citizens/Asylum%2C\\_refugees\\_and\\_stateless\\_persons/Texts\\_and\\_documents/Comments%20on%20twenty%20guidelines%20forced%20return%202005.pdf](http://www.coe.int/T/E/Legal_Affairs/Legal_cooperation/Foreigners_and_citizens/Asylum%2C_refugees_and_stateless_persons/Texts_and_documents/Comments%20on%20twenty%20guidelines%20forced%20return%202005.pdf)>.

<sup>8</sup>The Berne Initiative, International Agenda for Migration Management: common understandings and effective practices for a planned, balanced, and comprehensive approach to the management of migration, Berne, 16-17 December 2004, pp.55-56.

<sup>9</sup>This section draws on information from: International migration and human rights, A paper prepared for the Policy Analysis and Research Programme of the Global Commission on International Migration, by Stefanie Grant Harrison Grant Solicitors, Global Commission on International Migration, September 2005.

Other Sources of Reference:

Migration in an Interconnected World: New Directions for Action, Report of the Global commission on International Migration, October 2005.

ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, 13th January 2007.

Photo courtesy of Cambodian Women for Peace and Development (CW/PD)



Cambodian migrant workers being deported. Poi Pet, Cambodia Rong Kleau, Thailand check point, 2006.

## Arrest, Detention & Deportation of Migrants from Burma, Cambodia and Lao PDR in Thailand

Aside from the small number of migrant workers who enter Thailand through official channels, such as those with temporary passports and work visas issued in their home countries, the vast majority of migrants from Burma, Cambodia and Lao PDR both leave their respective countries and enter Thailand illegally. In most cases they arrive in Thailand with no documentation whatsoever. This is partly due to the fact that not everyone in the Greater Mekong Subregion (GMS) possesses identity documentation issued by their home authorities. National ID procedures are yet to reach all rural populations, to the exclusion of many ethnic minority groups in the region. Those who do have national ID cards do not usually risk bringing them to Thailand when they migrate, for fear of losing it or of the card being confiscated by their employers or the authorities.

Undocumented migrants are thus liable to arrest, detention and deportation from Thailand for having entered the country illegally. Unfortunately, they are then also liable to punishment on return to their home country for having left and re-entered illegally. Any migrant who enters Thailand outside of the intermittent migrant worker registration periods or stays in Thailand without registering for a temporary migrant workers card may be subject to arrest at any time. The number of unregistered migrants in Thailand is not known, but estimates suggest that at any one time there are between 800,000 and 1.2 million unregistered migrants present in Thailand.<sup>1</sup> In many cases,

employers prefer to employ unregistered migrants as they represent a flexible pool of labour that can be hired and dismissed to suit the demands of a fluctuating labour market. Furthermore migrants have considerably less bargaining power than their Thai counterparts from which to negotiate working conditions. Employers profit from the vulnerability of migrants' precarious immigration status by paying them substantially less than Thai nationals for the same work.

## 1. Arrest

### 1-1. Patterns of Arrest

#### *Time and place*

Arrests of migrant workers in Thailand can happen at any time of the day or night. Migrant workers constantly run the risk of arrest while at home, in their workplace, during their leisure time or while visiting their places of worship .

*'I was working both as a domestic worker as well as at my employer's shop in Bangkok. I was arrested on the way back to his house from his shop.'*

(20-year old Burmese woman)

*'I was working as a domestic worker and was arrested at the house while the employer was there.'*

(20-year old Laotian woman)

*'I was arrested while walking in the jungle near Nong Ook near the border of Shan state. We were a group of 22, but 11 managed to run away.'*

(23-year old Shan woman)

*'I was travelling back to the Shan State with a friend in a car arranged by three men. The police stopped us and took us out of the car. They said it was for our own safety because it was dangerous for us to travel alone with three men. Nevertheless they took us to the police station and then to prison. In the end we each had to pay 1,000 baht to get back in a car with an officer and his wife.'*

(Shan woman)

*'My friends and I were resting in our dormitory in a Mahachai factory, when four plain clothes policemen came in and put us all on a truck. Then they checked our IDs and released those who had proper ID.'*

(Mon man)

One Cambodian migrant fisherman in Rayong told us that most arrests of fishermen begin around midnight, as it is believed that it will not create so much commotion if the arrests take place at night.

*'I was arrested at night on a boat off the coast of Rayong Province by Thai police boats that had surrounded us. There were only three migrant workers holding ID cards while the other 20 workers including myself didn't have a card. The boat was taken back to Chon Buri.'*

(Cambodian man)

Even at temples, migrants are not free from the fear of arrest. During October 2006 in Chiang Mai several hundred migrants were arrested whilst attending temples to celebrate the end of Lent. The local population expressed their discontent through a local website, saying that immigration officials should respect the sanctity of temples and not make arrests during religious ceremonies.

It has also been known for migrants to be arrested for immigration offences following road traffic accidents. In June 2006, authorities arrested migrants in hospital after a truck carrying 52 migrants to their work site in Kanchanburi province was involved in an accident. One migrant was killed and 15 were injured. The injured were taken to the hospital and those who were not injured were taken directly to the police station. Both groups were charged with illegally entering Thailand and were then deported.<sup>2</sup>

### *Reasons for arrest*

Migrants who have registered with the authorities and hold a valid migrant workers' card are required to carry this card with them at all times. The migrant workers' card confers limited legal rights. While Thai citizens are fined for not carrying their national ID card, migrants completely lose their legal status in Thailand if they are caught without their card. This then leads directly to their arrest, detention and deportation. The migrant workers' card is also only valid as an immigration document when the arresting authority can verify that the migrant actually works for the employer named on the card, and in the type of work and geographic area designated on the card.

*'We were arrested in the worker's dormitories. When they came to arrest us, they did not wear uniforms. They just wore normal civilian dress. We did not know that they were police. There were 12 police officers, including two policewomen. They shouted that anyone who tried to run would be shot. One person jumped into a stream and ran, but was caught further up the stream. The police dragged him out by the neck and brought him back. Eighteen people were arrested, among them seven women. The police told us that we were staying outside of our permitted area. It seemed that people in the vicinity had informed on us. At court we heard that the employer had not applied for permission for us to work there.'*

(Burmese workers in Mae Sot)

The precarious nature of their immigration status grants the authorities an unfettered discretion to subject migrants to arrest and detention. When 674 Karen migrant workers were arrested on 27 August 2006, the immigration authorities claimed that they were arrested because they were outside the area in which they were registered to work. The migrants had organised an event to celebrate the Karen New Year at the Police Cadet School in Nakhon Pathom. The authorities had only expected a few people to attend the celebration, but when 700 arrived, they felt it necessary to disperse the crowd and used the migrant workers card as an excuse to break up the event, and arrest migrants. Similarly migrant worker celebrations in the South of Thailand have been disrupted by the threat of arrest. On 18 December 2005, about 300 migrant workers gathered in the temple grounds at Takua Pa to celebrate International Migrants Day. The children of migrants performed traditional dances and songs on stage, while their parents looked on with pride as all parents do. The celebration was opened by the local administrative deputy chief who welcomed

such an event in his district. However later in the day, while the migrant families were still enjoying their day of fun, an announcement was made from the stage that any migrant without a migrant workers card should leave immediately since the police were on their way. In the event, all migrants left, knowing that even with a card they could be arrested for some small discrepancy.

#### *Arrest of registered migrants*

In many cases migrant workers only receive a receipt for their ID card when they register with the authorities and it is often many months for the actual card to be issued. Some police officers and immigration officials refuse to accept this receipt as proof of registration and have arrested migrants in such cases. In addition, it is common knowledge that many employers withhold migrant's work permits as a means of controlling the worker and ensuring that the worker does not leave and find alternative employment. The law explicitly prohibits the confiscation of personal documents and Article 352 of the Criminal Law on embezzlement and misappropriation states that a work permit is the property of the worker and for an employer to confiscate it amounts to misappropriation. Since 2005, the Employment Department, and Ministry of Labour has sent a letter to all employers of migrant workers warning them against such practice. They have also explained this to employers at meetings that the department holds with employers from time to time. However, at time of writing no case has ever been brought against an employer for breaking this law.

*'I didn't have my work permit with me at the time when they asked for it from me. It's kept with the employer and I wasn't allowed to hold it for myself.'*

(Male, 26-year old Mon, from Burma,  
working in shoe factory in Bangkok, arrested at a bus stop)

*'We work in a shrimp factory in Mahachai and one day we were warned by the employer to come to work early and finish early because there might be an immigration raid. In the event, the immigration came while we were at the factory. Out of 150 workers, 75 were arrested. Of those 75, 70 workers were registered, but the employer had withheld their cards. Those 70 registered workers stayed in jail for two days and one night while they waited for their employer to bring the cards to the police.'*

(Burmese man)

#### *Change of employer or workplace*

Since 2004, there have been procedures in place for migrants to change their employer in cases where the employer is exploiting the worker. In 2005, migrants were only allowed to request such a change if their previous employer had died, closed his/her business or was severely exploiting the worker. In each of these situations, it was difficult for migrant workers to obtain the assistance of the employer to cooperate in the complicated procedures necessary to change employers. Some migrants have tried to follow these legal procedures, but due to their complexity and lack of clarity, migrants have ended up losing their legal status during the process and once again become vulnerable to arrest.

*'I became an illegal migrant automatically while the change of employer procedure*

*was in process. While my employer was changing the details of my card, I was arrested while the card was not in my possession.'*

(Burmese male arrested on 27 April 2005  
in a shoe factory)

For one 25 year old Burmese worker who had been working for eight years in a factory in Mahachai, her employer decided to transfer her to another of his factories in Pak Nam to peel shrimps. The employer changed the details on her card to facilitate the transfer, however, she was very unhappy working at the new site since she was separated from her family and friends. She made the decision to move back to the original factory and her community. She was then arrested because her documents had not been re-amended back to the original factory.

### ***Deterring migrants from filing complaints***

The risk of arrest for migrant ID card violations is used as a tool to deter migrants from joining together in order to complain about their working conditions. Although the Labour Protection Act of Thailand protects all workers in Thailand regardless of their immigration status, many employers regularly break the law by paying migrant workers less than the minimum wage, forcing them to work excessive hours without statutory holidays and often in sub-standard occupational health and safety conditions. Migrants are severely hampered in their ability to exercise their right to negotiate their working conditions by the fact that they are not allowed to form unions and by the fact that their flimsy status conferred by the migrant worker card can always be manipulated by the authorities to deny their legal immigration status. While a worker technically has the legal right to file a case against an employer and the Labour Protection Office is obliged to accept the case, the immigration authorities can simultaneously enforce immigration laws, which can result in the arrest, detention and deportation of the migrant, thus effectively closing the door on any pending labour case. Employers who are being taken to task over the working conditions they provide, understandably do not protest against the deportation of migrants.<sup>3</sup>

While the temporary residence ID card (Tor Ror 38/1) issued by the Ministry of Interior provides migrants with the "right to be" and therefore an identity beyond that of a "migrant" and a 'worker', the reality is that the migrant worker card confers a contradictory and confusing status and identity upon the holder. The card issued by the Ministry of Labour firmly attaches the migrant to their employer, their place of residence and type of work. At the same time the authorities use this information to verify or reject immigration status on the migrant.

In June 2003, 420 Burmese migrants working for the King Body Concept Co. garment factory were fired and then deported to Burma following a labour dispute in which they demanded their legal rights. All of the workers were registered with the authorities and held migrant workers' cards. The workers followed the appropriate legal mechanisms to resolve their labour dispute after their attempts to negotiate with their employer to pay them the minimum wage and provide better working conditions failed. When they received no response, they sent a formal letter of complaint to the Tak Labour Protection and Welfare office. The Labour Protection office told them they would send a labour official to mediate in three days time. However when the workers returned to the factory, they were told that there was no work for them for the next three days. When the labour official arrived for the meeting, the factory owner had already called the police, immigration officials and border patrol soldiers, saying that he wanted to dismiss the workers for failing to turn

Photo courtesy of Yang Chi Oo Workers Association



250 workers were forced out from the Nasawat factory, Mae Sod, Thailand in December 2003 after demanding, the improvement of their working conditions and payment of minimum wage. Workers stayed at a monastery during negotiation process. In the picture, migrants are arrested by police and soldiers, at the monastery after their employer had cancelled their work permits issued by the Labor Employment Department. The migrant workers were then deported back to Myawwady.

up for work over the past three days. The workers were immediately sent to the detention centre before being deported to Burma. This action, taken by the owner of the King Body Concept Co.'s garment factory and the Thai immigration authorities against these Burmese workers, directly violated the registration policy, which guarantees a period of seven days grace for workers to find new jobs. In addition the employer was required by law to pay the workers two months salary if they wished to make them redundant.

While in September 2005, 232 Burmese migrant workers legally registered and holding work permits for the Daechanpanich nylon fishing net factory in Khon Kaen, (North east of Thailand) protested about their working conditions (12 hour shifts for USD2.50 per day). The outcome of which saw the migrant workers rounded up and put on buses to the Burmese border, from where they were deported. A hearing at the National Human Rights Commission concerning this case, determined that the employer, immigration and local authorities had conspired to the effect that none of the procedures laid out in the registration policy were followed, to the effect that those workers transferred to Mae Sot lost their legal status due to the authorities negligence.

In 2005, 73 Burmese migrants transferred their migrant worker cards from Mae Sot to the Chotiwat Manufacturing Company in Had Yai (in the deep south of Thailand). By July they could

no longer tolerate the dreadful working conditions they were being subject to, and tried to organise themselves in order to negotiate better conditions. As a result, armed security guards hired by the employer threatened them. The situation was brought to the attention of the Department of Employment who sent an official to the factory accompanied by Immigration officers. However, this intervention merely resulted in 38 of the migrant leaders being taken to Sadao Immigration Office and asked to sign a declaration stating that they had not been threatened and were resigning voluntarily. The workers refused to sign and were sent to the Bangkok Immigration Detention Centre (IDC) and then on to Mae Sot. The workers attempted to obtain work in Mae Sot, but because their employer and the authorities in the South had not transferred any of their documentation they had completely lost their status including their right to work in Thailand, conferred on them under the migrant workers' registration scheme.

## 1-2. Impact of Arrests on Migrants

### *Fear*

The randomness, intrusiveness and pervasiveness of arrests means that a migrants' life is never completely free of fear. Any simple every day chore can be interrupted by a check on documents. Any celebration can suddenly change from fun to fear. There is an underlying message being relayed to migrants 24 hours a day, 365 days a year: you can be arrested, detained and deported at any time. This message in turn controls the migrants, warns them against taking any actions against abuse and exploitation, discourages them from exercising their social and religious rights, and ensures that there is little integration of the migrant community within Thai society. Such a constant threat to one's well-being and human security, constant fear of being separated from family and friends, must take a toll on the mental well-being of migrants, and must at the same time affect the general psyche of the receiving population who are constantly pushing away two million people in their midst. It creates an environment that breeds discrimination and feelings of alienation.

*'Generally Thai people regard us as garbage. They don't see Burmese migrants as helping the economy. We are taking jobs, which the Thais won't do. They regard us as troublemakers, never as good friends. I didn't want to come to Thailand – because I love my country and land – but because of economic mismanagement and poverty and lack of education, especially for rural people – I had no choice. I just want a better life but we are being subjected to abuse here.'*

(23-year old Mon worker)

The constant fear induced by the threat of being arrested and detained induces panic within migrant communities. During an evening in May 2006 a group of migrants were crossing the waters separating Kawthaung in Burma and Ranong in Thailand, the boat owner who was transporting them noticed the Thai navy on patrol and told the passengers to jump overboard and walk through the shallow water to the mainland. 20 of the migrants, including three children, got caught in the rising tide and drowned. 17 were rescued by the Thai search team and subsequently charged with immigration offences.<sup>4</sup> In another case involving Cambodian workers, police outside of Bangkok pursued the van in which they were travelling. The van driver did not stop and the van crashed and spun out of control, injuring the 16 Cambodian workers being transported to a new workplace.<sup>5</sup>

***Losing confidence in the law***

The arbitrariness in the application of the law threatens to break any confidence migrants have in the Thai legal system, not to mention provoking discontent and frustration. This is visible from the figures regarding the registration of migrant workers, with the number of workers who re-register falling year on year. Migrants who were keen to register themselves find that their legal status is so fragile that they feel more secure leaving the legal fold and remaining undocumented.

*'I felt depressed because I got arrested even though I am holding official documents, which were kept by my employer. Besides, I have to pay for the work permit fee out of my own pocket. It's absolutely unfair for me because it wastes my time and loses me daily wages. Another thing, I definitely have to come back to Thailand and the cost of the brokers' fee is not a small amount.'*

(Mon, male)

*'At that time, when they arrested us with the work permit, I felt that I was cheated out of 3,800 baht by the Thai government. I didn't rob or get the money freely. I earned this money by hard work. I was just visiting friends in another area, I wasn't working there.'*

(Arrested for being just outside of the area designated on the work permit)

**1-3. Arrest Procedures*****Bribes***

According to accounts provided by migrants, there is no consistency in the arrest procedures used by the various Thai authorities. Some migrants are handcuffed during arrest others are not. Some migrants are fingerprinted while others are not. However, the majority of migrants interviewed reported being offered the opportunity of paying money to the police to be released when they were arrested, usually before they were taken to the police station. The amount that migrants were asked to pay varied between THB200 (USD5) and THB5,000 (USD132), with an average of around THB1,000 (USD26). According to one Laotian worker, when a group of Laotian construction workers were arrested on their day off and taken to the local police station (Chorakea Noi Police station), they were asked to pay a fine of THB1,000 (USD26) each. After they paid, they were released. A 26 year old Shan woman told a similar story when she was arrested at a check-point between Mae Hong Son and Chiang Mai. She was told that if she paid THB2,000 (USD52), instead of holding her in the police cells for 12 days while waiting for her case to come before the court, she would be immediately deported. The police even allowed them to use the telephone to contact relatives to get the money. All the Cambodian migrants interviewed in Cambodia after being returned from Thailand reported that all the money they had in their pockets was confiscated during their deportation process. Those migrants who could hand over THB3,000 (USD78) were however immediately released.

Paying these fees however does not always secure immediate release, even for migrants who have registered and hold migrant worker cards. After a raid at a factory in Mae Sot, the workers were taken straight to the detention centre at the border. The manager of the factory came and told the workers who had work permits they would have to pay THB5,000 (USD132) to obtain their

Photo courtesy of Young Chi Oo Workers Association



Migrants being deported back to Burma. Mae Sod, Thailand, 2006.

release. Forty-two workers paid, even though they held work permits. Six of the workers refused, including a woman interviewed in the course of this study. In the event, none of the 48 migrants were released and they were all sent to court. The workers believed that the police and factory manager shared the THB210,000 (USD5,500) between them.

In addition to being asked for money, approximately 45% of the migrants interviewed in Thailand reported having their belongings confiscated during the arrest procedure and not having their belongings returned to them upon release or deportation.

### ***Body searches and sexual abuse***

The majority of migrants interviewed reported that they were subject to a body search during arrest. Where migrants were taken directly to police stations or IDCs in cities, the searches were carried out in a formal and reasonably dignified manner. Women reported being searched by female officers or by women prison leaders.

However, women migrants in isolated border areas remain vulnerable to abuse. Young women in Mae Sot complained that the body searches were intrusive and abusive. They said as well as having to undress, in some instances their vaginas were searched for drugs.

Women who were arrested on their way into Thailand, near the unofficial crossing between the Shan state and Thailand at Nong Ook explained how they were searched by male soldiers: "There was a small hut. We had to go one by one into the room. Some women ...didn't want to take off their clothes, especially not their underwear, but they were forced to." In this case, the women said

that although they were very embarrassed and afraid, the soldiers did not abuse the situation and explained that they had to check that the women were not smuggling drugs.

But full body searches of migrant women in isolated areas by male officials is clearly inappropriate and open to abuse. In 1999, a group of women from Burma were abused at a similar style small hut in the same province. On 12 July 1999, a group of 50 illegal migrant workers from Burma were being deported near Ban Lan village, west of Phang. The migrants were put under the care of the Thai Army Rangers at Ban Lan. The officer in charge separated out 11 women from the group, and then ordered his men to take the rest of the migrants to the Nong Tao border point nearby. He took the women one by one into his room and physically molested each of them, he then raped two of the women.<sup>6</sup>

### *Hair cut*

In some cases women had their hair cut by the police. Migrants reported cases of Immigration officers in Mae Sot cutting women's hair and shaving men's heads saying that the migrants will then be recognised if they try to come back to Thailand after being deported. For Burmese women whose long hair is part of their cultural make-up, having it cut in such an undignified manner is extremely humiliating.

## **2. Detention**

### **Procedures**

There appears to be little standard practice in procedures relating to the detention of migrants. Migrants are being subject of a variety of different procedures, and are being held for varying lengths of time. The procedure also varies according to where the migrants are arrested and where they are being deported. In some cases, migrants are working in areas far from the border which involves several stops at different police cells and immigration detention centres along the way to the border. Generally all migrants will experience the holding cell at a local police station, some will then be taken to immigration detention centres, and then again to a police station or immigration detention centre on the border. Many migrants do not know who is holding them at any given time so it is not always clear from interviews exactly where they were being held.

The Thai legal system provides court procedures to determine whether or not an individual has committed any immigration offences. During the premiership of Chuan Lekpai (Prime Minister in 1992-95 and 1997-2001) a one stop deportation 'service' was introduced whereby it was no longer necessary to follow court-based procedures, instead suspected illegal immigrants could be immediately deported. It appears that today both procedures are practiced, with some migrants, particularly along the border go through express deportation procedures, and others go through the lengthier court-based procedures.

Some migrants reported being arrested, held in police cells and then fined before being released. Twenty-three women who had been working as masseuses were arrested and held for one month in Nakorn Pathom before being fined THB2,000 (USD52) before finally being released. A Shan woman working at a massage parlour in Mae Sai was arrested as she was travelling to the city of Chiang Rai. She was held for two days at the police station, by which time her sister came

to pay THB5,000 (USD130) to secure her release. In Phang, in the north of Thailand, migrants reported being kept in a prison with 300 other female prisoners (Shan, Lahu and Thai). After 42 days in detention they were finally brought before a court, before being returned to the police station for a further 7 days. They were charged, fined THB3,000 (USD78) each and then released.

Migrants arrested closer to the border are typically subject to a fast-tracked deportation procedures. In the Aranya Prathet district of Thailand, along the Cambodian border, migrants are usually detained for less than an hour since they are within walking distance of the border. Usually they are then put into a police van and sent across the border.

Meanwhile, further along the border at Surin, Laotian migrants told of how they were arrested while travelling in a pick up truck. There were seven Laotian men and five Laotian women. They had each paid THB600 (USD16) and stayed at the police station for four hours. Then the men and women were put together in a holding cell for two nights and fined a further THB300 (USD8) per person. The police told them this money was for petrol for the car used to deport them. From there they were taken to the IDC at Ubon Ratchatani for one night and then deported to a border crossing far from their home-town.

A Cambodian fisherman interviewed in Cambodia explained how he was first held in a prison in Songkhla for 20 days, then in Sadao for four days, then Bangkok for four days and eventually taken to the border at Aranya Prathet from where he was deported after three hours. When two Laotian agricultural workers were arrested at Rangsit, Bangkok, they were held in a holding cell for three days. They reported that two Laotians, six Cambodians and two children were being held together in the same cell. The Laotians were then taken to the IDC for four days and then deported with 60 other workers to Khemmaraj district in Ubon. They stayed there for one night before Thai officers accompanied them to the Lao side of the border. A Laotian domestic worker working in Pattaya reported that she was held in the local police station for five nights and then sent to the IDC in Bangkok. In her case the police did not take money from her but gave her THB200 (USD5) for emergencies. She was held in Bangkok for three nights and then sent to the detention centre at Mukdahan in the North East of Thailand for one night and then deported to Sawannaket in Lao PDR.

In a few cases, migrants are offered bail after their court hearing. In a raid on a shoe factory in Bangkok a Burmese worker was taken straight to the IDC and then taken to court the following day. He was imprisoned at Ban Bon Thonburi prison that evening.

*'The court asked me if I could afford to pay bail for myself to be released. I was detained for 28 days. I was then released when my wife paid bail but I cannot go back to Burma yet, because I have to wait for the court decision.'*

The wide range of experiences related by migrants during their arrest and detention suggests that the Thai authorities do not follow any standard procedures. This is confusing, frightening and threatening for migrants who have no idea of what will happen to them. None of the migrants interviewed ever had the procedures explained to them.

Even in areas where the entire economy of the area depends on the work of tens of thousands of migrant workers, there were no interpreters available and no explanations provided. In the police station at Mahachai, there were no interpreters, so migrants complained that they had no idea about the procedures they were being subject to. One migrant woman was detained there for eight days until her name was called and she was sent to Suan Plu IDC. She was put on a truck that same

evening and sent to Mae Sot, arriving at 4 am. She was then held in a cell until daybreak before being deported. Throughout the entire experience, she was never informed of what procedures were being followed and what would happen to her next.

This lack of standard procedures also ensures that there is no way for migrants to make complaints about their treatment nor the procedures followed as no one is aware of any standards that exist relating to the detention of migrants who have entered the country illegally. Migrants are therefore in most cases not aware if or when their rights have been violated.

Although it is generally safer for women to be held in separate cells from men, in isolated areas migrant women may have a greater fear of being left alone with the male authorities than being held with their male compatriots. Without any standard procedures, it also means that families can be separated during the detention and deportation procedures. Male and female deportees are typically removed at different times and locations. Releasing migrants after payment of a fine also appears to be extra-judicial. Once migrants have been arrested and separated from their work and employer they officially become illegal, therefore when released they are immediately vulnerable to re-arrest. However, no migrants report being re-arrested after paying the fine. It is understood that some authorities release migrants with a fine, rather than deporting them, in acknowledgement that most migrants will return to Thailand even if deported. There is thus a certain sense of futility in the entire process, which is demoralising for all those involved: police, immigration, employers and migrants. Although migrants prefer to be released in Thailand than to be sent back across the border, even if it means paying a fine, nevertheless it undermines the rule of law and confidence in the judicial system. It also raises humanitarian concerns for refugees and others who are not subject to a screening procedure. A one-stop deportation service, on the one hand, limits the length of time migrants are subject to detention and the length of time spent not working and earning. On the other hand, the whole process is open to abuse of power and does not give migrants the right to appeal against wrongful deportation.

#### *Under emergency situation*

A one-stop deportation system may also not be the most appropriate system for emergency situations, as these two personal accounts from the tsunami illustrate.

*'One day after the tsunami, the immigration came and said 'whoever wants to go back to Burma, take this truck!'. My wife and I went and wrote our names and got on the truck. If you didn't write your name, you didn't have to go. But we didn't think we were being arrested. We thought it was more like humanitarian assistance. After that we were taken to Takua Pa. In Takua Pa there were people making food and whoever wanted to eat could eat for free. After that, the immigration made documents. They wrote down names and stamped the documents with the police stamp. After that, my wife and I were separated. They let women get on the big bus. For men, they used a prison truck. After that they sent us to jail (detention) at an immigration detention centre in Ranong. It was the same as if everyone had been arrested. When we got to Ranong, they locked the door and confiscated our clothing and belongings. They subjected us to body searches. I think it is the same as being arrested, although they approached us as if they were inviting those who wanted to go back home. Maybe it was same as the Burmese proverb: "one bullet gets two birds".'*

*'I lost one child in the tsunami and now I have only one child left. After the tsunami we just wanted to go home. We couldn't wait. We couldn't stand it. There were some Thais saying "go home, there won't be any arrests" so about 80 of us went on a bus to Ranong along the border but we were stopped and arrested at a check-point along the way. When soldiers stopped us they were kind. They gave us food and water. But when we got to the detention centre, the immigration and police hit us and asked for money. They were drunk and nobody was polite or spoke nicely. We could not sleep because they came and checked us all the time. They took all our money. There were only policemen, no women. I was afraid, I was crying. My health wasn't very strong, I had just given birth seven days earlier and that child was lost in the tsunami. We had to spend two nights at one check-point and then one night in jail in Ranong. When I was with friends, we cried together and encouraged each other. We also helped each other because we are all Burmese. If there was anybody who couldn't speak Thai, those who could speak Thai helped them and interpreted for them. The police, all of them, were drunk. When we were in jail, they said that we didn't have to go back to Burma, it's better to stay in Thailand. But there was nobody who wanted to remain in Thailand. The officials contacted the Burmese authorities in Kawthaung. The one who drove the boat, asked for money half way across. When I got to Kawthaung I felt good. I thought I wouldn't come back to Thailand again. While staying in Thailand I faced many problems. I lost my child in the tsunami. I was afraid of the police. I decided that I wouldn't come back again. But I had to come back because the economy in Burma is so bad.'*

### **Conditions in detention**

Since migrants pass through many different police cells, holding centres, and immigration detention centres, it is difficult to generalise conditions. However, it generally appears that police holding cells are crowded and in some rural areas, men, women and children are held together. The Immigration Detention Centre in Bangkok appears to provide better conditions but the male section can be overcrowded. All migrants were concerned that there was generally no drinking water made available and they had to drink the water from the taps. While the Water Authority of Thailand claims that tap water in Thailand is clean, few people in the cities drink tap water. Migrants were also concerned by the lack of adequate toilets, and the lack of privacy while using these facilities. Others complained that there was a lack of mosquito nets provided, although in some places a fan was kept on. Below is a selection of the conditions described by detainees held at various detention facilities.

*'We were provided with three meals a day, water, clothing, and toilet facilities. We had to ask the officials for sanitary pads, there was no protective gear for mosquitoes.'*

(Women held at a police holding cell in Nakorn Pathom)

*'In the cell, there were fans and we felt comfortable. We could have a bath. There was also drinking water. All the toilets were clean and we drink water from the tap in the toilet.'*

(Bangkok IDC)

*'Role call was taken every two to three hours to ensure that no-one had escaped.'*

(Migrant detained at the Bangkhen Detention Centre, where 300 – 400 migrant workers, 100 of whom Burmese, 100 Laotians and many teenagers are detained.)

*'I was detained in Chum Porn province of Thailand for 15 days, and in Ranong for 14 days. We had to cut the grass and trees. In Ranong, the detention area was dirty and foul. Everyone got eyesores. There wasn't enough space for sleeping and we had to eat foul vegetable three times a day.'*

(27-year old Cambodian male from Prey Veng District, Prey Veng Province)

*'In the cell, there is one bath and four toilets in the corner but two toilets are full of shit and could not be used. ...There was no mat and we slept on the dirty cement floor without any mosquito nets. There were no fans.'*

(Male, Burmese factory worker, detained at the Mae Sot IDC)

### **Abuse**

Some migrants experienced abuse while in detention. As discussed earlier, some female migrants in some isolated locations appear particularly vulnerable to sexual harassment while in detention.

*'When I was in a Mae Sot police cell, I saw the police and "police dog" (the Burmese slang for the police interpreter which translates as "police dog") buy whisky with the money obtained from the detainees. When they were drunk they verbally abused the girls in the cell. Sometimes they took the girls out and gave them body searches, saying they were looking for amphetamines. If men made any complaints they were kicked and taken to other cells, where some stayed for two – three months unrecorded.'*

(Burmese factory worker)

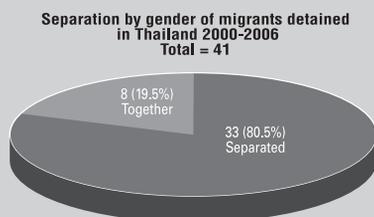
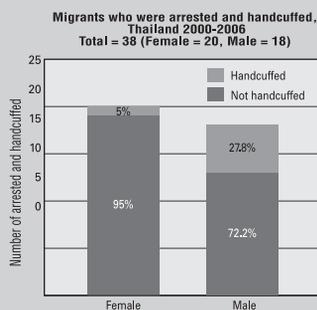
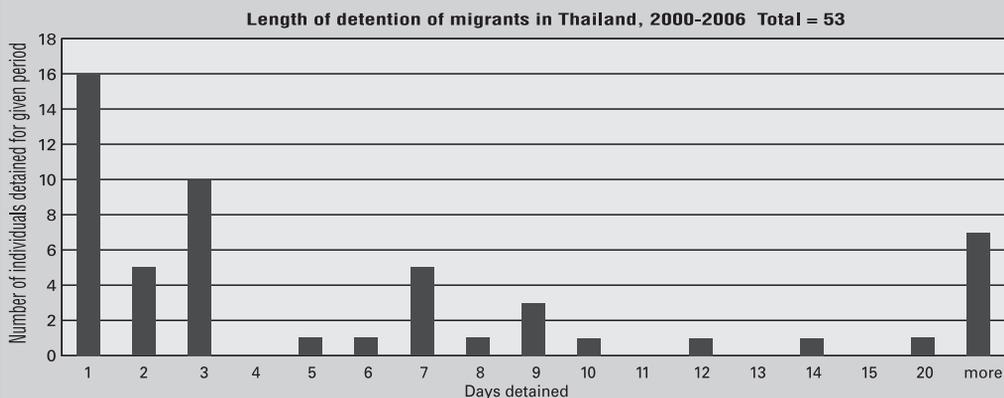
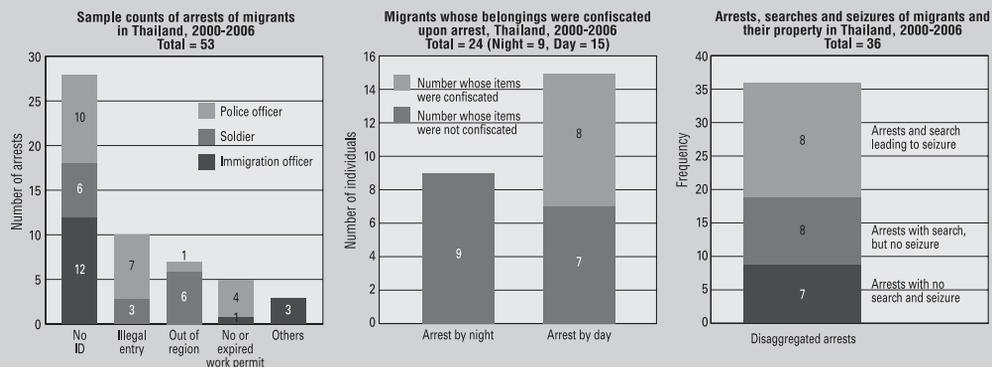
Other female migrants who were held at Mae Sot IDC said that the officers were often drunk and verbally abused all the women. One incident reported by detainees was of five female detainees being removed from their cells at 8 pm and then brought back the following morning at 5am. When questioned by their friends, these five women said that they had a terrible experience and did not want to talk about it.

### **Prison leaders**

Migrants who have passed through Thailand's immigration detention estate have reported that long-term detainees frequently staff the detention centres. The persons or officers charged with enforcing rules within the detention centre are typically migrant detainees themselves. The nationality of that person often directly affects the welfare of the other detainees. These 'prison leaders' tend to favour people of their own nationality, giving them more privileges than detainees of other nationalities. Long-term detainees sell basic necessities to the other detainees; they do the cleaning and control other small enterprises such as the use of mobile phones. Generally the detainees questioned, felt that they were overcharged for their food, basic essentials and telephone calls.

**Sample data from the interviews concerning the arrest, detention and deportation carried out by the Thailand Country Research Team**

The Thailand country research team (CRT) interviewed a total of 60 migrants who had been previously arrested, detained or deported. The following tables show some patterns in relation to: 1) which authority arrested the interviewed migrants? for what count?; 2) the number of migrants who had their belongings confiscated, depending on the time of arrest; 3) whether or not migrants were body searched and had their belonging confiscated; 4) how many days migrants were detained; 5) whether or not migrants were handcuffed; and 6) whether or not male and female migrants were placed in separate cells at the Immigration Detention Centres.





### *Violence*

Some of the migrants interviewed talked about violence between detainees held in prison and detention facilities. In one case, Burmese male migrants beat up the prison leader who was also Burmese because of his exploitative behaviour towards detainees. A 22-year old Cambodian male migrant said: 'I and the other 17 workers arrested had been held in a detention centre in Pattani Province for one week. When we first entered the room, 17 local prisoners, whose hair had already been shaved, attacked us for no reason and without any provocation. So the 18 of us fought back using our belts. Shortly after, the police separated us and placed us in a different cell.' Many of the women interviewed said that they had not experienced any violence from other female detainees. However, they did complain about the system whereby prison leaders favoured detainees of their own nationality.

### *Contact with the outside*

From the interviews conducted, it appears that Laotian migrants were better able to contact relatives at home by mobile phone, while in the holding cells or detention centres. Indeed in some police stations, for example Khong Tan, detainees were actively encouraged to make phone calls home.

Most migrants do not receive visits whilst being held in detention. A few mentioned that their relatives had come to visit or that that volunteers visited them. In a few cases, employers would visit the migrants and bring food for them.

## **3. Deportation**

Migrants returning to Burma, Cambodia and Lao PDR are all viewed as having violated the law for leaving their home countries illegally. They are stigmatised to varying degrees (depending on the country and the political situation) as being disloyal, unworthy citizens and for deserting their country. Hence migrants from all three countries are liable to lectures, "re-education", punishment and fines when returned through official channels.

In most cases, migrants are held in detention while the immigration authorities arrest enough migrants of the same nationality to fill a truck or a bus to send them back to the border. Generally conditions during transit to the Lao border are better than en route to Burma.

### *Toilet stop*

The most common complaint among migrants en route to the border is that they are not allowed to get off the bus to go to the toilet. Many of the trips to the border are lengthy, up to six or seven hours. In many of the border areas the roads are winding and dangerous as they pass through mountains. Thus as well as not being able to go to the toilet, migrants who experience motion sickness have no relief. It appears that the trucks do not stop for toilet breaks for fear that the migrants will escape.

*'We were transported by a vehicle prepared by the officials. There were about 60 people inside. It took six hours and thirty minutes from Bangkok to Mae Sot. There was limited space for each of us. We were all stuffed into a bus. There was not a single toilet stop along the way. The driver drove quite fast. There were some who urinated out of the windows, but for the women, it was quite difficult to hold all the way.'*

(Burmese woman)

## Return and Reintegration of Burmese Migrants

Between March and June 2006, as a part of this MMN study, 70 people were interviewed from several ethnic minority states in eastern Myanmar/Burma, including the Kayin (Karen), Mon, and Shan States; and from Bago, Yangon and Tanintharyi (Tenasserim) Divisions. Interviews took place in Muse, the Shan State, Myawaddy, Kayin State, Nyoung Lay Bin Bago, Kawthaung, Tanintharyi Division and Mandalay.

While the group of Burmese migrants who were interviewed in Thailand had all returned to Thailand after having been deported back to Burma, some of the returnee migrants who were interviewed in Burma have decided to remain at home. Below is a summary of the experiences shared by some of the Burmese migrants interviewed inside Burma.

### Migrants who have returned to Burma

It is the dream or a goal of all migrant workers to be able to return home safe and with enough savings to live a comfortable life back home. However the vast majority fail to realise their dreams and return home with only debt and bad health. Only a few are successful enough to earn the fortune that they and their families desire.

Burmese migrants who return from Thailand and China travel by car, truck, motorcycle or on foot. They usually return as part of a group, and may be accompanied throughout the process by brokers who escort them all the way through the border checkpoints by land, and finally into the nearest town along the Burmese border such as Myawaddy, Tachilek, Muse, and towns in the Ranong areas.

### On the way home

To get back to Burma, the returnees have to pass through numerous checkpoints in both Thailand and Burma. At these checkpoints, brokers and agents bribe border officials to allow safe passage.

Just a few years before the interviews took place, there were only Immigration officers and policemen at the checkpoints. However, in recent years, the number of officers stationed at the checkpoints appears to have increased. For example, at the checkpoint in Muse, there are now

### *Conditions of transportation*

While it is accepted that deportations cost money and ensuring safe deportations is more costly, there should be sufficient funds available since migrants pay deportation fees upon registering for their migrant worker card. Many of the first registrations included a fee for deportation and in 2001 560,000 migrants paid THB1,000 (USD25) deportation deposit fees as part of the registration process.

There have been cases where overcrowding and speeding deportation vehicles have caused serious accidents. On 20 February 2004, a truck commissioned by the immigration authorities and insured to carry 20 passengers crashed in Sangklaburi District, Kanchanaburi Province. The truck was carrying 106 migrants being deported to the border was old and barely road worthy. Six migrants died in the accident and many more were seriously injured.

officers from Immigration, Police Special Branch, Customs, the Health Department, the Road and Transport Department, the Forest Department, and Border Trade Personnel who check all the outgoing and incoming vehicles thoroughly. Passengers are required to show their ID cards. If they are unable to do so, they are arrested by the police and sent to a detention centre. Additionally, they are required to pay tax on their belongings.

One of the drivers told the interviewer that they have to hand over MMK350,000 per year at the checkpoint in order to do business with the Democratic Karen Buddhist Army (DKBA or Ngein Chanyay).

*"When I returned to my home town, I took a Hilux small truck and passed through the checkpoint at Myawaddy. There were two gates at the Border Military and Border Trade checkpoints. There we saw immigration officers, police, soldiers, and DKBA. Depending on our appearance, we had to pay between MMK500 and 1,000, and if we were carrying some goods or gifts for our family members, we had to pay a further MMK15,000 to 20,000."*

*(32-year old Kayin migrant)*

### **Time and reasons for returning home**

After working in Thailand for some time, migrant workers may wish to return home for various reasons. Some migrants may have parents who are ill and need their help physically or financially, or who have passed away. Others may return home for religious or cultural festivals and special occasions.

Migrant workers who have returned home with a significant amount of savings helped to improve their family's social status and living standards, and gained respect within their community. However, the majority do not manage to realise their dream and will return to Thailand again. Many interviewees expressed mixed feelings about their love for their home country and the reasons for their migration: "We do not want to stay there (in Thailand) for life. If possible we would like to invest in a small-scale business at home. We love our country and we want to stay in our own country. We hope the political situation will get better soon".

### ***Belongings***

Another common problem experienced by migrants is that upon arrest, they are immediately taken to the police station and then directly processed through the entire deportation procedure, without ever being allowed to return to their accommodation. Thus for many migrants they only have the clothes in which they were arrested in. As one man put it: 'I only have one set of clothes with me, the ones I am wearing'. For others this also means that all of the belongings they have accumulated during their stay in Thailand are lost. Those migrants who are able to take some of their belongings with them at their time of arrest, have them confiscated at a later point during the deportation procedure. Migrants have reported that their confiscated possessions have not always been returned.

*Unpaid wages*

Similarly many migrants are deported before they receive their last pay packet. Different work sectors pay at different intervals. For migrant workers employed on construction sites and in factories, they usually receive their salary every two weeks, while domestic workers are often paid at the end of the year or even after several years.<sup>7</sup> Fishermen are usually paid after long intervals (three months, six months, one year). If migrants are arrested and deported without any contact with their employer, they do not get the wages that are owed to them.

In only one of the cases documented did the employer ensure that the workers got their last wage packet?

*'The employer transferred us the salaries that he had not paid, and also paid our debts for getting home. My boss is very good. I have been working for him for 8 years.'*

(Burmese male worker)

*Indebtedness*

The arrest, detention and deportation procedure creates a situation where migrants who generally live hand to mouth on their wages have to survive without any income during this lengthy process. Furthermore, the authorities frequently levy charges and demand money from the migrants. In some cases, the employers pay these charges, or they advance money that is later deducted. In other cases migrants borrow money from relatives, friends or brokers. The debts incurred during the process of arrest and detention, not only encourage migrants to return to Thailand to try and pay off their debts, but also to push migrants into situations of debt bondage and trafficking.

**4. Deportation to Lao PDR**

Some migrants from Lao PDR never make it as far as Thailand. The Mekong Navy is employed to protect the borders from drug trafficking and the entry of illegal migrants. The Mekong Navy conducts regular periodic patrols along the river. If the navy apprehends migrants entering illegally, they will usually be forced back across the border and not be arrested.

For those Laotian migrants who do make it into Thailand, but who are later apprehended, many reported being deported to border crossings far from their homes. This was particularly difficult for them because on arrival in Lao PDR they have to report to the authorities, and a family member has to come and collect them. So in addition to the cost and time spent on their own transportation, a family member also has to pay the expense of making a return trip to the border. If migrants do not have sufficient monies to pay for their own transportation to the border they may do some work for the authorities or sometimes work locally to obtain enough money for their travel expenses. To avoid this lengthy procedure, migrants are sometimes deported unofficially to Lao PDR.

*'A Thai immigration officer told me to lie down in the boat during the crossing to the other side of the river to hide from the Lao police. He told me if the Lao police caught me I would be held for at least three months and given only one meal a day.'*

An immigration officer interviewed at Chong Mek explained that before deporting migrants to Lao PDR the Thai authorities coordinate with the Lao immigration office in Vang Tao by sending

a list of returnees. But he said that a recurring problem was that the Lao Immigration office often claims that some migrants on the list are not Laotian citizens. When this happens the Thai authorities are then required to again detain the individual. The Thai immigration officer has no choice but to confidentially free the migrants because they lack the funds to feed them. This problem has also been highlighted during the MOU process, where Lao PDR and Cambodia have interviewed migrants to verify their citizenship and issue them with travel documents. An unknown number of migrants have been refused nationality by these countries during this process. It is unclear what happens to individuals who become stateless in this manner.

### *The Hmong*

The Hmong from Lao PDR have sought refuge in Thailand since 1975. Having assisted the American CIA during the 'Secret war' against communist insurgents, the Hmong feared persecution or punishment if they returned to Lao PDR. Over the years, the camps in Thailand where the Hmong originally stayed have been closed and many Hmong have been resettled in the US. Thailand has feared that some Hmong may be connected to drug trafficking networks or that they may assist exiled Hmong groups to stage attacks against the Lao government, thus harming bi-lateral relations. In 2003, the Thai government registered all the remaining Hmong at Wat Tham Krabok, restricted their access to work outside the temple and then tried to repatriate them to Lao. The US stepped in to say they would take another round of resettlements. Nevertheless, over 6,000 Hmong remained living in makeshift camps. In 2005, the Thai government announced that anybody sheltering the Hmong would be charged according to the Immigration Act with sheltering illegal immigrants, and subject to a penalty of up to five years imprisonment and a fine of THB50,000 (USD1,200). The pressure was too much for many Thai landlords and they asked 6,500 Hmong to leave their bamboo shelters in Huay Nam Khao village. In December 2005, 26 Hmong children were deported to Lao PDR.

The conditions of detention that the Hmong, many who were born in Thailand, faced were described thus in an on-line IPS article:

'They have been locked inside the prison cells since 30 January 2007 without seeing the sun. They have been forced to drink dirty water from the bathroom for more than a month and the food is not fit for human consumption,' he added in describing the conditions under which the refugees, among them 80 children, have been kept in an immigration detention centre near the Thai-Laos border. Similar concerns have been expressed over another group of nearly 8,000 Hmong refugees kept in a holding centre in Thailand's central province of Phetchabun. They have been denied contact with the U.N. refugee agency and are being targeted by the Thai authorities to be deported back to neighbouring Lao PDR, where they are a persecuted minority.<sup>8</sup>

The UNHCR has stated that forced return of the Hmong, was tantamount to refoulement. 'Non-refoulement' is a principle of international law, which stipulates that no refugees or asylum seekers whose cases have not yet been properly assessed can be forcibly returned to a country where their life or liberty could be in danger.

*Deportation to Cambodia*

According to the study conducted by the Cambodia CRT, Cambodian migrants returning voluntarily are required to pay the Thai police for their assistance to reach the border from Rayong province. Each migrant pays around THB2,500 (USD65). Migrants who have been backwards and forwards several times are permitted to return unaccompanied.

When migrants are deported at the Aranya Prathet - Poi Pet border gate, according to a Cambodian immigration officer, migrants are taken to the immigration committee on the Cambodian side of the border in order for enquiries to be made, documentation forms to be completed and to be lectured about leaving the country illegally. According to an article in a Cambodian newspaper, each migrant is then required to pay between THB100 and 300 (USD2-7) to the committee. The police at the border check-point take 20% of the fee and the remainder is divided between the Cambodian communication office stationed between Thailand and Cambodia, the checkpoint, and the local police at the district and commune levels. The immigration officer said that migrants did not generally arrive with much cash in hand, either because the Thai police had already confiscated it or because they transfer any savings home regularly through the telephone transfer service.<sup>9</sup> The interviews with migrants confirmed that in cases where the migrants do not have money, there is a service person that will go directly to their family house to get the money. The migrants have to phone home first to inform the family. After paying THB200 (USD5) and extra money for the service, they are released. For any migrants who cannot afford to pay, they have to stay and do some chores at the immigration police office until the police decide to release them.

According to Mr. Khoun Bun Huron, Deputy Provincial Police Commissioner, Banteay Mean Chey Province, the Thai authorities carried out 1,345 rounds of deportations of 70,480 Cambodians, including 19,402 women and 4,111 children during the first six months of 2006.<sup>10</sup> According to information from the Ministry of Foreign Affairs<sup>11</sup>, in the first six months of 2005 there were 439 Cambodians (including 55 women) held in Thai prisons.<sup>12</sup> Some of the migrants were being held for being undocumented, while others had committed minor criminal offences.

According to a local newspaper, Koh Sonthepheap, Thailand deported between 150 and 200 people a day during January and February 2006, and between 500 and 1,000 a day during March and April 2006.<sup>13</sup>

**5. Deportation to Burma and Return to Thailand**

Migrants from Burma are deported through the official border check-points at Ranong-Kawthuang, Sangklaburi- Three Pagoda pass, Mae Sot – Myawaddy, and Mae Sai- Tachilek. Other smaller crossing points also exist, which are used by both the migrants and the authorities. Some of these crossing points are dangerous because there remains armed conflict in these areas between ethnic groups and government forces. Some of these areas have been heavily land-mined. A group of migrant women from the Shan State who were arrested as they entered Thailand at Nong Ook, were taken to court in Chiang Mai and then sent back to the PP1 gate on the Shan border:

*'When we arrived in the jungle, they stopped the car and told us to walk the remainder of the way because there was no more road for the car. They told us to walk in the middle of the path, not to go off the path because we may step on landmines. We had to walk carefully.'*

Thailand and Burma had an agreement to send 400 Burmese migrants back to Burma officially each month. The 400 migrants were usually migrants who had been detained at the IDC in Suan Plu, Bangkok and then deported to Mae Sot and then officially across the border. These migrants were taken to a reception/holding centre at the Kyauk Ta Lone Pagoda compound in Myawaddy. At the detention centre, a nurse took a blood sample from each deportee followed by a medical check up. The migrants believed that the blood was tested for HIV, a claim that has never been confirmed nor denied by the authorities. One migrant reported that during the night, the authorities separated one couple from the rest saying that they had a disease and required treatment. The authorities took photos of each deportee and assigned them with a number card, which they were required to keep. The migrants were interviewed (some used the word for interrogation) and then lectured about leaving the country illegally. Then the authorities told them to get on the bus, which was loaded with goods. They were taken to Pa-an escorted by two police and four men in green uniform. When they got to Pa-an they were put on buses home. The migrants said that they were given money at the centre for the trip home, the amount depending on where they lived. Although many migrants said it was not enough to get all the way home. They were also told that if they paid MMK15,000 (USD13) they could get off the bus before it reached Pa-an so they could make their way back to the Thai border.

Migrants who are not deported officially at Mae Sot are usually deported further along the river at the 999 DKBA check-point. Despite its name, the Democratic Karen Buddhist Army (DKBA) is actually a unit created by the ruling regime of Burma in order to counteract the Karen resistance groups.

*'I was held by DKBA troops at the 999 check point on the Burmese side. DKBA soldiers separated us according to the ethnic group to which we belong. From there, brokers paid 1,200 baht to the DKBA officials for my release in advance. The broker then took me to his place. He told me that the brokers from the Burma side and the Thai side share the amount 1,200 baht which they ask from all deportees.'*

(Karen male worker)

*'We were sent to the DKBA '999 Dahn/check point.. The DKBA soldiers asked us where we wanted to go. If we wanted to go to Myawaddy we should pay 1,200 baht, but if we wanted to go home we had to pay 3,200 baht (MMK100,000, USD84).'*

(Karen female worker)

Since these interviews conducted by the Thai research team were held in Thailand, all the migrants who had been deported had subsequently returned to Thailand. This is not necessarily representative of all migrants but reflects the sample interview group. However, it is likely that many migrants return because the reasons given are not individual but reflect the economic and political situation of the country. Migrants explained that one reason for returning was that they had relatives, often close relatives in Thailand. Some migrants were ashamed to go home after they had been deported, so instead they waited in towns en route to the border until they had the opportunity to board transport heading back to Thailand. One migrant who had been deported to Burma and made it all the way home to Mandalay said:

*'I was very confused, all the time I had been in jail in Thailand I had thought only of my mother and father. When I first got home they were upset that I had come back so quickly but when I explained they understood me. But I had to return to Thailand, because there is no work in my homeland, I cannot earn enough to support my family which is large, so there is only one hope: Thailand.'*

For many migrants, returning to Thailand was simply a question of survival:

*'In the tsunami, I lost a lot of money. I lost my house...and I thought I would never come back to Thailand again...But when I got home, there was no work and the economy was so bad, so I had to come back. I have children who need an education, but I do not have enough money to pay for their tuition. My children are now in 10th grade and we have to pay 50,000 kyat per (USD42) month as tuition.'*

(Mon woman)

## **6. Summary & Recommendations**

For over a decade, migrants from Burma, Cambodia and Lao PDR have crossed into Thailand illegally in search of work. The Thai economy has absorbed these workers, while the Thai police and immigration continue to perform their duties of arresting, detaining and deporting undocumented migrants. There appears to be no evidence to suggest that deportations reduces the overall number of undocumented migrants in the country nor that arresting, detaining and deporting migrants acts in any way as a deterrent to potential migrants.

Policies that respond to just one aspect of the migration phenomenon cannot provide a holistic solution. Migrants from Burma are not deterred from entering Thailand illegally by the threat of arrest and detention, as they live constantly under such threats in their own country. Employers are not deterred from illegally hiring migrants by the occasional threats of law enforcement, they know that the economy of the country depends on migrant labour and thus will ultimately be able to sway any anti-migration policy.

Although recent policies in the region have tried to approach migration from the perspective of facilitation rather than punishment, they have so far had few successes as they still do not take into consideration the political, social and economic situation of all of the countries in the Greater Mekong Subregion (GMS).

If migrants are arriving undocumented, a case could be made to immediately document migrants at the border. Employers need migrants all over Thailand, but since travel is illegal for migrants it is the brokers and traffickers that benefit from the status quo by transporting migrants clandestinely. If migrants could be issued with some form of documentation at the border and access official, legitimate recruitment services at the border, they could travel legally to their work-sites and work legally.

The current climate breeds distrust, divisions and resentment. While migrants understand that they must respect the laws of their host country, it is difficult for them to uphold these laws when employers do not. Increased pressure on employers to ensure that all workers at their work-site

have access to work permits and health insurance, and to ensure employers do not confiscate work permits would greatly contribute to the reduction of arrests while increasing migrants' faith in and the application of the rule of law.

A work permit system that creates and enforces an unnatural level of dependency between migrants and their employers are punitive and severely restrict their freedoms. Migrant workers, are often forced to rely on their employers not only for their work, but for their accommodation, food and immigration status. The greater the restrictions imposed on migrants the greater the number of violations that migrants are seen to be committing. Given more freedom, there is nothing to suggest that migrants would use this freedom against their host country but would rather use it to fulfil their reasons for migrating: to work for a decent employer for fair remuneration which will allow them to support their families and return home in a better situation than when they left. The constant threat of arrest and deportation only serve to reinforce the cycle that sees migrants having to keep returning to Thailand since their savings are constantly diminished following each arrest and detention.

The countries of the GMS have a shared history and many common cultural traditions. Arrests during the observance of religious, social and cultural events upset not only the migrant communities but also the host communities and should be avoided. Mass arrests cause panic and panic causes accidents and injuries, which too should be avoided.

When arrests, detention and deportation are considered a necessary step to limit the number of undocumented people, standard procedures should be formulated and adhered to. The migrants should not lose their personal possessions, including the wages owed to them, as a result of the arrest and deportation procedures. Standards for hygiene, safety and security should be implemented in all types of detention cells and on transport during deportation. Standards should aim at respecting the rights and dignity of the workers. While the One Stop process may be appropriate in many cases, it should not be used as a means of returning refugees and asylum seekers contrary to the principle of non-refoulement. The operation guidelines relating to the procedure should be published and adhered to to prevent such abuse.

When migrants are arrested, detained and deported the common message, which is sent out to the general public is that migrants are criminals. The reality is that nearly all of the migrants caught up in such arrests, detentions and deportations are workers, employed by Thai employers. What would happen if there were to be a One Stop service to document undocumented migrants in the work-place? The situation is complex, and requires creative and flexible responses.

*“What would happen if there were to be a One Stop service to document undocumented migrants in the work-place?”*

### **Arrest**

Arrest procedures illustrate the inconsistencies in the way the law is currently being put into practice. This leaves migrants uncertain of what will happen when they encounter police, and increases their vulnerability because they have no reliable legal standards to

rely upon. The gaps in legal provisions then allow individuals charged with upholding the law to take advantage of migrants and extort them, knowing full well that migrants have few avenues of recourse under Thai law.

### *Detention*

Migrants have the right to liberty and to freedom from arbitrary detention (Article 9 of the ICCPR, Article 16 of the Migrant Workers Convention, Articles 3 and 9 of the UDHR,). This means that detention should not be arbitrary, and be administered in accordance with the law, justified in each individual case as a necessary and proportionate measure, and subject to judicial review. The UN Working Group on Arbitrary Detention (WGAD) has adopted Deliberation No. 5 concerning the situation of immigrants and asylum seekers. This sets out principles concerning people held in custody and a number of safeguards governing detention. These include the right of detainees to be told the reasons for their detention, an opportunity to communicate with the outside world, to have legal counsel and contact with consular authorities and to be brought promptly before a judicial or other similar authority. It also recommends a maximum period of detention should be set by law and that custody may 'in no case' be prolonged or indefinite.<sup>14</sup>

Administrative detention used arbitrarily is a tool used by the authorities with little or no concern for the impact such a decision has on the individuals' well-being or human rights. The inconsistent standards and operational procedures used at the local and national level results in an incoherent enforcement system. The differences in treatment can be dramatic, and results in detainees being subject to unsanitary and degrading conditions. Little or no consideration is given to the welfare of the individuals subject to detention. The system fails to notify these people of their rights, inform them of the duration of their detention, or provide any recourse for redress if there are problems. In the end, all considerations of convenience are based on the authorities and not on those subject to detention.

### *Deportation*

Deportation is similarly inhumane in the sense that it fails in many aspects to consider the needs of the individual and treats migrants as a nuisance. Once again, a lack of standards or oversight of existing standards results in officials taking advantage and exploiting migrants or endangering their health and safety. The relationship between the migrant and their homeland is rarely taken into account. The insensitivity of deportation procedures and a lack of any refugee screening procedure results in a high likelihood that refugees and others at risk on return are deported contrary to the principle of non-refoulement.

As with any measure of rights, the worst conditions are often an indicator of the overall state of rights. In the case of migrants in Thailand, they are subject to an immigration system that routinely dehumanises them. They are considered a burden to be disposed of regardless of their human rights. The rights of migrants in Thailand rests on a tenuous and constantly shifting groundwork of policies that are subject to change as and when the authorities consider expedient. Legally registered migrant workers, can simply have their work permits withheld. They are not guaranteed a set of inalienable rights, resulting in employers and individuals entrusted to uphold the law continuing to use simplistic loopholes to gain a financial advantage at the expense of the migrants' dignity and sense of humanity.

### Endnotes

<sup>1</sup> In addition to the 1.28 million registered migrants (2004). The number of registered migrants in 2004 is used as a key reference as substantially fewer migrants registered during the registration periods in subsequent years.

<sup>2</sup> FTUB Press Release, 7 June 2006.

<sup>3</sup> See for examples, Action Network for Migrants (Thailand), "Action Alerts" in MAP Foundation, *No Migrant is Illegal 1996-2006*. Last accessed at: <[www.mapfoundationcm.org](http://www.mapfoundationcm.org)>.

<sup>4</sup> Kaowao Newsgroup, 2 May 2006. Last accessed at <<http://www.kaowao.org>>.

<sup>5</sup> "The dark worlds of illegal Cambodian migrants who go to work in Thailand", in *Reasmey Kampuchea Newspaper*, year 14, #4090, Tuesday 26 September 2006.

<sup>6</sup> One of the other women, hearing the screams ran to tell the deputy headman of the village. On 13 July, the local deputy headman reported the rape incident to the police in Phang. Although one of the women wanted to press charges, she was threatened by the officer and forced to accept a small amount of money in compensation for being raped. Women's groups in Thailand took up the case and called for justice to be done. On 14 January 2000 the Defence Ministry reported that an army disciplinary committee had found the officer guilty of rape. He had been put on probation and transferred. Following further complaints, further punishment was handed down to the officer: who lost his benefits for one year. Source: MAP Foundation, *Seeking Safety, Meeting Violence: Migrant and refugee women's journey from Burma*, Chiang Mai, 2001.

<sup>7</sup> In one case the employer of a migrant domestic worker in Chiang Mai had kept her salary from her for 10 years. When she took the case to the Labour Protection office in Chiang Mai in October 2006 her employer was ordered to pay her THB48,000 (10USD a month).

<sup>8</sup> Marwaan Macan-Makar, "Hmong Refugees Starve to Resist Deportation," IPS, 19 August 2007.

<sup>9</sup> *Reasmey Kampuchea*, year 14, #4090, Tuesday 26 September 2006.

<sup>80</sup> *ibid.*

<sup>11</sup> Letter of the Ministry of Foreign Affairs and International Cooperation, number 2106, Kor, bor, Tor-Sor Or/ Chbor Kor 2, issued on 29 March 2005 and the letter of the Ministry of Interior, number 595, Sor Chor Nor, dated 1 July 2005.

<sup>12</sup> Sa Keo, Chon Bori, Prachin Buri, Trat, Rayong, Buriram, Surin, Sisaket, and Ubon Ratch Thani,

<sup>13</sup> "Thai increase their arrest campaign on Cambodian migrants before New Year" in *Koh Sonthepheap* # 5706, 10 April 2006.

<sup>14</sup> WGAD Deliberation No. 5 concerning the situation regarding immigrants and asylum-seekers E/ CN.4/2000/4, 28 December 1999.

## Arrest, Detention and Deportation of Chinese Migrants in Thailand

Chinese migrants, though present in much smaller numbers than migrants from Burma, Lao PDR and Cambodia, frequently enter Thailand either as a transit point en route to third countries or to work in various sectors of the Thai economy. Chinese migrant workers are increasingly found in Thailand's construction and service sectors, as well as in the sex industry.

With limited access and availability to information and data from the Thai authorities, this research on the issues concerning arrest, detention and deportation of Chinese migrants was primarily conducted by interviewing returnees back in mainland China. The group of returnees whom the China Country Research Team (CRT) was able to interview does not represent the various types of Chinese migrants who enter Thailand and represents only a small group of trafficked women who had received assistance from international NGOs.

Nonetheless, the objective of providing summaries of these case studies is to document the experiences of Chinese women during the process of arrest, detention and deportation in Thailand. It is hoped that the scope of future research will be expanded to include other groups of Chinese migrants in Thailand.

### 1. Background of Interviewees

Between 2004 and 2005, International NGOs (INGOs) and the Yunnan Women's Federation (YWF) collaborated with the IOM to rescue 30 Chinese women who were trafficked to Thailand and Malaysia. This report is based on interviews conducted with women and children assisted by the project which documented their experiences. Those who received assistance were typically young women in their 20s. Most came from Yunnan Province and some were from other provinces such as Guangxi, Sichuan and Zhejiang. Of the interviewees, 80 percent belonged to ethnic minority groups, reflecting the high concentration of ethnic minorities resident in the border areas of Yunnan. Those belonging to the Dai ethnic group comprised 50 percent of interviewees, while those from other ethnic groups such as the Wa and the Lahu made up smaller proportions. Most had completed primary school or had some middle school education. One third of interviewees had already married before leaving China, and some had divorced. Others were still in school when they left China, though most had been farmers or labourers earning very small incomes and were deceived into believing that they could find higher income employment abroad.

### 2. Arrest/Rescue, Detention/Shelter, and Deportation/Return

The majority of interviewees were arrested or rescued during sudden police raids on karaoke lounges, bars and other entertainment venues in Thailand. Migrants from Burma and Lao PDR are also commonly found during such raids. These women are either detained at detention centres on account of their illegal entry or sent to shelters as trafficking victims, depending on how their cases are classified by the Thai authorities. After arrest, many girls frequently experience worry and distress that their families will find out that they have been working as sex workers abroad.

A small number of women manage to escape their traffickers when the opportunity arises. For example, when they manage to go outside they seek help from passers-by and eventually contact the police. However, without identity documents that have been confiscated either by traffickers or employers and with little knowledge of the local language, it is very difficult for them to escape. In

particular, the language barrier is among major obstacles throughout the process of seeking assistance from the police.

Women who seek assistance from the police are usually first detained at police stations. Those under the age of eighteen are sent directly to designated shelters for victims of trafficking. The judicial system makes a decision regarding the immigration status of other women aged eighteen years and over. If identified as a victim of trafficking, she will be placed in a shelter while arrangements are made to return her to China. If identified as an illegal immigrant, she will be sent to a detention centre from where she will be deported.

Chinese women identified as trafficking victims are required to follow procedures established by relevant government agencies to assist their return.

First, the Thai Ministry of Social Development and Welfare contacts the Chinese Embassy in Thailand concerning the individual in question. The Ministry sends a detailed report to the Embassy asking for confirmation of their nationality and home address. The Chinese Embassy will then interview the individual and contact the Public Security Bureaus of various provinces in China to confirm their nationality and home address. The Public Security Bureau in China then replies to the Embassy with confirmation. Upon receiving confirmation, the Chinese Embassy in Thailand issues a travel document to the individual to facilitate their return to China. Finally, the relevant Thai government department sends them home.

INGOs, IGOs and the governments of China and Thailand have been working together to help victims of trafficking return home. However, greater bilateral dialogue is required since government officials on both sides have yet to meet in face-to-face dialogue to discuss, systemise and directly coordinate this process. Currently, INGOs and IGOs act as a bridge between the two governments and have initiated communication and the exchange of information, as evidenced by recent rescue initiatives. For example, UNICEF campaigned for a bilateral police communication system between China and Thailand to facilitate information exchange. The proposed system, however, has yet to materialise. Various parties in China and Thailand that are involved in the rescue process hold information-sharing meetings to discuss their experiences and problems that arise. They also provide suggestions and recommendations regarding future work. Representatives from the Thai government, shelters, INGOs, Yunnan Province's Bureau of Public Security, YWF, and the public security bureau and women's federation of the local area (e.g. Simiao or Banna) frequently attend these meetings. When INGOs are involved in this process, the typical return procedure of a trafficking victim is as follows:

- The Thai Ministry of Social Development and Welfare sends a detailed report of the cases to relevant INGOs in China who contact the Bureau of Public Security in Yunnan Province.
- The Ministry also contacts the Chinese Embassy in Thailand to confirm their nationality and home address.
- The INGOs in China collect the results from the Bureau of Public Security in Yunnan.
- The INGOs contact the YWF regarding the individual who then visits their home, where they conduct an assessment regarding the family's situation and attitude towards their return. From this visit a family situation assessment form is completed.
- The INGOs in China translate the assessment form, send it to the Thai Ministry of Social Development and Welfare and confirm the date and accompanying person to be present during return.
- The INGOs in China contact the Bureau of Public Security in Yunnan and the YWF to arrange an airport pick-up for the individual.

- The Bureau of Public Security in Yunnan Province and YWF contact the public security bureau and women's federation in the county where the victim originates. They are instructed to collect the individual from Kunming.

While the procedures described above may seem systematic, numerous challenges frequently arise regarding their implementation. Among them is the difficulty confirming the nationality and home address of the individual. Some victims of trafficking know only the name of the township and village where they resided, but not the name of the county. This complicates confirming their home address, and ultimately their nationality. There are also girls who originate from the border areas who are stateless. In such cases organising their return home is extremely problematic. There are other cases where arrested migrants claim that they are not Chinese nationals, thinking that pretending to be of another nationality will speed up the process.

#### **[Case of Xiaoyu]**

A Chinese detainee named Xiaoyu, who was going to the shelter office everyday to ask when she could return home, believed that Burmese and Laotian girls were allowed to leave first. Thus, she told the shelter that she was Burmese, hoping to return to her home in Sishuan Banna after being sent to Burma. Only after the shelter informed her that the Burmese address she provided could not be identified, and therefore she could not be returned home, she told them about her Chinese nationality and address. She now suffers from a psychological disorder, possibly due to traumatic experiences, and is no longer able to confirm her own nationality and address.

Furthermore, the language barrier continues to prove problematic. The Thai government has hired Chinese interpreters to better facilitate the interviews of the victims. However, the interpreters often experience difficulty understanding the Yunnan dialect, and are unfamiliar with the names of places in Yunnan. Many names are translated to Chinese from Thai pronunciations, making them even more difficult to identify.

Transportation costs for the return trip is another issue of concern. Unless a victim receives aid from INGOs or other well-funded projects, the victim's family must meet the transportation costs. Many families cannot afford the high cost of travelling such a long distance. This can cause a great deal of delay in the return process.

Cooperation between relevant government departments is both essential and necessary to make detailed arrangements for the victims' return. However, the current lack of cooperation is the cause of delay in the return process, which usually takes more than six months and can result in a deepening of the victims' psychological stress.

#### **[Case of Xiaolian]**

Xiaolian has been waiting at the shelter for half a year, far longer than she had expected.

*'The police told us that we could return home after staying here for three days. Everyday I spend at the shelter feels like a whole year. After the three day promise, they still did not send us home. When first we were given towels, toothbrushes and other things, we were even told by the officers that we did not need really need these things as we would be leaving in three days. It has been so long now and I still don't know when I can return home.'*

In accordance with Thai anti-trafficking laws, those identified as victims of trafficking are neither detained nor forcibly deported. Instead, they receive protection at shelters and assistance from the Thai authorities who arrange their return. However, upon returning to their countries of origin, their circumstances change. Many Chinese women are detained or fined for illegally exiting the country. The returnees are often prosecuted under Article 14 of the Entry and Exit Management Law of the People's Republic of China, which states that departments of the Bureau of Public Security can issue warnings or detain individuals for ten days or fewer in case of illegal entry and exit, forgery, alteration, or the illegal usage or transfer of travel documents. Migrants who leave China illegally, even if they do so as victims of trafficking are deemed to have violated this law since it contains no special provisions for cases of trafficking which involve informal cross-border movement. The officers of the Bureau of Public Security are known to sympathise with the situation of these returnees and argue in favour of not penalising them, while the Border Defence Officers' view is not so lenient, arguing that most returnees 'leave voluntarily and do not deserve sympathy.'

While the bilateral agreement on the return of Cambodian trafficking victims from Thailand has been effective in facilitating the return process, UNICEF's encouragement of Thai-Chinese cooperation on the issue so far has only resulted in declarations and petitions that lack executive power.

According to Article 1 of the Treaty on Criminal Judiciary Assistance signed by the Chinese and Thai governments, both parties can request extensive judicial assistance in terms of criminal investigation, prosecution and other litigious processes. The various types of assistance made available under the treaty include requests of testimonies and statements; provision of documents, records and evidence; circulation of information regarding criminal court decisions, criminal records; and the exchange of legal information. This bilateral treaty has been used to facilitate prosecutions in both China and Thailand in their fight against organised human trafficking rings and other international organised crime. However, from a practical standpoint, implementation of the treaty on the trafficking issues can create technical complications, such as identifying corresponding departments. Furthermore, the format and procedure of such request are subject to strict requirements. Because such requests must be initiated at a very high level and involve complex procedures, the effectiveness of the treaty's implementation depends heavily on whether both sides consider the case in question to be high priority. Most importantly, this treaty mainly deals with the judicial prosecution process of traffickers, not the return of victims.

### **3. Upon Return**

Most victims rescued in Thailand return home through official channels, usually by plane from Thailand to Kunming, the capital of Yunnan Province. The individuals interviewed as part of this study were picked up at the airport by the YWF staff or officers from the Bureau of Public Security who accompanied them home. The cost of transportation from Thailand to China is typically born by INGOs, and in some cases, sponsored by local NGOs in Thailand. There are also those who leave Thailand through unofficial channels without assistance from the government departments or INGOs. This group typically uses ground transportation for their return journey. A common route taken is from Mae Sai, on the Thai-Burmese border then on to Daluo in China.

Many returnees feel anxious and afraid to return home because their deportation reveals that they worked as sex workers abroad. They worry that this will bring shame on their families and that they will suffer stigmatisation by their communities. Some are unable to re-adjust to rural life upon their return. Habits picked up from their previous jobs, such as smoking, and, the different lifestyle they have become accustomed to living, including changes in their manners, behaviour and way of speaking makes reintegration into traditional, rural communities difficult. Many women have only a very basic level of education and therefore lack employable skills, while self-development opportunities are very limited. This accounts for a high proportion of returnees leaving home again to find work in large cities or abroad. Those who go abroad again mostly do so illegally.

Photo courtesy of Migrant Workers' Education and Action Research Center



Burma China border. In addition to formal crossing points like this one, there are a number of other unofficial crossing points. China, 2006.

## Arrest, Detention and Deportation in China

### Arrest, Detention and Deportation of Vietnamese Migrants

#### 1. Arrest, Detention and Deportation

The Vietnamese Ministry of Public Security estimated that 22,000 Vietnamese women and children were trafficked to China between 1991 and 1999. A total of 7,918 Vietnamese migrants who had entered China illegally were deported between 1996 and 2000.

Since 2001 the Chinese and Vietnamese governments have been conducting special campaigns and projects to address trafficking issues. According to the report by the Bureau of Public Security of Guangxi Province, the 10 special campaigns carried out between 2001 and mid-2005, the Guangxi Police assisted more than 1,800 Vietnamese trafficking victims in the area, uncovered 10 traffickers, and arrested nearly 200 suspects. In 2002, the Chinese Ministry of Public Security organised the 'Kapok Action' with the aim of identifying Vietnamese women who had been trafficked to China. The extensive cooperation between the police force in Dongxing in China and Mong Cai in Vietnam has taken place in response to the rise in instances of trafficking with the aim of assisting trafficking victims. The Bureau of Public Security in Guangxi Province worked with several public security bureaus at various levels to rescue five women and to arrest three suspected traffickers. This

operation, which involved many different government units and police forces in different regions and at various levels, was completed within two days. Similar operations were carried out in Longzhou and Pingxiang.

While the Chinese government tries to step up its efforts in rescuing trafficking victims, in reality it is difficult to distinguish between trafficking victims and illegal migrants. The involvement of organised crime in trafficking further complicates government efforts to effectively counter the problem. In accordance with Chinese law and regulations, anyone who enters or leaves the country illegally is liable to criminal sanction. Unfortunately trafficked women and children are not exempt and often find themselves in a situation where they are subjected to punishment simply because of their illegal presence in China. The Chinese police say that they recognise the complexities inherent in cases of trafficking and try to provide the necessary assistance. Nonetheless, in most instances, trafficking cases are treated simply as criminal matters.

## 2. Procedures

The Chinese police conduct special raids searching for illegal and unregistered migrants at rented rooms, apartments and places of work, such as stores in Pingxiang. When arrested, the migrants are put into a van or a truck, and transported to the nearest border gate. The unregistered migrants are liable to pay a RMB500-1,000 (USD62.5-125) fine for violating the regulations governing the registration of migrants.

Street vendors at the border gate area interviewed in the course of this research said that detention rarely happens there and explained that those taken by the police are quickly deported following over-night raids.

*‘Two years ago there was a casino here inside a two storey house next to the mobile phone shop. Most entertainers there were young girls from Vietnam, coming from many different provinces, mostly from the northern part of Vietnam, such as Nam Dinh, Thai Binh, Hung Yen (Red River Delta), or the central part of Vietnam such, as Thanh Hoa, Quang Tri, Quang Binh, not many from the south. I think they were working as sex workers. Then, the Chinese police came to clean up the casino and forced to stop its operation. I do not know where the girls went afterwards.’*

(Account of a street vendor in Rongyao trade market, Guangxi)

The Vietnamese women and children in China identified as victims of trafficking are sent to the city of Dongxiang, where the process of identifying their nationality and deporting them begins. As mentioned above, according to the relevant Chinese law and regulations, trafficking victims are essentially undocumented migrants, and the Bureau of Public Security in each province must send a deportation notice to the Vietnamese Consulate regarding the situation of the individuals concerned. The Vietnamese Consulate is required to make further investigations within 42 days of receiving the notification and inform the Chinese authorities whether they will co-operate with their deportation procedure. If the consulate does not raise any objections, the Chinese authorities must then provide detailed information regarding the planned deportation, including the time, place and a list of deportees. This information must be provided ten days prior to deportation.

An official for the government of Dongxiang indicated that the delay caused by this procedure creates a financial burden on the local government, as they are required to meet the expenses for

food, shelter and medical treatment of these women during this interim period.<sup>1</sup> Taking into an account that Dongxiang has been serving as a major stopover point for Vietnamese women and children subject to the deportation process, the Chinese Ministry of Public Security and the Bureau of Public Security of the Autonomous Region are working together to build a transfer centre for foreign women and children who are victims of trafficking. This project is to be funded by UNICEF. The Dongxiang Public Security Bureau has also enhanced its corporation with the Vietnamese Police in verifying the Vietnamese women's and children's identities in order to facilitate the deportation procedures.

In response to the complexity of the issues, some local governments in border areas have trained their staff stationed at the frontier-defence units to equip them with greater understanding of cross-border trafficking issues, for example, by familiarising them with international instruments on combating the trafficking of women and children.

### **3. Deportation of Vietnamese Spouses**

While the Chinese police force publicises their progress in tackling trafficking cases involving Vietnamese migrants, they keep much quieter about the large number of Vietnamese women who are married to Chinese men and who live in the Chinese border areas without having gone through the necessary registration procedures. Occasionally, usually when it is politically expedient to do so, the local government carries out operations to clamp down on these Vietnamese women and deports them.

Below is the account of a 30-year old Vietnamese woman who was born in a hamlet inhabited by members of the Tay and Nung ethnic groups in the Langson Province of Vietnam. She married a Choang man from China. They believe that they are from the same ethnic group that has been divided into many different branches on either side of the border where it is known by different names.

*'I was deported once around 1993 or 1994. Local government officials asked us to submit our identification papers to the local government. In fact, they wanted to deport us to Vietnam. They asked us to come to dinner, and treated us well, but we felt very anxious the whole time. The people at the Bureau of Public Security and the local government took more than 20 Vietnamese who were living in the town and put them on a bus. Some of us remained in Vietnam, while some of us came back again to the same town [in China]. Actually, what the police and the local government did was carry out orders from higher up.'*

### **4. Upon return in Vietnam**

After being deported back to Vietnam, migrants often encounter the situation where they are not welcomed by their family members as they have been away from home for long periods of time.

Worse, many returnees are not recognised as Vietnamese citizens as they do not have any papers to prove their nationality. As a result they become stateless and are not allowed to re-enter Vietnam. The Vietnamese Hukou System dictates that an individual's hukou is cancelled once he or she has been out of the country for five months, if the requisite procedures are not followed. As a result of this system, many migrants' hukou registration is cancelled, and they are unable to verify their identity for official purposes. There are also those who have lost their IDs, or had their IDs confiscated by traffickers. At the official checkpoints where the Vietnamese are dropped off by the Chinese police

the identity of the individuals is scrupulously checked, the returnees without the required documents are refused entry to their home country. There have reportedly been cases of the border guards firing at civilians who have been refused entry into Vietnam. Some manage to return home using informal routes that are in fact tracks through the jungle over high mountains. There are some returnees who are sent back to China by the traffickers who wait along the border until the Chinese police leave.

### Arrest, Detention and Deportation of Burmese Spouses

Since the year 2000, increasing numbers of Burmese women have been marrying Chinese men, mostly from Henan, Hebei, Anhui and Shandong Provinces. Recently, the number has been growing more rapidly and more widely than before, especially in Henan, reaching its peak in 2005. In response, Henan Province began a campaign to root out three types of undocumented foreigners in the area, focusing on cases of undocumented entry, undocumented residence and undocumented employment. Sixty-nine Burmese women have been arrested as a result of operations associated with this campaign, which has re-focused attention on the issue of undocumented cross-border marriages.

Undocumented Burmese women in Henan are mainly from the circumjacent areas of Mandalay, the largest city in northern Burma. Here Burmese women are trafficked to the countryside of Mainland China. The traffickers typically target those women who survive in poor living conditions in Mandalay, and take them to Ruili in Yunnan Province under the pretence that they will be provided with employment. Local people told the researchers that because the people at the border areas interact frequently, it is not difficult to smuggle people across. The women are gathered in hotels in Ruili. Here, the traffickers receive commission from their counterparts in China then return to Burma. Their counterparts will then take these Burmese women from Ruili to Kunming from where they are split up to travel deeper into China by train to meet their husbands. Typically, the Burmese women are forced to travel more than 4,000km before they reach their final destination.

Many husbands, family members, and villagers consider the Burmese brides as 'good people' and members of their family and community. They share their disagreement with the police's motivations for arresting them. The Henan police have carried out numerous arrest and deportation operations targeting undocumented Burmese brides under the campaign mentioned earlier. While some of the women who were trafficked to Henan and have no children may be happy to return home following police operations, those who wished to be married in Henan or who have given birth to children since arrival do not want to return to Burma. The police are sometimes accused of breaking up families and are confronted by angry villagers. They argue with the police saying that the couples married of their own free will and that the brides were not kidnapped or deceived.

Once arrested, it takes four days for the police to transport the Burmese women from Henan Province to Ruili in Yunnan Province. The police accompany the women on board the train to Kunming from Henan Province and make sure they do not escape during the journey. The women are not handcuffed during this process. Upon arriving in Kunming, the women are given introductory notes regarding their situation by the local police and travel by car through the mountains to reach Ruili, where they are inspected by the officers at the detention centre. The task of deporting the Burmese women is considered a chore by the local police as it requires a lot of manpower and the expenses are limited to a fixed government amount set at RMB1,500 per deportee. In reality this sum is never enough to cover the costs of the entire process.

Xincai Country Public Security Bureau has deported four batches of undocumented Burmese women, a total of more than 30 individuals since 2005, though some of these women have since returned covertly to Xincai.

According to the Exit-Entry Administration Department of Public Security Bureau in Henan Province, a note regarding the problem of illegal cross-border marriages was sent to the Embassy of the Union of Myanmar in China, but there has been no response to date. Those working in the field in China say that the problem could be solved by active cooperation and discussion between the Chinese and the Burmese authorities, but confess that this seems 'impossible' to achieve.

### *Endnotes*

<sup>1</sup> According to Qi Fuwei, Director of Dongxiang Public Security, interviewed by China CRT in 2006.

Photo courtesy of Cambodian Women for Peace and Development (CWPD)



A number of Cambodian children congregate in the street in front of An Dong Market to beg. Ho Chi Minh City, Vietnam, May 2006.

## Arrest, Detention, and Deportation of Cambodian Migrants in Vietnam

The majority of migrant Cambodian women and children living in Ho Chi Minh City earn money through begging. The transient nature of their existence means that they are constantly at risk of being arrested by the Vietnamese police, both because of their irregular immigration status and for various criminal offenses, such as ‘disturbing social order’.

### 1. Policies in Vietnam Concerning Migrant Beggars

The Vietnamese government has responded to the issue of migrant beggars by adopting a twin ‘rights protection’ and ‘social order’ approach.

The Vietnamese government considers street sleepers and those working on the street as people in need of protection. The key institution in charge of providing services to Cambodian beggars and assisting them to return home is the Social Protection Section, a state-owned organisation that belongs to the Ho Chi Minh City Department of Labour, Invalids and Social Affairs (DOLISA). The Section manages shelters for street people, beggars, the elderly and other people in need. These shelters are located in Song Be, Dong Nai, Lam Dong, and Long An Provinces. The Children Protection and Family Committee (CPFC) has assisted DOLISA in its collection of information in order to reach out to the shelters’ target groups.

While migrant beggars may be offered this limited protection, they remain the target of police operations that seek to arrest migrants under the guise of protecting social order and security. Decree

Photo courtesy of Cambodian Women for Peace and Development (CWPD)



An Dong Market, a popular place for Cambodian children to go to beg. Ho Chi Minh City, Vietnam, May 2006.

number 36, issued in May 1995 remains in force and is known as the ‘clear roads and pavements decree’. Its objective is to regulate and to limit economic activities on the streets in HCMC and to prevent itinerant traders and those without permanent shops or market stalls from selling and hawking on the sidewalk.

Following this Decree, the HCMC Peoples’ Committee (HCMCPC) issued Instructions 33 and 34 on 3 November and 11 December 1997 respectively. These instructions banned the act of begging and charged local authorities with orders to pick up beggars under 14 years of age. Furthermore, a nation-wide circular from DOLISA issued on 15 April 1998 instructed local authorities to pick up abandoned or homeless children and vagrant beggars and to follow certain procedures to aid their rehabilitation. In 2004, the HCMCPC issued some other decisions, such as Decisions 104, 105, 106, 107/QD/UBND, that further regulate and prohibit vagrant people from living on the streets or in public places, on the grounds of protecting urban sanitation, urban management, the urban landscape and traffic circulation. The HCMCPC declared 2004 to be ‘the year of urban order and safety’.<sup>1</sup>

Meanwhile, DOLISA has built and upgraded shelters surrounding HCMC for vagrants, the homeless, street children and the elderly. These groups will be stationed at shelters until they can be sent back to their home country or reunited with family members.

In addition to the Social Protection Section of DOLISA, UNICEF, the IOM and the Women’s Union have supported similar programs aimed at assisting Cambodian beggars, through documentation, food provision, and coordination with the Cambodian authorities during the repatriation process.

## 2. Arrest

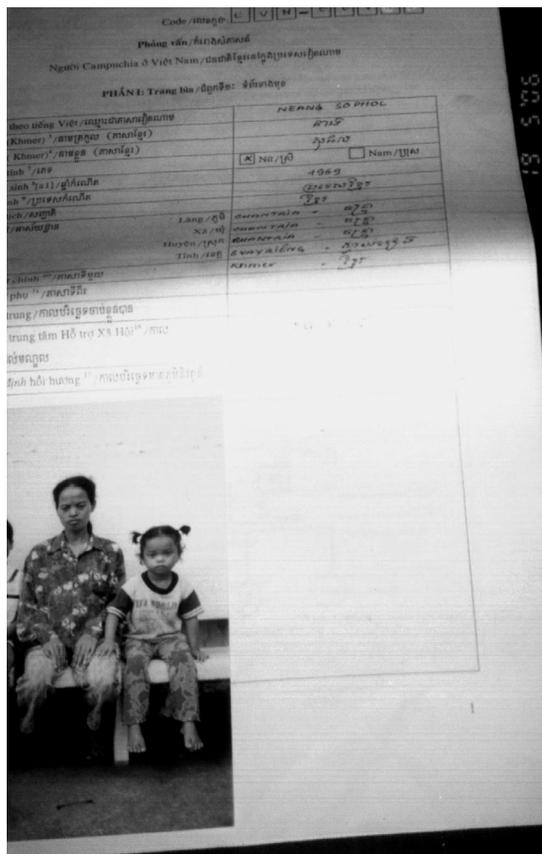
When migrant children are picked up off the streets and transferred to shelters, pending their return to Cambodia, the authorities consider this process one of ‘rescue and repatriation’. However, most of the Cambodian migrants interviewed for the purpose of this study perceived themselves as having been ‘arrested, detained, and deported’. Thus, the terms ‘arrest’, ‘detention’, ‘deportation’, and ‘prison’ will be used in the following sections, which are based on the migrants’ own perception of their experiences.

Beggars are often arrested near large markets in HCMC, such as the Cho Lon market, the Ba Chieu market, and the Nga Bay market, or in front of the Cho Ray Hospital where they sleep at night. The Vietnamese police usually go to these areas to arrest them at around 8 p.m. The arrests are carried out more frequently during the New Year. Police frequently arrest between 10 - 20 beggars during a single midnight raid in a park. If the police raid a market, they usually arrest only two - five beggars at a time. When a child is arrested, his or her mother often shows up at the police station to stay with her child in jail.

*‘I have been to HCMC three times but I could never bring any money home as either I or my children were caught by the police within a few days of our arrival. When my children were caught, I decided to go to prison to look after them. Before I left my village, I borrowed around USD16 from my neighbors to pay for our travel expenses and promised to pay them back in one month. I couldn’t even manage to pay back the debt and now, as you can see, I am poorer than when I left.’*

(37 year-old woman, from Khbal Thnol Village, Thnout Commune, Kampong Ror District, Svay Rieng Province)

During an operation, a few policemen will surround their target and drive him/her on a motorbike to a police station. He/she will be detained while more migrant beggars are arrested and brought in, until eventually they are all taken together in a van to a detention center.



A form for Cambodian migrants in Vietnam who are arrested for begging to fill. This document will be sent to the Cambodian Social Affair Department to look for the home address of the migrants before they are sent back to Cambodia, May 2006.

Photo courtesy of Cambodian Women for Peace and Development (CWPD)

Photo courtesy of Cambodian Women for Peace and Development (CWPD)



A 34 year old woman tells her experience of being arrested and deported from Vietnam. Kampong Roar District, Svay Rieng Province, Cambodia, May 2006.

*'I was arrested at the Cho Lon market at about 8 p.m. when I was begging on the street. Then I was put onto a motorbike and taken to a detention center along with three other people. I was made to sit in the middle. Only when I was brought there did I learn that the reason for my arrest was that I had entered Vietnam illegally and that I was deemed to be disturbing public order.'*

(40 year-old from Thnout Commune, Kampong Ror Ddistrict, Svay Rieng Province, interviewed in May 2006)

During large-scale operations, police and soldiers raid locations where clusters of beggars congregate and live together. The arrested migrants are taken directly to a detention centre in a van brought along by the police. Some children manage to flee from these mass arrests and are helped from time to time by local Vietnamese vendors.

*'When my mother was arrested in Cho Lon market at around 9 o'clock in the morning, I was begging some distance from her. I went to hide behind a stall and the owner just kept quiet and didn't inform the police. However, when I went out of the market and found out that I had lost her, I decided to present myself to the police so that I could be taken to the shelter.'*

(10 year-old girl from Kbal Thnol Village, Thnout Commune, Svay Rieng Province interviewed in May 2006)

Migrants who were interviewed for this study said that the police did not use force during their operations unless migrants attempted to resist or fight back. Once arrested, the migrant beggars are required to complete a form in which they write down their names and their accompanying dependents' gender, date of birth, and nationality. They must then sign a contract to declare that they will never come to beg in Vietnam again. Migrants complete this form at the police station if a small number of them are caught or later on at a shelter if they are caught in a large number.

### 3. Detention

As mentioned above, migrant beggars are sent to shelters such as those at Ben Luc, Song Be, or An Dong. These places are officially considered 'shelters', though for all intents and purposes they are described as detention centres by the migrants interviewed for this study.

On average the migrants interviewed in the course of this study remained in a prison, detention centre or shelter for around one month.

*'I was arrested on 26 January 2006 at the Nga Bay market along with two other Cambodian women and five children. The arrest took place at around 9 p.m. while we were begging. We were all put into a van (with iron bars) and transferred to the Ben Ley Detention Centre. I was there until 25 February 2006, then I was deported together with around 75 other people to Svay Ra Pagoda, in Svay Teap District in a bus provided by the Vietnamese authorities. The Vietnamese authorities told me that I would be there for up to one month because they were required to wait for our document files to be checked and confirmed by the Cambodian authorities. So during this period I couldn't make any money and I was returned home against my will and empty handed.'*

(38 year-old women from Kbal Thnol Village, Thnout Commune, Kampong Ror District, Svay Rieng Province, interviewed in May 2006)

In interview, migrants referred to the condition in the prisons as 'crowded'. Around 100 - 180 people, mostly women and children, were placed in each prison cell/compound. Men and women were detained separately, and Vietnamese detainees were separated from the Cambodians. Most of the rooms were equipped with electric lights and a toilet, which made the conditions a little better than sleeping on the street or in a park. Dirty clothes were collected to be washed and brought back in the evening. Migrants had to clean their own rooms.

They were provided with only two meals per day. The food was neither sufficient nor good, but migrants were able to buy additional food from the vendors near the prison fence with the permission of the guards.

*'I received two meals a day at the An Dong center. However, I sometimes could not stand the same oily food cooked in a large frying pan, so I used our own money to buy snacks and food from the vendors outside the centre. The guards allowed us to take the food to eat with my children inside the centre.'*

(32 year-old woman from Chantrea District, Svay Rieng Province, interviewed in May 2006)

Detained migrants slept on the floor or on the plastic sheets they owned. Electric lights and fans were switched on but the detainees were nevertheless bitten by mosquitoes. When they fell ill, they received treatment from a designated physician at the prison with the assistance of a Khmer speaking interpreter. Their illness was sometimes attributed to “not being clean”, and as a result some migrants were too afraid to tell the guards when they fell ill.

‘A woman from Bon Village of Thnout Commune was very sick and had blood in her vomit while she was imprisoned at the Song Be prison. She was too afraid to tell the guards. The prison guards eventually found out and sent her to hospital but it was too late and she died. The Vietnamese authorities cremated the body and sent the ashes back to her family in Cambodia.’

(According to the village chief of Thnout Commune, Svay Rieng Province, interviewed by the Cambodian CRT on 17 May 2006)

Sometimes migrants argued amongst themselves in detention, and received warnings and punishments from the guards.

“Three other women and I had an argument and accused each other of cheating over a game of cards. We received a few warnings from the prison guards but we did not stop. We were then ordered to lie down and were each whipped 10 times as a punishment. One of the women among us was three months pregnant. She came from Chantrea Commune, Chantrea District. As a result of the punishment, she had a miscarriage. The Vietnamese police made an apology and sent her to a hospital.”

(34 year-old female, from Thnout Commune, Kampong Ror District, Svay Reang Province)

Children were very afraid of the prison guards. This fear has become embedded in the culture to such an extent that mothers invoke the frightening image of prison guards, instead of the traditional ghosts used in folklore, in order to make their children listen to them. Children said they are also afraid of ghosts, since it was rumoured that several people had died in the prison cells in which they were detained.

‘When I first arrived in the prison, I was told by the other prisoners that there were people who had died in this room. And when the night time came, even though some of the lights were still on, I was so afraid that I did not dare walk away from my mother.’

(7 year-old girl from Thnout Commune, Svay Rieng Province, interviewed in May 2006)

There were a few who attempted to escape from the prison after gaining the confidence of the guards.

‘One of the detainees in the same room as I was around 25 years old and was without an accompanying child. She asked the guard to allow her to go out and buy some stuff, and then never came back.’

(38 year-old women from Kbal Thnol Village, Thnout Commune, Kampong Ror District, Svay Rieng Province interviewed in May 2006)

#### 4. Deportation

When the Cambodian Country Research Team (CRT) interviewed the authorities and migrant returnees in Thnot Commune, they received the following data. Below are examples of the data provided by the authorities regarding deportations carried out on two separate occasions:

The number of people deported on 29 December 2005												
Total	Kampong Ror District				Chantrea District				Svay Teap District			
	Total	Women	Men	Children (under 18)	Total	Women	Men	Children (under 18)	Total	Women	Men	Children (under 18)
<b>128</b>	<b>53</b>	<b>14</b>	<b>10</b>	<b>29</b>	<b>75</b>	<b>14</b>	<b>6</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

The number of people deported on 24 February 2006												
Total	Kampong Ror District				Chantrea District				Svay Teap District			
	Total	Women	Men	Children (under 18)	Total	Women	Men	Children (under 18)	Total	Women	Men	Children (under 18)
<b>163</b>	<b>110</b>	<b>25</b>	<b>5</b>	<b>80</b>	<b>52</b>	<b>9</b>	<b>7</b>	<b>36</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>0</b>

When migrants are released from detention, their belongings are returned to them. In addition, some receive second-hand clothes. They are then usually transferred to Cambodia by bus. Some migrants interviewed said the bus had enough seats while others said there were about 60 people squeezed into a 40-seat bus.

*'My group and I were sent back by bus. There were not enough seats for everyone, so old people sat on the seats and children sat in between them'*

(12-year old boy in Thot Commune, interviewed in May 2006)

According to Mr. Sok Samon, Chief of the Social Affair Department in Chantrea District,<sup>2</sup> deportations are carried out in accordance with the following procedures:

Firstly, the Vietnamese authorities send a list of the deportees' names, photos, and other details to the Cambodian Social Affairs Department in order to locate their home address, which, when confirmed, is sent to the Vietnamese authorities. Then specific removal directions are arranged between the Cambodian and Vietnamese authorities. On the last occasion, they deported Cambodian migrants to Svay Teap District, Svay Reang Province. Once in Svay Teap, the Vietnamese authorities handed the deportees' name list to the Cambodian authorities. From then onwards, they became Cambodia's responsibility.

Upon their return to Cambodia, the migrants are 'educated' regarding regulations by officers

Photo courtesy of Cambodian Women for Peace and Development (CWPD)



Many children have been to Vietnam to beg, while only a few have experienced arrest, detention and deportation by authorities. Kampong Roar District, Svay Rieng Province, Cambodia, May 2006.

of the Social Affairs Department and provincial governors, who warn them that they will be arrested and put in jail if they are deported back from Vietnam again. Migrants are also told that Cambodian people migrating to Vietnam for the purpose of begging destroy the name and image of their home country. After the education session, which lasts around one day, people are transported to their native villages. Some opt to take a motor-taxi home by themselves.

There are also a number of anti-trafficking measures in place. Local authorities in Chantrea District conduct regular quarterly meetings with the Vietnamese authorities from many districts such as Ben Cau, Tan Bien districts in Tay Ninh Province, Dong Ve, Tan Hoa, and Moc Hoa districts in Long An Province to discuss cross-border coordination. The local officials from the Social Affairs Office regularly follow up regarding children who have been returned. Parents of children who have been deported are required to sign a contract with the Social Affairs Office promising that they will never allow their children to beg in Vietnam again. Meanwhile, the agents may also find the trafficking business less lucrative; many children have been deported, thus leading to a loss of profit for them. As a combined result, the phenomenon of the trafficking of migrant children may be gradually decreasing.<sup>3</sup>

*Endnotes*

<sup>1</sup> Government of Ho Chi Minh City. Last accessed at : <[www.hochiminhcity.gov.vn/home/left/tin\\_tuc/tin\\_thoi\\_su/2003/dan/News\\_Item.2003-11-04.0722](http://www.hochiminhcity.gov.vn/home/left/tin_tuc/tin_thoi_su/2003/dan/News_Item.2003-11-04.0722)>; <[www.hochiminhcity.gov.vn/home/left/tin\\_tuc/tin\\_thoi\\_su/2003/dan/News\\_Item.2003-11-05.5613](http://www.hochiminhcity.gov.vn/home/left/tin_tuc/tin_thoi_su/2003/dan/News_Item.2003-11-05.5613)>; and <[www.hochiminhcity.gov.vn/left/congbao/vb\\_qppl/vb\\_ubnd/2003/quy2\\_2003](http://www.hochiminhcity.gov.vn/left/congbao/vb_qppl/vb_ubnd/2003/quy2_2003)>.

<sup>2</sup> Interviewed by the Cambodia CRT on 19 May 2006.

<sup>3</sup> Information provided by Kong Vosar, the Deputy Governor of Chantrea District, interviewed by the Cambodia CRT, May 2006.

Photo courtesy of Cambodian Women for Peace and Development (CWPD)



An informal border crossing point. One among many where there is no local authority or police presence, making it easy to go back and forth between Cambodia and Vietnam. Kampong Roar District, Svay Rieng Province, Cambodia, May 2006.

## Arrest Detention & Deportation of Vietnamese Migrants in Cambodia

### 1. Background: Migration from Vietnam to Cambodia

Nine provinces of Cambodia share borders with Vietnam.<sup>1</sup> Aside from official border check-points, there are numerous unofficial crossing points. These are often covered in dense forest, providing easy cross-border access and keeping undocumented migrants safe from the inspections of border guards and other authorities.

It has been previously reported that migrants pay between USD30-50 to corrupt Cambodian border officials at major checkpoints such as Chrey Thom, Bavet and Ka-om Samnor, while others avoid border controls altogether by using remote crossings.<sup>2</sup> Although Vietnamese migrants use a number of routes to enter Cambodia and travel to various destinations including Phnom Penh, the Cambodia Country Research Team (CRT) chose Kandal Province as their case study for the purpose of their research on arrest, detention and deportation. While the scope of their research is limited, it is hoped that this chapter will nonetheless provide an overview of some of the important issues.

#### Kandal Province

There are 11 districts in Kandal Province: Ponhea Lueu, Ta Khmau, Angk Snuol, S'ang, Kien Svay, Kaoh Thum, Khsach Kandal, Kandal Stueng, Leuk Daek, Lvea Aem, and Mukh Kampul. Among these districts, only Kaoh Thum District shares its borders with Vietnam. Kaoh Thum's, Preaek Chrey Commune and Sampov Lun Commune are located along the border shared by the Ang Yang

and Kien Yang Provinces in Vietnam. In addition to the one official international border gate along the Tonle Basak River, there are many other unofficial crossing points, such as those at Prek Chrey Long Ben, Kin Ang, Pak Nam, Dong Ki, Dong Ben, and Khnar Tang You, where people cross by boat.

Prek Chrey is the most popular unofficial crossing point with an estimated 300 - 400 migrants passing through every year.<sup>3</sup> Since this crossing point is mostly covered by thick forest, it is easy for migrants to flee from the police if apprehended. A large number of Vietnamese immigrants— around 900 families who came during Vietnam's occupation of Cambodia between 1979 and 1988- reside in the Vietnamese territory across the Prek Chrey border. This established community makes it even easier for Vietnamese people to come to Cambodia. The shared culture and religion of the two countries, as well as the relative ease for Vietnamese people to pick up the basics of the Khmer language all contribute in making the cross border migration to Cambodia a relatively casual decision.<sup>4</sup>

Despite Vietnam's recent economic growth, provinces such as Ang Yang, Kin Yang and Dong Thap in Vietnam face serious problems such as widespread poverty and high rates of illiteracy. The decision to migrate is often a matter of survival. Migrants interviewed in the course of this study said that they cannot make a living by growing crops on small-scale land holdings. They complained that they do not have enough land to make their agricultural produce competitive and that wage levels are very low.

On the other hand, many Cambodian people from Kandal Province would rather not live in the areas close to the border. Thus, the land in these areas tends to be unoccupied, making it possible for Vietnamese people to move in and grow crops. Vietnamese people can rent a hectare of land for a period of three to six months for VND1,500,000 to 2,000,000 (USD93.75-125). As the Tonle Basak River is abundant with fish, Vietnamese migrants are employed by Cambodian employers to work as fishermen along the river. The Cheu Khmou Commune in Kandal province was cited by interviewed migrants as one of the easier places to live, as most of the land is unoccupied and is not often frequented by the Cambodia police.

Vietnamese migrants who come to Cambodia via the above mentioned crossing points can generally be divided into the following two categories.

- 1). Migrants who stay in Cambodia for one day with a day pass which costs them VND2,000-5,000 (USD0.13-0.31). Only people living in the provinces adjacent to the border such as Ang Yang and Kien Yang can obtain such a pass. People from other provinces are required to obtain more formal documentation such as a visa and a passport.
- 2) Migrants who register for a temporary residential card once they arrive in Cambodia. It costs about VND100,000- 500,000 (USD6.25 – USD31.25) to obtain such a card, which is valid for three months.

The second group of migrants who stay in Cambodia for the short to medium term, often stay with their relatives who are permanent residents. Many live on houseboats while others live on land. Those living on land may build a cottage in the bean or corn fields which they lease from Cambodian landlords.

Vietnamese migrants living in the border areas in Kandal Province are commonly employed in fishery, cultivating vegetables, working as seasonal labourers in rice or corn fields during the harvesting season and working as boatmen. Vietnamese children are also hired to work on fishing boats for which they only receive around VND8,000 (USD0.5) for a day's work.

Migrants usually bring the money that they have earned back to Vietnam when they return home rather than risk remitting it through other channels.

## **2. Arrest**

According to the migrants interviewed in the course of this study, most arrests occurred when they were at work in areas such as Chheu Khmau Commune, Sampov Lun Commune, and Preaek Chrey Commune in Kandal Province, where the community of Vietnamese migrants is more visible. Typically several Cambodian police officers at the commune level will approach suspected migrants carrying firearms and handcuffs. After the arrests take place, the police will escort the Vietnamese migrants to a police station. The male migrants are handcuffed while female migrants are usually left without handcuffs. These type of arrests usually occur during daylight hours.

A police officer from Chheu Khmau Commune stated that it is difficult to arrest Vietnamese migrants because they can simply escape into the jungle of thorny plants. Moreover, as migrants often build small cottages in the fields or farms where they work, this makes it easier for them to evade possible arrest by escaping into the forest. Furthermore, there are many Vietnamese people who have lived for more than 20 years on the Cambodian side of the border. Though lacking formal documentation, these people are recognised as pseudo or de-facto Cambodian citizens. It is therefore hard to find other types of irregular Vietnamese migrants who are hiding among the immigrant population. Police officers will not go out of their way to arrest migrants unless there is a strong suspicion.

## **3. Detention**

Once arrested, migrants are brought to a police station where they can be detained for at least 24 hours. For those who can afford a fine of VND 500,000 to 1,000,000 (USD31.25-USD62.5), their detention is usually brief, and they are dealt with and sent home in a timely manner. Those who cannot afford the fine, maybe kept in detention for more than 24 hours. The fine for migrants who come to Cambodia with a one day pass and then overstay is lower, typically ranging between VND100,000 to 400,000 (USD6.25-USD25). The detention cells in police station where migrants are held are usually equipped with a bed but are without sheets, blankets, electricity, water, or mosquito nets. The detainees must obtain permission from a guard if they want to go out of the cell to use the toilet. Migrants detained in the police station are often asked to do some chores such as carrying buckets of water or baskets of soil, or are made mow the lawns. Migrant women seem to be treated better as they do not have to do these chores, though they are required to clean their rooms. They are also provided with a mat, a pillow, a blanket and a mosquito net for their cell. If detained migrants fall ill, a Vietnamese physician is available but migrants have to pay for the treatment fee and medicine they receive.

## **4. Deportation**

Migrants are escorted by the Cambodian police to the border on foot or by boat. They are not handcuffed during this part of the deportation process. Once they reach the border, the Cambodian

police will hand the migrants over to the Vietnamese police. However, sometimes there are no Vietnamese police in attendance at the transfer area. If this is the case migrants will either return alone to their families in Vietnam or return immediately back to Cambodia.

***Endnotes***

<sup>1</sup> See Cambodia report, p.12.

<sup>2</sup> AMC & MMN, *Migration in the Greater Mekong Subregion*, 2002, p.58.

<sup>3</sup> According to a police officer in Prek Chrey Commune, interviewed by the Vietnam CRT 2006.

<sup>4</sup> According to Mr. Vi, a police officer in Prek Chrey Commune, interviewed by the Vietnam CRT 2006.

## Regional Recommendations

In the course of this study into the issues surrounding arrest, detention and deportation, it became increasingly obvious that the existing legal migration channels in the GMS are too restrictive and/or expensive for the majority of poor people to access. Thus, migrants are effectively forced to seek illegal channels of migration even if this involves the risk of facing exploitative recruitment practices, having to pay bribes, and braving the physical danger involved in crossing the border illegally. Even when migrants register with the government of their host country, their immigration status remains a pseudo-legal mechanism to monitor and restrict their movements. Under such systems, migrants remain vulnerable to the risk of arrest, detention and deportation.

It is essential that all parties concerned address the administrative systems that leave migrants with little option but to seek illegal employment, which inevitably involves bribes, illegal brokers and illegal recruitment practices. Any policy of managed migration should aim to create an enabling social and political environment where migrants can seek a safe and fair migration channel subject to their own life choices rather than enforcing restrictions on individuals' mobility. Migrants who escape from exploitative employers are often referred to by the authority as 'runaways'; it is they who are seen as the problem, rather than their abusive employers. However, what seems to be missing is any sort of governmental response to the issues that are pushing migrants to "run away", such as exploitation in the workplace, the lack of labour rights, and poor occupational health and safety (OHS) standards.

In order to address the human rights issues raised by the routine arrest, detention and deportation of migrants, we would urge governments in the region to: 1) cease the criminalisation of migrants; 2) promote decent working and living conditions in order to prevent situations where migrants become subject to arrest, detention and deportation; and 3) reform the procedures of arrest, detention and deportation to make them more humane, transparent and subject to independent legal oversight.

### **Recommendations to prevent the criminalisation of migrants**

Migrants have a right to mobility in their destination country. There should be no restriction imposed on this right. There are also a large number of people in the GMS who are stateless. These individuals are particularly vulnerable to arrest, detention and deportation.

In this regard, we submit the following set of recommendations to be implemented by governments in the GMS:

1. That GMS governments immediately repeal restrictions placed on the mobility of migrants imposed by Cabinet Resolutions.
2. That all peoples in the GMS have a right to be recognised as citizens in their country of origin.
3. That national legislative bodies issue recommendations that promote decent working and living conditions in order to prevent situations where migrants are subject to arrest, detention, deportation.

4. As explained above, migrants are always at risk of arrest, detention and deportation in absence of access to proper channels of legal migration. Therefore it is recommended that GMS governments provide proper channels for all people to legally migrate for the purposes of work.
5. Many migrants are arrested despite being registered with the authorities, if for example they fail to carry their identification documents. We recommend a halt to such arrests.
6. For the GMS government agencies to rigorously enforce the law that prohibits the confiscation of personal identification documents and to hold anyone who confiscates migrants' documents accountable. Migrants should not be criminalised if their documents have been confiscated.
7. Relevant immigration and employment laws should provide for migrants who are forced to leave the employer with whom they are registered because of abuse.
8. That the GMS governments recognise migrants' right to join and/or form trade unions, and to allow these trade unions to be registered when formed.
9. That GMS policy makers to standardise working conditions, including those relating to minimum wages and working hours, through legally enforceable labour laws and contracts.

**Recommendations to ensure procedures of arrest, detention and deportation more humane and transparent**

In circumstances where arrest, detention and deportation are unavoidable, the following recommendations should be implemented to ensure that the process is more humane and transparent.

**Throughout the ADD processes**

*Addressed at all GMS countries:*

10. For all GMS governments to ensure that no mandatory HIV tests are carried out in the course of the deportation and return process.
11. That the relevant government authorities in the GMS make information relating to the laws, policies and procedures governing arrest, detention and deportation publicly available and accessible to migrants throughout the region.
12. For migrants facing abusive circumstances, the government authorities should provide a channel whereby they can seek assistance without fear of arrest, detention and deportation.
13. That GMS governments grant migrants leave to remain in their host country for the duration of any pending litigation where for example migrants pursuing an employment law matter through the courts.

14. We urge all guilty parties to cease the extortion and blackmailing of migrants during the processes of arrest, detention and deportation. We recommend that the authorities provide greater oversight into enforcing discipline in the behavior of their officials and transparency in their practices.

*Addressed at receiving countries:*

15. That the concerned authorities in the GMS ensure that migrants are immediately released and receive compensation in cases where migrants are unlawfully detained (i.e. those arrested with legal status or during the tsunami.)
16. When migrants decide to return to their home country and request assistance from the authorities, they should provide protection and facilitate their safe return. We recommend relevant international agencies, such as the IOM, to coordinate with relevant governments on this matter.
17. That all GMS governments prosecute with the full force of the law those who physically and/or sexually abuse migrants during the arrest, detention and deportation process.

**Arrest**

*Addressed at sending countries:*

18. We encourage the embassies of migrants' home countries to appoint labour attachés with sufficient funding, staffing and a clear mandate to protect the country's migrant workers.
19. We recommend that labour attachés be trained on migration, labour rights and counseling skills in order to promote the rights of their compatriot migrant workers.

*Addressed at receiving countries:*

The following recommendations are addressed to receiving countries where there are presently no standard procedures concerning the arrest, detention and deportation of migrants. Currently migrants are not subject to any clearly laid out procedures. Consequently, they have very different experiences in relation to the reasons surrounding their arrest, how they are arrested, when they are arrested, and what happens to them after arrest.

**Procedures**

20. That the police, immigration, and border control officers to develop standard procedures in collaboration with migrant groups and civil society to support migrants from the GMS and disseminate information concerning arrest, detention and deportation among migrant communities.
21. That relevant authorities develop clear standards that apply to all individuals including migrants regarding their stop and search policies e.g. in the checking of ID documents

and in searching for drugs and other contraband. These policies should be in line with the internationally accepted standards of professional practice such as those contained in the UN basic principle on the Use of Force and Fire Arms by Law Enforcement Officials and the standards set by the National Human Rights Commission, etc.

22. That the respective authorities ensure that their practices and procedures do not leave migrants subject to arbitrary arrest. There must be a clear policy and mechanisms protecting migrants against unreasonable arrest and seizures of their belongings.
23. That the governments of receiving countries set up independent institutions where migrants can raise complaints about arrest procedures.
24. That the relevant GMS governments provide arrested migrants with access to appropriate legal aid and support services, including services provided by NGOs and consulate staff.
25. That relevant authorities employ professional interpreters at their police stations in areas where there are large numbers of migrants. In other areas, they should be in contact with NGOs or embassies that can provide interpreting services when needed.
26. That the relevant authorities cease the practice of night-time arrests and dawn raids. In cases where such actions are deemed necessary and appropriate they must be subject to rigorous legal oversight.
27. That relevant authorities ensure migrants' belongings are returned if confiscated.
28. That all the parties concerned ensure that arrested migrants are paid in full the wages and benefits owed to them.
29. That all governments instruct law enforcement officials, during basic training and all subsequent trainings, on the provisions of national legislation in accordance with the UN Code of Conduct for Law Enforcement Officials, as well as on basic international human rights standards applicable to law enforcement officials.

### **Detention**

#### *Addressed at sending countries*

30. That embassies provide consular services, including the provision of necessary documentation for migrants.
21. That embassies of migrants' home countries play more active roles in assisting migrants held in IDCs.<sup>1</sup>

*Addressed at receiving countries*

32. That the authorities of receiving countries improve the sanitary and other facilities at their detention centres. To ensure that migrants are provided with clean toilets, drinking water, decent bedding, appropriate space, and food, when subject to detention.
33. That the authorities provide separate quarters for male and female migrants held in detention, in addition to making appropriate arrangements for families.
34. That the authorities facilitate the provision of appropriate services and medical care to children, pregnant women and migrants with health needs at the IDCs.
35. That the authorities minimise periods of detention.
36. That the authorities immediately refer migrants to the UNHCR if they identify themselves as refugees, or if they describe circumstances that signal that they may be in need of international protection.
37. That the authorities at detention centres prevent abuse from occurring among detainees, particularly resulting from the practice of using long term detainees as prison leaders.
38. That the authorities ensure that all detainees are treated humanely in accordance with international principles and standards governing the use of administrative detention.
39. That the authorities provide bi-lingual social workers with appropriate language skill in response to the needs of the detainees.
40. That the authorities allow regular visits by independent organisations, such as representatives of civil society groups, the UNHCR, welfare institutions, NHRCs, etc.
41. That the authorities assign appropriate numbers of female immigration and police officers to police stations and IDCs.

**Deportation***Addressed at sending countries*

42. That governments of sending countries negotiate an end to mass deportations.
43. That governments of sending countries negotiate on behalf of migrants for humane conditions during the deportation process, and to ensure that deportation are carried out in a humane and safe manner.
44. That sending countries respond swiftly with appropriate services when mass evacuation of migrants is required (e.g. in cases of natural disaster or war.)

***Addressed at receiving countries***

All deportations must be carried out in a way that respect the human dignity and safety of the deportee, including ensuring they are given toilet stops and that appropriate forms of transportation are guaranteed.

**Mass deportation**

45. The mass deportation and systematic or repetitive expulsion of migrants constitute a violation of human rights under international law. Such actions leave those expelled subject to unchecked abuse and danger. We urge governments to halt mass deportations and systematic expulsions of migrants.

46. That the governments of receiving countries grant amnesties to migrants to avoid situations where mass deportation are considered necessary.

47. That governments explicitly declare that mass deportations are illegal and to prohibit them under domestic law, policy and practice.

**Other forms of deportation**

48. That governments cease to collect fees from migrants in order to pay for their own deportation.

49. That host governments never deport migrants if they cannot guarantee the deportees' safety and security in their countries of origin.

***Addressed at countries of origin:***

50. When migrants have been deported or have returned voluntarily to their countries of origin, we urge their governments not to treat them as criminals and subject them to punitive sanctions such as fines and imprisonment.

***Endnotes***

<sup>1</sup> The term IDC in this section is used to cover all forms of detention facilities used to hold migrants including police holding cells, immigration holding cells, and immigration detention centres.

## Appendix 1

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE GOVERNMENT OF THE KINGDOM OF THAILAND  
AND  
THE GOVERNMENT OF THE KINGDOM OF CAMBODIA  
ON COOPERATION IN  
THE EMPLOYMENT OF WORKERS**

**THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE KINGDOM OF CAMBODIA.**

hereinafter referred to as “the Parties”;

RECOGNISING the principles enshrined in “The Bangkok Declaration on Irregular Migration of 1999”;

BEING CONCERNED about the negative social and economic impacts caused by illegal employment;

DESIROUS of enhancing mutually beneficial cooperation between the two countries;  
HAVE AGREED AS FOLLOWS:

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### OBJECTIVE AND SCOPE

#### ARTICLE I

The Parties shall apply all necessary measures to ensure the following:

- 1) Proper procedures for employment of workers;
- 2) Effective repatriation of workers, who have completed terms and conditions of employment or are deported by relevant authorities of the other Party, before completion of terms and conditions of employment to their permanent addresses;
- 3) Due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights they are entitled to;
- 4) Prevention of, and effective action against, illegal border crossings, trafficking of illegal workers and illegal employment of workers.

This Memorandum of Understanding is not applicable to other existing processes of employment that are already in compliance with the laws of the Parties.

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**AUTHORISED AGENCIES**

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**ARTICLE II**

For the purpose of this Memorandum of Understanding, the Ministry of Labour of the Kingdom of Thailand and the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation of the Kingdom of Cambodia shall be the authorized agencies for the Government of the Kingdom of Thailand and for the Government of the Kingdom of Cambodia respectively.

**ARTICLE III**

The Parties, represented by the authorized agencies, shall hold regular consultations, at senior official and/or ministerial levels, at least once a year on an alternate basis, on matters related to the implementation of this Memorandum of Understanding.

The authorized agencies of both Parties shall work together for the establishment of procedures to integrate illegal workers, who are in the country of the other Party prior to the entry into force of this Memorandum of Understanding, into the scope of this Memorandum of Understanding.

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**AUTHORISED AND PROCEDURE**

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**ARTICLE IV**

The Parties shall take all necessary measures to ensure proper procedures for employment of workers. Employment of workers requires prior permission of the authorized agencies in the respective countries. Permission may be granted upon completion of procedures required by laws and regulations in the respective countries.

The authorized agencies may revoke or nullify their own permission at any time in accordance with the relevant laws and regulations.

The revocation or nullification shall not affect any deed already completed prior to the revocation or nullification.

**ARTICLE V**

The authorized agencies may through a job offer inform their counterparts of job opportunities, number, period, qualifications required, conditions of employment, and remuneration offered by employers.

**ARTICLE VI**

The authorized agencies shall provide their counterparts with lists of selected applicants for the jobs with information on their ages, permanent addresses, reference persons, education, experiences and other information deemed necessary for consideration by the prospective employers.

## **ARTICLE VII**

The authorized agencies shall coordinate with the immigration and other authorities concerned to ensure that applicants, who have been selected by employers and duly permitted in accordance with Article IV, have fulfilled, inter alia, the following requirements:

- 1) Visas or other forms of entry permission;
- 2) Work permits;
- 3) Health insurances or health services;
- 4) Contribution into savings fund as may be required by the authorized agencies of the respective Parties;
- 5) Taxes or others as required by the Parties;
- 6) Employment contracts of employers and workers.

Contract of the terms and conditions of employment shall be signed between the Employer and Worker and a copy each of the contract submitted to the authorized agencies.

## **ARTICLE VIII**

The authorised agencies shall be responsible for the administration of the list of workers permitted to work under this Memorandum of Understanding. They shall keep, for the purpose of reference and review, the lists of workers who report themselves or have their documents certified to the effect that they have returned to their permanent addresses after the end of the employment terms and conditions, for at least four years from the date of report or certification.

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## **RETURN AND REPATRIATION**

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### **ARTICLE IX**

Unless stated otherwise, the terms and conditions of employment of workers shall not exceed two years. If necessary, it may be extended for another term of two years. In any case, the terms and conditions of employment shall not exceed four years. Afterwards, it shall be deemed the termination of employment.

A three-year break is required for a worker who has already completed the terms and conditions of employment to re-apply for employment.

### **ARTICLE X**

The Parties shall extend their fullest cooperation to ensure the return of bona fide workers, who have completed their employment terms and conditions, to their permanent addresses.

### **ARTICLE XI**

The authorised agencies of the employing country shall set up and administer a saving fund. Workers are required to make monthly contribution to the fund in the amount equivalent to 15 percent of their monthly salary.

#### **ARTICLE XII**

Workers who have completed their terms and conditions of employment and returned to their permanent addresses shall be entitled to full refund of their accumulated contribution to the savings fund and the interest by submitting the application to the authorised agencies three months prior to their scheduled date of departure after completion of employment. The disbursement shall be made to workers within 45 days after the completion of employment.

In the case of workers whose services are terminated prior to completion of employment and have to return to their permanent addresses, the refund of their accumulated contribution and the interest shall also be made within 45 days after termination of employment.

#### **ARTICLE XIII**

Temporary return to country of origin by workers whose terms and conditions of employment are still valid and in compliance with the authorised agencies' regulations shall not cause termination of the employment permission as stated in Article IV.

#### **ARTICLE XIV**

Procedures and documents required in the application for refund as stated in Article XII shall be set forth by the authorised agencies.

#### **ARTICLE XV**

The right to refund of their contribution to the saving fund is revoked for workers who do not return their permanent addresses upon the completion of their employment terms and conditions.

#### **ARTICLE XVI**

The authorised agencies of the employing country may draw from the savings fund to cover the administrative expenses incurred by the bank and the deportation of workers to their country of origin.

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### **PROTECTION**

#### **ARTICLE XVII**

The Parties in the employing country shall ensure that the workers enjoy protection in accordance with the provisions of the domestic laws in their respective country.

#### **ARTICLE XVIII**

Workers of both Parties are entitled to wage and other Benefits due for local workers based on the principles of non-discrimination and equality of sex, race and religion.

#### **ARTICLE XIX**

Any dispute between workers and employers relating to employment shall be settled by the authorised agencies according to the laws and regulations in the employing country.

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**MEASURES AGAINST ILLEGAL EMPLOYMENT**

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**ARTICLE XX**

The Parties shall take all necessary measures, in their respective territory, to prevent and suppress illegal border crossings, trafficking of illegal workers and illegal employment of workers.

**ARTICLE XXI**

The Parties shall exchange information on matters relating to human trafficking, illegal immigration, trafficking of illegal workers and illegal employment.

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**AMENDMENTS**

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**ARTICLE XXII**

Any amendment to this Memorandum of Understanding may be made as agreed upon by the Parties through diplomatic channels.

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**SETTLEMENT OF DISPUTES**

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**ARTICLE XXIII**

Any difference or dispute arising out of this Memorandum of Understanding shall be settled amicably through consultations between the Parties.

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**ENFORCEMENT AND TERMINATION**

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**ARTICLE XXIV**

This Memorandum of Understanding shall enter into force after the date of signature and may be terminated by either Party in written notice. Termination shall take effect 90 (ninety) days following the date of notification. In case of termination of this Memorandum of Understanding by either Party, for the benefit of the workers, the Parties shall hold consultation on how to deal with employment contracts that are still valid.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Understanding.

DONE at Ubon Ratchatani on the Thirty First Day in the Month of May of Two Thousand and Three of the Christian Era in English language, in two original copies all of which are equally authentic.

**FOR THE GOVERNMENT OF  
THE KINGDOM OF THAILAND**

**FOR THE GOVERNMENT OF  
THE KINGDOM OF CAMBODIA**

Original Signature

Original Signature

**Suwat Liptapanlop**  
Minister of Labour

**Ith Samheng**  
Minister of Social Affairs,  
Labour, Vocational Training  
and Youth Rehabilitation

## Appendix 2

### MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE ROYAL THAI GOVERNMENT AND THE GOVERNMENT OF LAO PDR ON EMPLOYMENT COOPERATION

Both Governments, hereinafter called “the parties” are concerned with the widespread trafficking in human due to common illegal unemployment, and accept the principles in the Bangkok Declaration on illegal migration 1999, agree to:

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#### OBJECTIVES AND SCOPE:

##### ARTICLE I

The parties will take action to realize:

- 1.1) appropriate procedure in employment
- 1.2) effective deportation and return of migrant workers who have completed the duration of their work permit
- 1.3) appropriate labour protection
- 1.4) prevention and intervention in illegal border crossing, illegal employment services and illegal employment of migrant workers

The MOU does not include other measures currently in force in national legal frameworks.

---

#### AUTHORIZED AGENCY

##### ARTICLE 2

MOL of Thailand and MOL of Lao PDR are authorized to carry out this MOU.

##### ARTICLE 3

The parties can organize regular high-level meetings at least once a year to discuss matters related to this MOU.

---

#### AUTHORITY AND PROCEDURES

##### ARTICLE 4

Employment of workers must be authorized by competent authorities.

The competent authorities may cancel work permits issued to individual workers as per the

agreement above whenever appropriate within the purview of the parties' respective national laws.

The cancellation will not affect any action already completed prior to the announced date of cancellation.

#### **ARTICLE 5**

The competent authority of each party can inform its counterpart of labour needs, number of desired workers, duration, qualifications, employment conditions and wages as proposed by concerned employers.

#### **ARTICLE 6**

The counterpart competent authority will respond by sending a list of potential workers (name, hometown, reference, education, and other experiences).

#### **ARTICLE 7**

The competent authorities will work with national immigration services to process:

- 7.1) visa/other travel document/arrangement
- 7.2) work permit issuance
- 7.3) insurance or health insurance
- 7.4) contribution to the deportation fund
- 7.5) other taxes as per national regulations

#### **ARTICLE 8**

Both parties will maintain a list of workers benefited from this MOU. The list will be kept and record the return of the workers until 4 years after the recorded date of return.

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### **RETURN AND DEPORTATION**

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#### **ARTICLE 9**

Unless otherwise specified, each worker will receive a two-year work permit. If renewal is necessary, for whatever reasons, the total term of permit shall not exceed 4 years. Thereafter, the person shall be ineligible for work permit. Also, the work permit will expire when the employment of the worker concerned is terminated.

Workers who have completed the terms of their work permit can re-apply for work again after three years have passed between the date of the expiration of the first term and the date of the re-application. Exception shall be made when the worker concern had his or her employment terminated under the conditions not of their faults.

#### **ARTICLE 10**

The parties will collaborate in sending workers home.

#### **ARTICLE 11**

Workers will contribute 15% of their salary to deportation fund set up by the host country.

**ARTICLE 12**

Workers who wish to return home can claim their contribution to the fund in full amount with interest. The request must file 3 month before the return date and the money will be paid to the workers within 45 days after the date their employment ends.

**ARTICLE 13**

Home visit during the period of work permit does not end the employment.

**ARTICLE 14**

The host country will determine the procedure and required documents as per the steps/ application mentioned in Article 12.

**ARTICLE 15**

A worker will forfeit his or her right to receive his or her contribution to the deportation fund unless s/he reports him/herself to the designated authority in his/her home country upon his/her return.

**ARTICLE 16**

The competent authority of the host country can use the deportation fund to cover the cost of deportation of workers.

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**PROTECTION**


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**ARTICLE 17**

The parties will apply national laws to protect the rights of workers (to whom this MOU applies).

**ARTICLE 18**

Workers will receive wage and benefits at the same rate applied to national workers based on the principles of non-discrimination and equality on the basis of gender, ethnic identity, and religious identity.

**ARTICLE 19**

Labour disputes will be governed by the host country's national laws and by its relevant authorities.

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**MEASURES ON ILLEGAL EMPLOYMENT**


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**ARTICLE 20**

The parties will take necessary measures to prevent and intervene in illegal cross-border labour practices and employment.

**ARTICLE 21**

The parties will share information with regards to human trafficking, undocumented entry, unlawful employment, and unlawful labour practices.

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**AMENDMENT ON THE MOU**

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**ARTICLE 22**

Amendment of this MOU requires consultation through diplomatic channels.  
Dispute Intervention

**ARTICLE 23**

Any conflict arising from this MOU shall be settled through consultation between the parties.

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**ENFORCEMENT AND CANCELLATION**

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**ARTICLE 24**

The agreements in this MOU are in force upon the date of signing by the representatives of the parties. Cancellation requires written notification and will be in effect 3 months after the date of notification.

This MOU is signed at Vientiane, Lao PDR, on 18 October 2002, in the Lao and Thai version. Both versions have similar values.

**FOR THE GOVERNMENT  
OF THAILAND**

Original Signature

**Suwat Liptapanlop**  
Minister of Labour  
Royal Government of Thailand

**FOR THE GOVERNMENT  
OF LAO PDR**

Original Signature

**Sompan Pangkamme**  
Minister of Labour and Social Welfare  
Lao PDR

## Appendix 3

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE GOVERNMENT OF THE KINGDOM OF THAILAND  
AND THE GOVERNMENT OF THE UNION OF MYANMAR  
ON COOPERATION IN THE EMPLOYMENT  
OF WORKERS**

**THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE UNION OF MYANMAR**, hereinafter referred to as “the Parties”;

BEING CONCERNED about the negative social and economic impacts caused by illegal employment;

DESIROUS of enhancing mutually beneficial cooperation between the two countries;

HAVE AGREED AS FOLLOWS:

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### OBJECTIVE AND SCOPE

#### ARTICLE I

The Parties shall apply all necessary measures to ensure the following:

- 1) Proper procedures for employment of workers;
- 2) Effective repatriation of workers, who have completed terms and conditions of employment or are deported by relevant authorities of the other Party, before completion of terms and conditions of employment to their permanent addresses;
- 3) Due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights they are entitled to;
- 4) Prevention of, and effective action against, illegal border crossings, trafficking of illegal workers and illegal employment of workers.

This Memorandum of Understanding is not applicable to other existing processes of employment that are already in compliance with the laws of the Parties.

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### AUTHORISED AGENCIES

#### ARTICLE II

For the purpose of this Memorandum of Understanding, the Ministry of Labour of the Kingdom of Thailand and the Ministry of Labour of the Union of Myanmar shall be the

authorised agencies for the Government of the Kingdom of Thailand and for the Government of the Union of Myanmar respectively.

### **ARTICLE III**

The Parties, represented by the authorised agencies, shall hold regular consultations, at senior official and/or ministerial levels, at least once a year on an alternate basis, on matters related to the implementation of this Memorandum of Understanding.

The authorised agencies of both Parties shall work together for the establishment of procedures to integrate illegal workers, who are in the country of the other Party prior to the entry into force of this Memorandum of Understanding, into the scope of this Memorandum of Understanding.

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## **AUTHORITY AND PROCEDURE**

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### **ARTICLE IV**

The Parties shall take all necessary measures to ensure proper procedures for employment of workers.

Employment of workers requires prior permission of the authorized agencies in the respective countries. Permission may be granted upon completion of procedures required by laws and regulations in the respective countries.

The authorised agencies may revoke or nullify their own permission at any time in accordance with the relevant laws and regulations.

The revocation or nullification shall not affect any deed already completed prior to the revocation or nullification.

### **ARTICLE V**

The authorised agencies may through a job offer inform their counterparts of job opportunities, number, period, qualifications required, conditions of employment, and remuneration offered by employers.

### **ARTICLE VI**

The authorised agencies shall provide their counterparts with lists of selected applicants for the jobs with information on their ages, permanent addresses, reference persons, education, experiences and other information deemed necessary for consideration by the prospective employers.

### **ARTICLE VII**

The authorised agencies shall coordinate with the immigration and other authorities concerned to ensure that applicants, who have been selected by employers and duly permitted in accordance with Article IV, have fulfilled, inter alia, the following requirements:

- 1) Visas or other forms of entry permission;
- 2) Work permits;
- 3) Health insurances or health services;

- 4) Contribution into savings fund as may be required by the authorized agencies of the respective Parties;
- 5) Taxes or others as required by the Parties;
- 6) Employment contracts of employers and workers.

Contract of the terms and conditions of employment shall be signed between the Employer and Worker and a copy each of the contract submitted to the authorised agencies.

#### **ARTICLE VIII**

The authorised agencies shall be responsible for the administration of the list of workers permitted to work under this Memorandum of Understanding. They shall keep, for the purpose of reference and review, the lists of workers who report themselves or have their documents certified to the effect that they have returned to their permanent addresses after the end of the employment terms and conditions, for at least four years from the date of report or certification.

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#### **RETURN AND REPATRIATION**

#### **ARTICLE IX**

Unless stated otherwise, the term and conditions of employment of workers shall not exceed two years. If necessary, it may be extended for another term of two years. In any case, the terms and conditions of employment shall not exceed four years. Afterwards, it shall be deemed the termination of employment.

A three-year break is required for a worker who has already completed the terms and conditions of employment to re-apply for employment.

#### **ARTICLE X**

The Parties shall extend their fullest cooperation to ensure the return of bona fide workers, who have completed their employment terms and conditions, to their permanent addresses.

#### **ARTICLE XI**

The authorised agencies of the employing country shall set up and administer a savings fund. Workers are required to make monthly contribution to the fund in the amount equivalent to 15 per cent of their monthly salary.

#### **ARTICLE XII**

Workers who have completed their terms and conditions of employment and returned to their permanent addresses shall be entitled to full refund of their accumulated contribution to the savings fund and the interest by submitting the application to the authorised agencies three months prior to their scheduled date of departure after completion of employment. The disbursement shall be made to workers within 7 days after the completion of employment.

In the case of workers whose services are terminated prior to completion of employment and have to return to their permanent addresses, the refund of their accumulated contribution and the interest shall also be made within 7 days after termination of employment.

**ARTICLE XIII**

Temporary return to country of origin by workers whose terms and conditions of employment are still valid and in compliance with the authorized agencies' regulations shall not cause termination of the employment permission as stated in Article IV.

**ARTICLE XIV**

Procedures and documents required in the application for refund as stated in Article XII shall be set forth by the authorised agencies.

**ARTICLE XV**

The right to refund of their contribution to the savings fund is revoked for workers who do not return to their permanent addresses upon the completion of their employment terms and conditions.

**ARTICLE XVI**

The authorised agencies of the employing country may draw from the savings fund to cover the administrative expenses incurred by the bank and the deportation of workers to their country of origin.

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**PROTECTION**

**ARTICLE XVII**

The Parties in the employing country shall ensure that the workers enjoy protection in accordance with the provisions of the domestic laws in their respective country.

**ARTICLE XVIII**

Workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.

**ARTICLE XIX**

Any dispute between workers and employers relating to employment shall be settled by the authorised agencies according to the laws and regulations in the employing country.

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**MEASURES AGAINST ILLEGAL EMPLOYMENT**

**ARTICLE XX**

The Parties shall take all necessary measures, in their respective territory, to prevent and suppress illegal border crossings, trafficking of illegal workers and illegal employment of workers.

**ARTICLE XXI**

The Parties shall exchange information on matters relating to human trafficking, illegal immigration, trafficking of illegal workers and illegal employment.

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## AMENDMENTS

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### ARTICLE XXII

Any amendment to this Memorandum of Understanding may be made as agreed upon by the Parties through diplomatic channels.

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## SETTLEMENT OF DISPUTES

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### ARTICLE XXIII

Any difference or dispute arising out of this Memorandum of Understanding shall be settled amicably through consultations between the Parties.

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## ENFORCEMENT AND TERMINATION

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### ARTICLE XXIV

This Memorandum of Understanding shall enter into force after the date of signature and may be terminated by either Party in written notice. Termination shall take effect 90 (ninety) days following the date of notification. In case of termination of this Memorandum of Understanding by either Party, for the benefit of the workers, the Parties shall hold consultation on how to deal with employment contracts that are still valid.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Understanding.

DONE at Chiang Mai on the Twenty First Day in the Month of June of Two Thousand and Three of the Christian Era, in the Thai, Myanmar, and English languages, in two original copies all of which are equally authentic. In case of divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT OF  
THE KINGDOM OF THAILAND**

Original Signature

**Surakiart Sathirathai**  
Minister of Foreign Affairs

**FOR THE GOVERNMENT OF  
THE UNION OF MYANMAR**

Original Signature

**Win Aung**  
Minister of Foreign Affairs

## Appendix 4

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE GOVERNMENT OF THE KINGDOM OF CAMBODIA  
AND  
THE GOVERNMENT OF THE KINGDOM OF THAILAND  
ON  
BILATERAL COOPERATION  
FOR  
ELIMINATING TRAFFICKING IN CHILDREN AND WOMEN  
AND ASSISTING VICTIMS OF TRAFFICKING**

**THE GOVERNMENT OF THE KINGDOM OF CAMBODIA AND THE GOVERNMENT OF THE KINGDOM OF THAILAND** (hereinafter referred to as the “Parties”),

HAVING SOUGHT to strengthen the bonds of friendship between the two countries and to increase the bilateral cooperation on the suppression of trafficking in children and women,

RECOGNIZING that trafficking in children and women is a gross infringement of human rights and grievous trampling on the dignity of human beings,

GRAVELY CONCERNED that trafficking in children and women has negative impact on individual physical, mental, emotional, moral development and is detrimental to the social fabric and values of the society,

TAKING INTO ACCOUNT that transnational criminal groups and organizations are actively involved in trafficking in children and women and that such transnational organized crimes have affected not only Thailand and Cambodia but also the region and the global community at large,

CONFIRMING that the Parties share the common concern against transnational human trafficking as addressed in the Bangkok Declaration on Irregular Migration deliberated in the International Symposium on Migration “Towards Regional Cooperation on Irregular/ Undocumented Migration” held in Bangkok during 21-23 April 1999, and “ The Bali Conference on the people Smuggling and Trafficking in Person” held in Bali during 26-28 February 2002.

RECALLING the Agreed Minutes of the Third Meeting of the Joint Commission for the Bilateral Cooperation between the Kingdom of Cambodia and the Kingdom of Thailand, in Siem Reap Province of the Kingdom of Cambodia, during 31 January-1 February 2000 with regards to the intensification of cooperation in suppressing cross border trafficking in human beings, especially in women and children,

REFERRING to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime,

CONVINCED that suppressing the crime of trafficking in children- and women through mutual cooperation in law enforcement and criminal procedures is an effective measure to ensure justice against human trafficking,

PLEDGING that the Parties shall faithfully cooperate to eliminate trafficking in children and women, and to protect and assist them,

HAVE AGREED as follows:

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## I – SCOPE OF THIS MEMORANDUM OF UNDERSTANDING

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### ARTICLE 1

This Memorandum of Understanding shall apply to trafficking in children and women as defined in article 2 of this Memorandum.

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## II – DEFINITION

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### ARTICLE 2

For the operational purpose of this Memorandum:

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

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

(c) A child who has been recruited, transported, transferred or harboured for the purpose of exploitation shall be considered “as a victim of trafficking” even if this does not involve any of the means set forth in subparagraph (a) of this article; and

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

### ARTICLE 3

The Parties recognize that examples of the purposes of trafficking in children and women include, but are not limited to, the following:

- (a) Prostitution;
- (b) Forced or exploitative domestic labour;
- (c) Bonded labour and other forms of hazardous, dangerous and exploitative labour;
- (d) Servile marriage;
- (e) False adoption;
- (f) Sex tourism and entertainment; .
- (g) Pornography;

- (h) Begging; and
- (i) Slavery by the use of drugs on children and women.

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### **III- PREVENTIVE MEASURES**

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#### **ARTICLE 4**

The Parties shall undertake necessary legal reform and other appropriate measures to ensure that the legal frameworks in their respective jurisdictions conform with the Universal Declaration of Human Rights, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and other international human rights instruments which both parties have ratified or acceded to and are effective in eliminating trafficking in children and women and in protecting all rights of children and women who fall victims to trafficking.

#### **ARTICLE 5**

The Parties shall undertake educational and vocational training programs, in particular for children and women, to increase the opportunity for employment and hence reduce vulnerability to trafficking.

#### **ARTICLE 6**

The Parties shall make best effort to prevent trafficking in children and women through the following preventive measures:

- (a) Increase of social services such as assistance in job searching and income generating and provision of medical care to children and women vulnerable to trafficking,
- (b) Reform of educational and vocational training programs to improve their linkage with job opportunities;
- (c) Enhancement of public awareness and understanding on the issue of trafficking in children and women; and
- (d) Dissemination of information to the public on the risk factors involved in trafficking of children and women and on the businesses that are exploitative to children and women.

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### **IV- PROTECTION OF TRAFFICKED CHILDREN AND WOMEN**

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#### **ARTICLE 7**

Trafficked children and women shall be considered victims, not violators or offenders of the immigration law. Therefore,

- (a) Trafficked children and women shall not be prosecuted for illegal entry to the country;
- (b) Trafficked children and women shall not be detained in an immigration, detention center during the times awaiting the official repatriation process, but shall be put under the care of the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation (Cambodia) or the Department of Social Development and Welfare (Thailand), and shelter and protection shall be provided to the victims according to the

- policy of each state;
- (c) The relevant authorities shall ensure the security of trafficked children and women; and
  - (d) Victims shall be treated humanely throughout the process of protection and repatriation, and the judicial proceedings.

#### **ARTICLE 8**

The Parties shall undertake appropriate measures, which may include legal reform and legal aid, to ensure the effective legal remedies to victims of trafficking as follows:

- (a) Victims may claim restitution of any undisputed personal properties and belongings that have been confiscated or obtained by authorities in the process of detention or any other criminal procedure;
- (b) Proceeds of crime of trafficking shall be liable for confiscation and managed according to the laws of relevant country;
- (c) Victims may claim compensation from the offender of any damages caused by trafficking in children and women;
- (d) Victims may claim payment for unpaid services from the offender; and
- (e) Victims shall have access to the due process of law to claim for criminal justice, recovery of damages, and any other judicial remedies.

#### **ARTICLE 9**

The relevant Governmental agencies where appropriate, in cooperation with non-governmental organizations, shall provide trafficked children, women, and their immediate family, if any, with safe shelters, health care, access to legal assistance, and other imperative for their protection.

### **V – COOPERATION IN SUPPRESSION OF TRAFFICKING IN CHILDREN AND WOMEN**

#### **ARTICLE 10**

The law enforcement agencies in both countries, especially at the border shall work in close cooperation to uncover domestic and cross border trafficking of children and women.

#### **ARTICLE 11**

- (a) The law enforcement process shall be streamlined so as to combat crimes of trafficking in children and women effectively;
- (b) The investigation and the prosecution of offenders and criminal syndicates in trafficking cases shall be intensified; and
- (c) The Parties shall undertake training programs unilaterally and bilaterally concerning the applicable legal rules and skills of investigation and protection in trafficking cases for law enforcement personnel, with emphasis on the rights of children and women, with reference to the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, other international human rights standards and the relevant domestic laws.

**ARTICLE 12**

- (a) The Parties shall promote bilateral cooperation in the judicial procedure against trafficking, e.g., prosecution of transnational traffickers, extradition arrangement, mutual judicial assistance in the criminal procedures; and
- (b) The parties shall afford one another the widest measure of mutual legal assistance in investigation, prosecution and judicial proceeding in relation to trafficking in children and women including existing arrangement on extradition.

**ARTICLE 13**

The police and other relevant authorities in both countries shall cooperate in exchange of information concerning trafficking cases, e.g., trafficking routes, places of trafficking, identifications of traffickers, network of trafficking, methodologies of trafficking, and data on trafficking.

**ARTICLE 14**

- (a) The Ministry of Foreign Affairs and International Cooperation, the Ministry of Interior, the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, the Ministry of Women's and Veterans' Affairs, the Ministry of Justice, and the Ministry of Tourism (Cambodia) and The Royal Thai Police, the Ministry of Foreign Affairs, the Ministry of Labour, the Ministry of Social Development and Human Security, the Ministry of Public Health and the Department of Social Development and Welfare, the local police, or immigration border control checkpoints (Thailand), along with other relevant non-governmental organizations, shall cooperate in collecting information and evidence relating to human trafficking cases;
- (b) The information and evidence obtained in accordance with the above paragraph shall duly be delivered to the competent police office, immigration office, prosecutor's office or other relevant parties who takes legal action in trafficking cases of children and women, e.g., searching for offenders, investigating in cases, prosecuting offenders, and proceeding with any other judicial procedures.

**ARTICLE 15**

The police and other appropriate authorities of the relevant state shall undertake the protection program to secure the safety of victims and eyewitnesses from retaliation or menace during and after the judicial proceedings as deemed necessary.

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**VI- REPATRIATION**


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**ARTICLE 16**

- (a) The authorities in charge of repatriation shall use the diplomatic channel of communication to inform the other Party of repatriation arrangements of trafficked children and women in advance;
- (b) Repatriation of trafficked children and women shall be arranged and conducted in their

- best interest; and
- (c) Children and women who have been identified as victims of trafficking shall not be deported. Repatriation of children and women victims will undertaken in accordance with the above.

#### ARTICLE 17

- (a) The Parties shall establish the Focal-Point to implement the repatriation process of trafficked children and women;
- (b) The Focal Point shall be composed of the competent authorities from both Parties;
- (c) The Focal Point shall undertake the following duties:
- (i) To arrange repatriation of trafficked children and women;
  - (ii) To implement the arranged repatriation of trafficked children and women;
  - (iii) To provide security for trafficked children and women in the repatriation process;
  - (iv) To endeavour to monitor trafficking in children and women; and
  - (v) To establish international networks concerning the practice of trafficking in children and women among the national and international law enforcement authorities and relevant civil society organizations.

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### VII – REINTEGRATION

#### ARTICLE 18

- (a) The Parties shall make all possible efforts towards the safe and effective integration of victim of trafficking into their families and communities in order to restore their dignity, freedom, and self-esteem.
- (b) For this purpose, the Parties shall take appropriate measures to attain the following objectives:
- (i) Victims of trafficking shall not suffer any further victimization, stigmatization or dramatization in the judicial procedure;
  - (ii) Continuous social, medical, psychological and other necessary support shall be provided to children and women who are victims of trafficking and their families particularly to those who are infected with sexually-transmitted disease including HIV/AIDS;
  - (iii) Children and Women who are victims of trafficking, shall not be discriminated or stigmatized socially; and
  - (iv) Child victims of school age shall be ensured appropriate educational opportunities.

#### ARTICLE 19

The Parties shall provide the following training programs for the purpose of effective reintegration:

- (a) The vocational training program for victims of trafficking to opportunity of alternative means of their livelihood; and
- (b) Training programs to sensitize those working for victims of trafficking in regard to child development, child rights and child/gender issues with reference to the Convention

on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women and other relevant human rights instruments to which both parties are parties,

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### III- JOINT TASK FORCE

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#### ARTICLE 20

- (a) The Parties shall establish the Joint Task Force;
- (b) The Joint Task Force shall be comprised of competent representatives from both Parties;
- (c) The Joint Task Force shall be called for to meet as the need arises. The date and venue of the meeting of the Joint Task Force shall be agreed by both Parties;
- (d) The Joint Task Force shall assume the following responsibilities:
  - (i) To monitor and assess the implementation of this Memorandum and report to the Joint Commission for Bilateral Cooperation between Cambodia and Thailand at its annual meeting;
  - (ii) To initiate establishment of strategies, implementing guidelines and other necessary framework to implement this Memorandum;
  - (iii) To make recommendations toward further development of the mutual cooperation against trafficking in children and women; and
  - (iv) To review the implementation of this Memorandum of Understanding every 5 years.

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### IX- FINAL PROVISIONS

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#### ARTICLE 21

Parties shall endeavour to settle disputes concerning the interpretation or application of this Memorandum through negotiation.

This Memorandum of Understanding shall take effect on the date of signature by both Parties.

#### ARTICLE 22

Either party may terminate this Memorandum of Understanding at any time by giving written notice to the other party through diplomatic channels, and the termination shall be effective six months after the date of receipt of such notice.

#### ARTICLE 23

This Memorandum of Understanding may be amended upon the agreement of the Government of the Kingdom of Cambodia and the Government of the Kingdom of Thailand.

This Memorandum of Understanding shall be written in duplicate in English.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Memorandum of Understanding. Done at Siem Reap on 31st May 2003.

**For the Government of  
the Kingdom of Cambodia**



ITH SAMHENG  
Minister of Social Affairs,  
Labor, Vocational Training  
and Youth Rehabilitation

**For the Government of  
the Kingdom of Thailand**



ANURAK CHUREEMAS  
Minister of Social Development  
and Human Resources

## Appendix 5

**AGREEMENT  
BETWEEN  
THE ROYAL GOVERNMENT OF CAMBODIA  
AND  
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM  
ON  
BILATERAL COOPERATION FOR ELIMINATING TRAFFICKING IN  
WOMEN AND CHILDREN AND ASSISTING VICTIMS OF TRAFFICKING**

The Royal Government of Cambodia and the Government of the Socialist Republic of Vietnam (hereinafter referred to as the “Parties”);

With a view to further strengthening the bonds of friendship between the two countries and to increasing the bilateral cooperation on the suppression of human trafficking;

Recognizing mutually that trafficking in women and children has negative impact on individual physical, mental, emotional, moral development and is detrimental to the social fabric and values of the society;

Taking into account that transnational criminal groups and organizations are actively involved in trafficking in women and children and that such transnational organized crimes have affected not only Cambodia and Vietnam but also the region and global community at large;

Referring to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing to the United Nations Convention against Transnational Organized Crime;

Convinced that suppressing the crime of trafficking in women and children through mutual cooperation in the law enforcement and the criminal procedures is an effective measure to ensure the justice against human trafficking;

Pledging that the Parties shall faithfully cooperate to eliminate trafficking in women and children and to protect and assist victims of human trafficking;

Have agreed as follows:

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### PART I – GENERAL PROVISIONS

#### ARTICLE 1

Within the framework of the execution of this Agreement, following terms are interpreted as follows:

1. “Trafficking in women and children” means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, of the giving and receiving of payments or benefit to

achieve the consent of a person having control over another person, for the purpose of exploitation. “Exploitation” shall include the exploitation of the prostitution of others or other forms of sexual slavery, servitude or the removal of organs;

2. The consent of a victim of trafficking in women and children to the intended exploitation set forth in clause (1) of this article shall be irrelevant where any of the means set forth in clause (1) have been used;
3. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered as “trafficking” even if this does not involve any of the means set forth in clause (1) of this article;
4. A “Child” shall mean any person under eighteen years of age.

#### **ARTICLE 2**

The Parties recognize that examples of the purposes of trafficking in women and children include, but are not limited to, the following:

1. Prostitution;
2. Domestic work including forced or exploitative domestic labour;
3. Child labour;
4. Bonded labour;
5. Servile marriage;
6. False adoption;
7. Sex tourism and entertainment;
8. Pornography;
9. Begging, dangerous, hazardous, exploitative labour;
10. Use in criminal activities;
11. Use of drugs as a means to enslave women and children.

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### **PART II – PREVENTATIVE MEASURES**

#### **ARTICLE 3**

The Parties shall undertake necessary legal reform and other appropriate measures to ensure that the legal framework in their respective jurisdictions is in conformity with the Universal Declaration of Human Rights, the Convention on the Rights of a Child, the Convention on the Elimination of All Forms of Discrimination against Women and other human rights instruments as well as Conventions relating to the Suppression of Human Trafficking which both Parties have signed.

#### **ARTICLE 4**

The Parties shall make the best effort to prevent trafficking in women and children through the following preventive measures:

1. Implement programs of education and vocational training for women and children in order to increase the opportunity for education and employment and hence reduce vulnerability to trafficking;

2. Increase social services such as assistance in job searching and income generating and provision of medical care to women and children vulnerable to trafficking;
3. Enhance public understanding on the risks and consequences involved in trafficking of women and children.

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### **PART III – PROTECTION OF VICTIMS OF TRAFFICKING**

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#### **ARTICLE 5**

Trafficked persons shall be considered victims and not violators or offenders of the immigration law. Therefore,

1. Trafficked women and children shall not be charged and prosecuted for illegal immigration or prostitution;
2. Trafficked women and children shall not be detained in an immigration detention centre during the time waiting the official repatriation process. They shall be put under the care of competent authorities of the Parties. Shelter and protection shall be provided to the victims in accordance with the legal regulation of each state;
3. The relevant authorities shall ensure the security of trafficked persons;
4. Victims shall be treated humanely throughout the process of protection, repatriation and the judicial proceedings.

#### **ARTICLE 6**

The Parties shall undertake appropriate measures to ensure through legal remedies to victims of trafficking as follows:

1. Victims may claim restitution of any undisputed personal belongings and properties that have been obtained by competent authorities in the process of apprehension;
2. Offenders in trafficking cases shall be liable to give victims back the unjust properties which they obtained by trafficking or exploiting in women and children
3. Victims may claim compensation from the offender of any damages caused by trafficking in women and children;
4. Victims may claim payment for unpaid services from the offenders that victims are forced to do by offender's acts;
5. Victims shall have access to the due process of law to claim for criminal justice, recovery of damages and any other judicial remedies.

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### **PART IV – COOPERATION IN SUPPRESSION OF TRAFFICKING IN WOMEN AND CHILDREN**

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#### **ARTICLE 7**

The competent authorities in both countries, especially at the border, shall work in close cooperation to uncover domestic and cross border trafficking of women and children, intensify the investigation and the prosecution of offenders and criminal syndicates relating to trafficking in women and children.

### ARTICLE 8

The Parties shall undertake training programs unilaterally and bilaterally concerning the implementation of applicable legal rules, skills of investigation and protection in trafficking cases for law enforcement officers, with reference to the Convention on the Elimination of All forms of Discrimination against Women, the Convention on the Rights of the Child, other international human rights standards and the relevant domestic laws.

### ARTICLE 9

1. The relevant authorities in both countries shall cooperate in exchange of information concerning trafficking cases, e.g., trafficking routes, places of trafficking, identifications of traffickers, trafficking network, methodologies of trafficking and data on trafficked persons and any other related information.
2. The information and evidence obtained in accordance with the subparagraph 1. of this Article shall duly be delivered to the offices of the competent authorities of each Party to take legal actions, e.g. searching for offenders, investigating, prosecuting offenders and proceeding with any other judicial procedures.
3. The Police and other appropriate authorities of the relevant state shall undertake the necessary protection program to secure the safety of victims and witnesses from retaliation or menace during and after the judicial proceedings as deemed necessary.
4. The confidentiality of exchanged information and evidence shall be ensured and such information and evidence shall not be transferred to a third Party without written consent of providing Party.

### ARTICLE 10

The Parties shall authorize the concerned institutions to initiate compilation, negotiation, coming to signing of the Mutual Judicial Assistance Agreement in the Criminal, Civil Matters with a view to creating a solid basis for bilateral cooperation in detection, investigation, prosecution and trial of various offences in relation to both countries including the offences of trafficking in women and children.

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## PART V – REPATRIATION AND REINTEGRATION

### ARTICLE 11

1. The Parties shall use diplomatic channel of communication for the arrangement of repatriation of trafficked victims.
2. Repatriation of trafficked victims shall be arranged quickly, in safety and respect for their dignity and be conducted in their best interest according to the conditions and the policies of each Party in consistent with international laws and practices.
3. Victims shall be humanly assisted by both Parties once repatriated.

**ARTICLE 12**

1. As the need arises, each Party shall set up Working Group comprising of its competent authorities' representative with a view to undertaking repatriation process for trafficked victims.
2. The Working Group of each Party has the following responsibilities:
  - To arrange the repatriation for trafficked victims
  - To carry out the repatriation of trafficked victims once arranged
  - To ensure security for trafficked victims during the process of repatriation
3. The Working Group of both Parties shall be called for the meeting as required. Time and venue of the meeting shall be agreed by both Parties.

**ARTICLE 13**

1. The Parties shall make all possible efforts towards the safe and effective reintegration of trafficked victims into their families and communities in order to restore their dignity, rights and self-esteem.
2. For this purpose, the Parties shall take appropriate measures to attain the following objectives:
  - Social, medical, psychological and other support shall be provided to victims of human trafficking and their families particularly to those who are infected with sexually transmitted diseases and HIV/AIDS;
  - Women and children who are victims of human trafficking shall not be socially discriminated or stigmatized;
  - Children victims of school age shall be ensured appropriate education opportunities.

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**PART VI – IMPLEMENTING INSTITUTION**


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**ARTICLE 14**

The Government of Kingdom of Cambodia appoints the Ministry of Women's Affairs of Cambodia and the Government of the Socialist Republic of Vietnam appoints the Ministry of Public Security of Vietnam as Implementing Institution of this Agreement with the Working Group comprising of the representatives of relevant ministries as assistants.

**ARTICLE 15**

The Implementing Institution has the following responsibilities:

1. To establish strategies, directing guidelines, organizational structure and other necessary areas to implement this Agreement, reporting to the joint Commission for Bilateral cooperation between Vietnam and Cambodia at its annual meeting;
2. To make recommendations toward further development of the mutual cooperation against trafficking in women and children;
3. To review and assess the implementation of this Agreement every 2 years in order to draw experiences for the following years;
4. To settle disputes concerning the interpretation or application of this Agreement through negotiation. In case the Parties do not reach consensus through negotiation,

- those disputes shall be reported to the Government of both Parties for settlement.
5. To decide on establishment, management and direction over the operation of the Working Group stipulated in Article 12 of this Agreement.

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## PART VII FINAL PROVISIONS

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### ARTICLE 16

1. This Agreement could be amended or supplemented on the basis of written consensus of both Parties. Articles and clauses are agreed by both Parties for amendment, supplement, shall be considered as part of the Agreement and having the same effect as this Agreement.
2. This Agreement shall take effect on the date of receipt of the written notification confirming that both parties have completed internal legal procedures required for the entry into force of this Agreement. The Agreement shall remain in force for a period of five (5) years and shall be automatically extended for another five (5) years, unless one Party officially notifies the other Party through diplomatic channel of its desire to terminate the validity of the Agreement at least three (3) months prior to the date of termination of this Agreement.
3. The termination of this Agreement shall not prejudice any proceeding started prior to the termination.
4. This Agreement is done at Hanoi, on 10 October 2005, in two originals, each in Khmer, Vietnamese and English languages; all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

**FOR THE ROYAL GOVERNMENT  
OF CAMBODIA**

**FOR THE GOVERNMENT OF THE  
SOCIALIST REPUBLIC OF VIETNAM**

Original Signature

Original Signature

**Dr. Ing Kantha Phavi**  
Minister of Women's Affairs

**General Le Hong Anh**  
Minister of Public Security

## Appendix 6

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE GOVERNMENT OF THE LAO PEOPLE’S DEMOCRATIC REPUBLIC  
AND  
THE GOVERNMENT OF THE KINGDOM OF THAILAND  
ON COOPERATION TO COMBAT TRAFFICKING IN PERSONS, ESPECIALLY  
WOMEN AND CHILDREN**

The Government of the Lao People’s Democratic Republic and the Government of the Kingdom of Thailand, hereinafter referred to as “the Parties”;

BEING CONCERNED that trafficking in persons, especially women and children, constitutes a serious violation of human rights, undermines human dignity and adversely affects physical, psychological, emotional and moral development of a person and includes jeopardizing social cohesion and values;

AIMING at the prevention and suppression of transnational organized criminal groups and gangs directly engaged in trafficking in persons, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime 2000;

RECOGNIZING to the principles contained in the “Bangkok Declaration on Irregular Migration of 1999”;

BEING CONVINCED that the suppression of the crime of trafficking in persons, especially women and children, through cooperation in law enforcement and criminal proceedings is an efficient measure;

DESIRING to enhance cooperation of mutual benefit between the two countries,

HAVE HEREBY AGREED AS FOLLOWS:

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### I – SCOPE OF THE MEMORANDUM OF UNDERSTANDING

#### ARTICLE 1

This Memorandum of Understanding shall apply to combating trafficking in persons, especially women and children, as defined in Article 2 of this Memorandum of Understanding.

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## II – DEFINITION

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### ARTICLE 2

For the operational purpose of this Memorandum of Understanding:

- a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of threat, use of force, or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include the exploitation of others through prostitution or other forms of sexual exploitation, forced labour or service, slavery or practices similar to slavery, servitude or the removal of organs;
- b) “Children” shall mean persons under eighteen years of age, unless the laws of the Parties stipulate otherwise.

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## III – PREVENTIVE MEASURES

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### ARTICLE 3

The Parties shall improve their legislation as may be necessary and take appropriate measures to ensure the implementation of its laws and the exercise of their national jurisdictions in conformity with the Universal Declarations or International Conventions to which the Parties have acceded to.

### ARTICLE 4

The Parties shall provide educational and vocational training programmes for women and children in order to create employment opportunities and reduce the risks of their being trafficked.

### ARTICLE 5

The Parties shall make their best efforts to take measures to prevent trafficking in persons, especially women and children, by providing educational and vocational training programmes and improved social services, such as employment, income generation health care for women and children who are vulnerable to trafficking, and disseminating to the public information regarding the risk factors that lead to trafficking in women and children.

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## IV – PROTECTION OF VICTIMS OF TRAFFICKING IN PERSONS, ESPECIALLY WOMEN AND CHILDREN

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### ARTICLE 6

The victims, especially women and children, shall receive justice and legal protection

while awaiting the completion of the procedures for their official repatriation. The concerned institutions of the Parties shall provide temporary housing and appropriate protection to the victims in accordance with the policies of each country.

#### ARTICLE 7

The Parties shall take appropriate measures against traffickers in cases relating to trafficking in persons in accordance with national law of each country and provide due and just legal assistance to the victims, especially women and children.

#### ARTICLE 8

The government agencies concerned shall cooperate with other organizations to provide legal assistance, health care and take other necessary measures to protect the victims, especially women and children and their families in an appropriate manner.

### V – COOPERATION IN SUPPRESSION OF TRAFFICKING IN WOMEN AND CHILDREN

#### ARTICLE 9

The Parties' institutions responsible for law enforcement of both countries, in particular in the border areas, shall closely cooperate with one another to discover trafficking in persons, especially women and children, both within the territory and across border.

#### ARTICLE 10

The Parties shall individually or jointly provide training programmes for their concerned agencies to enhance their capacity for implementing the laws in force, for the investigation and prosecution of offenders and the protection in the cases relating to trafficking in persons, especially of women and children.

#### ARTICLE 11

- (a) The Parties shall promote bilateral cooperation in order to combat and prevent trafficking in persons, such as the prosecution of transnational traffickers, extradition, mutual assistance in criminal matters; and
- (b) The Parties shall afford one another the widest mutual legal assistance in prosecution in relation to trafficking in women and children in accordance with existing agreements signed by the government of the two countries.

#### ARTICLE 12

The concerned agencies of the two countries shall cooperate in compiling and exchanging data and information and collecting of evidence relating to trafficking in persons, such as routes, places, networks, means and methods of trafficking in persons, including the personal records of the traffickers.

#### ARTICLE 13

The concerned agencies of the two countries shall formulate plans for protection to ensure the safety of victims, especially women and children and witnesses as appropriate from acts of revenge or threats during the conduct of and/or after the conclusions of legal proceedings.

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## VI – REPATRIATION

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### ARTICLE 14

- (a) In executing the repatriation of the victims, especially women and children, each Party shall inform in advance the names of and data and information relating to the victims to the other Party through diplomatic channels for the purpose of arranging the return and acceptance of the victims, especially women and children, as mutually agreed upon by the Parties in accordance with the provisions of this Memorandum of Understanding.
- (b) The victims, especially women and children, must have been registered or have their domiciles or residence in the accepting country or are certified as residents thereof by the local authorities of the latter.

### ARTICLE 15

- (a) The Parties shall assign a government agency, which has relevant responsibilities, to be a focal point for the purpose of executing the return and acceptance of the victims, especially women and children;
- (b) The focal point shall have the following responsibilities:
- 1) arranging the return and acceptance of the victims, especially women and children;
  - 2) executing the return and acceptance of the victims, especially women and children according to predetermined schedules;
  - 3) ensuring the safety of the victims, especially women and children, in the execution of their return and acceptance;
  - 4) monitoring of trafficking in persons, especially women and children;
  - 5) establishment of information networks for the purpose of monitoring works concerning the trafficking in persons, especially women and children, between law enforcement agencies, national and international organizations dealing with the protection of victims, especially women and children and relevant organizations.

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## VII – REINTEGRATION INTO SOCIETY

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### ARTICLE 16

The Parties shall undertake every measure to help the victims, especially women and children, to safely and efficiently reintegrate themselves into society and their families in order that their dignity, freedom, and self-esteem are restored.

ARTICLE 17

The Parties shall create vocational training programmes, including training in life skills, to increase the opportunities for alternative ways of leading their life and their efficient reintegration into society, awareness-raising programmes for the officials whose functions are concerned with the development of the victims, especially women and children.

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VIII – JOINT ACTION

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ARTICLE 18

- (a) The Parties shall establish a joint working group for joint operations, drawn from relevant government agencies and organizations dealing with combating trafficking in persons.
- (b) The joint working group shall hold ordinary or extraordinary meetings as the need arises.
- (c) The joint working group shall have the following functions:
  - 1) Planning of joint action and implementation of the provisions of the Memorandum of Understanding; .
  - 2) Taking joint action to combat trafficking in persons, especially women and children;
  - 3) Coordinating with other relevant organizations in drawing up strategic plans, guidelines and necessary frameworks in combating trafficking in persons, especially women and children, in accordance with the provisions of this Memorandum of Understanding;
  - 4) Evaluating the joint works of the Parties and regularly reporting the outcomes to the agencies concerned of each Party;
  - 5) Making proposals for enhancing mutual cooperation between the Parties in combating trafficking in persons, especially women and children; and
  - 6) Triennially reviewing, together with the other Party, the implementation of this Memorandum of Understanding.

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IX – FINAL PROVISIONS

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ARTICLE 19

The Parties shall endeavour to settle disputes concerning the interpretation and implementation of this Memorandum through negotiation.

ArtICLE 20

This Memorandum of Understanding may be amended by mutual agreement of the Parties.

## X – ARTICLE 21

- (a) This Memorandum of Understanding shall become effective upon signature.
- (b) Either party may denounce this Memorandum of Understanding at any time by written notification to the other Party through diplomatic channels. Such denunciation shall become effective six months after the date of receipt by other Party of such notification.

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized thereto by their respective Governments, have signed this Memorandum of Understanding.

DONE at Bangkok, on this 13th day of July 2005, in duplicate in three authentic texts, each in Lao, Thai and English languages. In case of divergence of interpretation, the English text shall prevail.

**For the Government  
of the Lao People's Democratic Republic**

**For the Government  
of the kingdom of Thailand**

**(Mr. Le Kakanhya)**  
Acting Minister of Labour  
and Social Welfare

**(Mr. Pracha Maleenont)**  
Minister for Social Development  
and Human Security

**Appendix 7**

**ASEAN DECLARATION ON THE PROTECTION AND PROMOTION OF THE  
RIGHTS OF MIGRANT WORKERS  
(MULTILATERAL FRAMEWORK AGREEMENTS)  
MON, FEB 19, 2007**

WE, the Heads of State/Government of the Member Countries of the Association of Southeast Asian Nations (hereinafter referred to as ASEAN), attending the 12th ASEAN Summit on 13 January 2007 in Cebu, Philippines:

RECALLING the Declaration of ASEAN Concord II adopted at the 9th ASEAN Summit in Bali, Indonesia, which stipulated the establishment of an ASEAN Community resting on three pillars: an ASEAN Security Community, an ASEAN Economic Community and an ASEAN Socio-Cultural Community;

RECALLING also the Universal Declaration on Human Rights adopted and proclaimed by General Assembly Resolution 217(A)(III) of 10 December 1948, as well as other appropriate international instruments which all the ASEAN Member Countries have acceded to, in order to safeguard the human rights and fundamental freedoms of individuals such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child;

RECALLING further the Vientiane Action Programme adopted at the 10th ASEAN Summit in Vientiane, Lao PDR, which provides for, inter alia, the promotion of human rights and obligations to realise an open, dynamic and resilient ASEAN Community;

CONFIRMING our shared responsibility to realise a common vision for a secure and prosperous ASEAN Community by improving the quality of life of its people and strengthening its cultural identity towards a people-centered ASEAN through, among others, measures on the protection and promotion of the rights of migrant workers;

RECOGNISING the contributions of migrant workers to the society and economy of both receiving states and sending states of ASEAN;

RECOGNISING further the sovereignty of states in determining their own migration policy relating to migrant workers, including determining entry into their territory and under which conditions migrant workers may remain;

ACKNOWLEDGING the legitimate concerns of the receiving and sending states over migrant workers, as well as the need to adopt appropriate and comprehensive migration policies on migrant workers;

ACKNOWLEDGING also the need to address cases of abuse and violence against migrant workers whenever such cases occur;

REITERATING that ASEAN should make further progress as a cohesive and caring society committed to enhancing the quality of life and well being of its people, especially those in the vulnerable and disadvantaged sectors;

HEREBY DECLARE AS FOLLOWS:

#### GENERAL PRINCIPLES

1. Both the receiving states and sending states shall strengthen the political, economic and social pillars of the ASEAN Community by promoting the full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of respective ASEAN Member Countries;
2. The receiving states and the sending states shall, for humanitarian reasons, closely cooperate to resolve the cases of migrant workers who, through no fault of their own, have subsequently become undocumented;
3. The receiving states and the sending states shall take into account the fundamental rights and dignity of migrant workers and family members already residing with them without undermining the application by the receiving states of their laws, regulations and policies; and
4. Nothing in the present Declaration shall be interpreted as implying the regularisation of the situation of migrant workers who are undocumented.

#### OBLIGATIONS OF RECEIVING STATES

Pursuant to the prevailing laws, regulations and policies of the respective receiving states, the receiving states will:

5. Intensify efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers;
6. Work towards the achievement of harmony and tolerance between receiving states and migrant workers;
7. Facilitate access to resources and remedies through information, training and education, access to justice, and social welfare services as appropriate and in accordance with the legislation of the receiving state, provided that they fulfill the requirements under applicable laws, regulations and policies of the said state, bilateral agreements and multilateral treaties;
8. Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers;
9. Provide migrant workers, who may be victims of discrimination, abuse, exploitation, violence, with adequate access to the legal and judicial system of the receiving states; and
10. Facilitate the exercise of consular functions to consular or diplomatic authorities of states of origin when a migrant worker is arrested or committed to prison or custody or detained in any other manner, under the laws and regulations of the receiving state and in accordance with the Vienna Convention on Consular Relations.

### OBLIGATIONS OF SENDING STATES

Pursuant to the prevailing laws, regulations and policies of the respective sending states, the sending states will:

11. Enhance measures related to the promotion and protection of the rights of migrant workers;
12. Ensure access to employment and livelihood opportunities for their citizens as sustainable alternatives to migration of workers;
13. Set up policies and procedures to facilitate aspects of migration of workers, including recruitment, preparation for deployment overseas and protection of the migrant workers when abroad as well as repatriation and reintegration to the countries of origin; and
14. Establish and promote legal practices to regulate recruitment of migrant workers and adopt mechanisms to eliminate recruitment malpractices through legal and valid contracts, regulation and accreditation of recruitment agencies and employers, and blacklisting of negligent/unlawful agencies.

### COMMITMENTS BY ASEAN

For purposes of protecting and promoting the rights of migrant workers, ASEAN Member Countries in accordance with national laws, regulations and policies, will:

15. Promote decent, humane, productive, dignified and remunerative employment for migrant workers;
16. Establish and implement human resource development programmes and reintegration programmes for migrant workers in their countries of origin;
17. Take concrete measures to prevent or curb the smuggling and trafficking in persons by, among others, introducing stiffer penalties for those who are involved in these activities;
18. Facilitate data-sharing on matters related to migrant workers, for the purpose of enhancing policies and programmes concerning migrant workers in both sending and receiving states;
19. Promote capacity building by sharing of information, best practices as well as opportunities and challenges encountered by ASEAN Member Countries in relation to protection and promotion of migrant workers' rights and welfare;
20. Extend assistance to migrant workers of ASEAN Member Countries who are caught in conflict or crisis situations outside ASEAN in the event of need and based on the capacities and resources of the Embassies and Consular Offices of the relevant ASEAN Member Countries, based on bilateral consultations and arrangements;
21. Encourage international organisations, ASEAN dialogue partners and other countries to respect the principles and extend support and assistance to the implementation of the measures contained in this Declaration; and
22. Task the relevant ASEAN bodies to follow up on the Declaration and to develop an ASEAN instrument on the protection and promotion of the rights of migrant workers, consistent with ASEAN's vision of a caring and sharing Community, and direct the Secretary-General of ASEAN to submit annually a report on the progress of the implementation of the Declaration to the Summit through the ASEAN Ministerial Meeting.

DONE at Cebu, Philippines, this Thirteenth Day of January in the Year Two Thousand and Seven, in a single original copy in the English Language.

For Brunei Darussalam:

**HAJI HASSANAL BOLKIAH**  
Sultan of Brunei Darussalam

For the Union of Myanmar:

**GENERAL SOE WIN**  
Prime Minister

For the Kingdom of Cambodia:

**SAMDECH HUN SEN**  
Prime Minister

For the Republic of the Philippines:

**GLORIA MACAPAGAL-ARROYO**  
President

For the Republic of Indonesia:

**DR. SUSILO BAMBANG YUDHOYONO**  
President

For the Republic of Singapore:

**LEE HSIEN LOONG**  
Prime Minister

For the Lao People's Democratic Republic:

**BOUASONE BOUPHAVANH**  
Prime Minister

For the Kingdom of Thailand:

**GENERAL SURAYUD CHULANONT (RET.)**  
Prime Minister

For Malaysia:

**DATO' SERI ABDULLAH AHMAD BADAWI**  
Prime Minister

For the Socialist Republic of Viet Nam:

**NGUYEN TAN DUNG**  
Prime Minister



## Directory of Mekong Migration Network (MMN) Member Organisations

### National

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#### BURMA/MYANMAR

**1. The National Council of YMCAs of Myanmar**

P.O. Box 722, GPO  
Yangon, Myanmar  
Tel: +95 (1) 296434, 380856  
Fax: +95 (1) 296898

#### CAMBODIA

**2. Cambodian Women for Peace and Development**

#128D9-D10, Street Sothearos, Sangkat Tonle Basac, Khan Chamkamorn  
Phnom Penh, Cambodia  
Tel/Fax: +855 (23) 222453  
Email: [cwpd@online.com.kh](mailto:cwpd@online.com.kh)  
Web: [www.cwpd.net](http://www.cwpd.net)

- CWPDP implements Promoting Migrant Health & Development (PROMDAN) Project at destinations in Thailand and source communities in Cambodia. PROMDAN Project aims at strengthening multi-level linkages between the source communities of migrants and their destinations in order to improve the health status of migrant populations. CWPDP's work in Cambodia, Thailand and cross-border areas includes capacity building for the communities, community organizing, awareness raising on STI & HIV/AIDS, advocacy, and creating mechanisms for migrant remittances, savings and investments to improve economic conditions at source communities.
- Ms. Chou Bun Eng, Executive Director of the CWPDP, is a member of the MMN Steering Committee.

**3. Cambodia Human Rights and Development Association (ADHOC)**

#3, St. 158 Oukghna Troeung Kang,  
Beng Raing, Daun Penh, Phnom Penh, Cambodia  
Tel: +855 (23) 218653  
Fax: +855 (23) 217279  
Email: [adhoc@forum.org.kh](mailto:adhoc@forum.org.kh)  
Web: [www.adhoc-chra.org](http://www.adhoc-chra.org)

**4. Cambodian Women's Crisis Center (CWCC)**

#42F, Street 488, Phsar Douem Thkav, Chamkarmon  
Phnom Penh, Cambodia  
Tel/Fax: +855 (23) 982158  
Email: cwccpnp@cwcc.org.kh  
Web: www.cwcc.org.kh

- With an aim to promote safe migration and prevent trafficking, CWCC provides the following information to groups vulnerable to trafficking at the pre-departure stage as well as through its mobile outreach program: tricks and regular routes used by traffickers; the conditions that trafficking victims are exposed to; and contact information of the relevant NGOs and government agencies and the procedure for getting assistance from them. CWCC also provides basic health care service through its outreach program and plans to include literacy class and referral service for formal or informal education.

**5. Coordination of Action Research on AIDS and Mobility (CARAM) Cambodia**

193AEO, Street 63, Sankat Boeung Keng Kang I, Khan Chamcarmon  
Phnom Penh, Cambodia  
(P.O. Box 2625 Phnom Penh III, Cambodia)  
Tel/Fax: +855 (23) 218065  
Email: caram.cam@online.com.kh  
Web: www.caramasia.org

- Since its establishment in 2000, CARAM Cambodia primarily has worked with Cambodian and Vietnamese migrant sex workers in Cambodia as well as Cambodian migrant workers who are preparing to move abroad. CARAM Cambodia's main work includes: safe repatriation and reintegration assistance for the victims of trafficking and labor exploitation, outreach education to both Cambodian and Vietnamese migrant sex workers on reproductive health and human rights, pre-departure training to Cambodian migrant workers, and advocacy.

**6. KHEMARA**

Ottaravatei Pagoda, National Road #5, Mittapheap Village, Russey Keo District  
Phnom Penh, Cambodia  
Tel: +855 (23) 430620  
Email: khemara@camnet.com.kh  
Web: www.khemaracambodia.org

- KHEMARA's programs include Svay Pak Sex Worker Program, Literacy Program, Women in Crisis Program, Women in Business Program, Networking Publications & Research Program, Community Health Program, Child Development Program.

**7. Khmer Kampuchea Krom Human Rights Organization (KKKHRO)**

#183, Street 163, Sangkat Tuol Tumpoung II, Khan Chamkar Mon  
Phnom Penh, Cambodia  
Tel/Fax: +855 (23) 993486  
Email: kkkhro.cambodia@yahoo.com

**8. Legal Support for Children & Women**

#132E-F, Street 135, Phasar Doeum, Thkov, Chamkarmorn  
Phnom Penh, Cambodia  
Tel/Fax: +855 (23) 220626  
Email: info@lscw.org  
Web: www.lscw.org

- LSCW offices (Phnom Penh, Prey Veng and Koh Kong provinces in Cambodia) provide legal support for women and children victims of trafficking, rape, domestic violence, exploitation and abuse. LSCW will implement a new pilot project to address critical gaps in support and services to vulnerable Cambodian migrant communities in Klong Yai/Had Lek, Trad province, Thailand.

**9. Program for Appropriate Technology in Health (PATH) – Cambodia**

#22, Street 184  
Phsar Thmei III Daun Penh District  
Phnom Penh, Cambodia  
(P.O. Box 1684, Phnom Penh, Cambodia)  
Tel: +855 (23) 215005  
Fax: +855(23) 222330  
Email: info@path.org  
Web: www.path.org

**10. Women and Youth Action**

#212E0, st.107, Sangkat Orussey 4, Khan 7 Makara  
Phnom Penh, Cambodia  
Mobile: +855 12 771158

**CHINA****11. Migrant Workers Education and Action Research Centre (MWEAC)**

100101, Room 1021, No.33 Bei Si Huan Zhong Rd., Caoyang District  
Beijing, P.R. China  
Tel: +86 (10) 64845915  
Email: mweac@yahoo.com.cn

- MWEAC works for the rights and welfare of rural-to-urban migrant workers, especially women workers and their families. Established in 1999 with an aim to facilitate the transition and integration of migrant workers into the city, MWEAC initially ran a training centre in the migrant working community, and organized training and leisure activities for migrant workers after their working hours. The centre has now moved to a migrant living community, and assists children of migrant workers and conducts education for parents on child bearing. MWEAC also carries out on the research and policy advocacy.
- Ms. Hanjialing, the director of MWEAC, is a member of the MMN Steering Committee.

**12. The Institute of Contemporary Observation (ICO)**

West 8/F, Building 206, Terra Industrial Area, Chegongmiao, Futian District  
Shenzhen, 518040 Guangdong, P.R. China  
Tel: +86 (755) 83876679  
Fax: +86 (755)83879229  
Email: info@ico-china.org  
Web: www.ico-china.org

- The ICO, founded in 2001, is a civil society organization dedicated to labour development and corporate social responsibility. It carries out research, labour rights advocacy, social responsibility consultation, education and training, legal aid, community service, etc. Since 2004, ICO has run a community college for migrant workers. It also dialogues with local communities and factories to raise awareness on the importance of education and career advancement for migrant workers. ICO's work focuses on the migrant workers in the Pearl River Delta and coastal factories in China.

**13. Ruili Women and Children Development Centre**

2nd Floor of Ruilijiang Hotel, Biancheng Street  
Ruili 678600 Yunnan, P.R. China  
Tel/Fax: + 86 (692) 4126075  
Email: dwcdc2000@yahoo.com.cn  
Web: www.rwcdc.org/english.asp

**14. Society of Strengthening Capability of Women and Communities**

Tel: +86 (871) 4142126  
Email: zhaopeilan@163.com

**15. Yunnan Floating Population**

Tel: +85 (871) 4142103  
Email: licr2684@sina.com

**16. Yunnan Reproductive Health Research Association**

P.O.Box 43, Kunming Medical College, 191 West Renmin Road  
Kunming, 650031, P.R China  
Tel: + 86(871)5364693  
Fax: +86(871)5311542  
Email: knzhang49@yahoo.com.cn  
Web: http://yhdra.org/

**LAO PDR**

**17. Faculty of Social Sciences, National University of Laos**

Dongdok Campus (P.O. Box 7322)  
Vientiane, Lao PDR  
Tel/ Fax: +856 (21) 740505, 770381

- The faculty carries out research projects in social and economic geography/population studies, history, political science, sociology, tourism, development and anthropology. Some of the research topics included patterns of internal migration in Lao PDR, Migration into Vientiane Capital/rural-urban migration, cross-border migration to Thailand and its consequences, the impact of development projects on rural population, Returnee dimensions of Lao migrant workers to Thailand and the formal and informal recruitment practices of Lao workers migrating to Thailand and etc.
- Ms. Phouxay Kabmanivanh (k\_phouxay59@yahoo.com) is a member of the MMN Steering Committee.

### 18. Lao Women Union

Munthatourath Road, (P.O. Box 59)  
 Vientiane, Lao PDR  
 Tel/Fax: +856 (21) 214306

- Provides counselling services for trafficked women and implements anti-trafficking projects through awareness-raising activities.

## THAILAND

### 19. Migrant Assistance Program (MAP)

63/31, Moo 8, U-mong, Soi 4, Suthep Road  
 Muang Chiang Mai, 50200 Thailand  
 Tel/Fax: +66 (53) 811202  
 Email: map@mapfoundationcm.org  
 Web: www.mapfoundationcm.org

- The MAP Foundation works with migrant workers on issues of health, labour and women's rights. The MAP Foundation provides information in migrants' languages through radio programs, brochures, audio magazines and interactive magazines. The Act Against Abuse project of MAP supports migrant communities to act against exploitation and abuse through advocacy to prevent exploitation, teach legal rights literacy and provide paralegal assistance. (MAP Foundation is the registered English name, the registered Thai name translates as 'Foundation for the Health and Knowledge of Ethnic Labour')
- Ms. Jackie Pollock of MAP is a member of the MMN Steering Committee.

### 20. ADRA Thailand

Aleena Garden Unit 1 A, 178/109 Mooban World Club Land  
 Soi 4 Tambon Nongkway, Amper Hong Dong  
 Chiang Mai 50230 Thailand  
 Tel: +66 (53) 839402  
 Fax: +66 (53) 839403  
 Email: office@adra.or.th  
 Web: www.adra.or.th

**21. Thai Action Committee for Democracy in Burma (TACDB)**

Student Christian Centre, 328/1 Phayathai Ratharee  
Bangkok 10400 Thailand  
Tel/Fax: + 66 (2) 2164463  
Email: tacdb@truemail.co.th  
Web: www.tacdb.org

- TACDB works with people from Burma including political activists, refugees and migrant workers who seek refuge in Thailand. It advocates for the support of the democracy movement in Burma and for the protection of migrants' rights in Thailand. It aims to empower migrants from Burma through publishing a monthly newsletter about labour issues, running a training centre and providing legal assistance through their Law Clinic. TACDB also continues its work in the southern Thailand assisting identification of disaster victims since the tsunami in 2005 and providing community library services for Burmese migrants.

**22. EMPOWER-Chiang Mai Center**

72/2 Raming Niwet, Tippanet  
Chiang Mai 50100 Thailand  
Tel/ Fax: +66 (53) 282504  
Email: empower@cm.ksc.co.th  
Web: www.empowerfoundation.org

- Advocacy, education and occupational health and safety promotion for sex workers in Thailand.

**23. EMPOWER-Mae Sai Center**

123/2 Sailomjoy Rd. Wiengpangkhram District  
Chiang Rai, 57130 Thailand  
Tel/Fax: +66 (53) 640735  
Web: www.empowerfoundation.org

**24. Foundation for AIDS Rights (FAR)**

133/235 RuenRudee 3 Hathairath Rd.  
Meanburi Bangkok 10510  
Tel: +66 (2) 1715135-6  
Fax: +66 (2) 1715124  
Email: farbkk@farthai.org  
Web: www.farthai.org

**25. Federation of Trade Unions-Burma (FTUB)**

P.O. Box 1270, GPO Bangkok, 10501 Thailand  
Tel/Fax: +66 (2) 6328832  
Mobile: +66 (81) 6422296  
Email: tta230@yahoo.com  
Web: www.ftub.org

- Advocacy, unionizing, training, research, networking, radio broadcasts etc.

**26. Foundation for Women**

295 Charansanitwong Soi 62, Wat Paorohit, Bangplad  
Bangkok 10700 Thailand  
(P.O. Box 47, Bangkoknoi, Bangkok 10700 Thailand)  
Tel.: +66 (2) 4351246, 4335149  
Fax: +66 (2) 4346774  
Email: info@womenthai.org  
Web: www.womenthai.org

- Provides education, awareness-raising and assistance to women in need, including migrants.

**27. Friends of Women Foundation**

386/61-62 soi Ratchadaphisek 42, Ratchadaphisek Rd.  
Chatuchak, Bangkok 10900 Thailand  
Tel.: +66 (2) 5131001  
Fax: +66 (2) 5131929  
Email: FOW@mozart.co.th  
Web: www.friendsofwomen.net

**28. Grassroots-HRE & Development Committee (Burma)**

P.O. Box (13), Takuapa Post Office, Takuapa, Phang Nga Province 82110 Thailand  
Tel.: +66 (76) 486351  
Email: grassroots\_hre@yahoo.com  
Web: www.ghre.org

- The Grassroots is a grassroots committee of Burmese teachers, democratic activists, social workers, health workers and migrant workers and it primarily works to provide safe and productive environment for Burmese migrant workers in southern Thailand. Three specific objectives are 1) to provide education to children of Burmese migrant workers in Takua Pa District of Phang Nga Province; 2) to promote job opportunities and foster a safe and lawful environment for Burmese migrant workers in Phang Nga Province; 3) to bridge Thai and Burmese communities.

**29. Institute for Population and Social Research (IPSR), Mahidol University Puttamonthon**

4 Road, Salaya  
Nakhonpathom, 73170 Thailand  
Tel: +66 (2) 4419520  
Fax: +66 (2) 4419333

**30. Maryknoll Thailand - Office for Migrants at Immigration Detention Center in Bangkok**

2000/43 Soi Wat Vorajanyawat, New Road, Soi 72, Yannawa  
Bangkok 10120 Thailand

Tel: +66 (2) 2919394~5  
Fax: +66 (2) 2919396  
Email: maryknol@ksc.th.com  
Web: www.maryknollthailand.org

**31. The Mekong Ecumenical Partnership Program-Christian Conference of Asia (MEPP-CCA)**

c/o Payap University, Munag District  
Chiang Mai 5000 Thailand  
Tel: +66 (53) 243906-7  
Email: jane@cca.org.hk, ccagensec@cca.org.hk

- MEPP's work focuses on HIV/AIDS, cross-border migration and sustainable development and aims to enhance cooperation and the networking of churches and related organisations in the Mekong subregion in order to facilitate the exchange and sharing of information among church leaders. The program promotes church leadership development and the church's role in the issues through a leadership and capacity building program including human rights training.

**32. National Catholic Commission on Migration**

112/11 7th floor, soi Naksuwan, Nonsi Road, Yannawa  
Bangkok 10220 Thailand  
Tel: +66 26813900 EXT.1710  
Fax: +66 26813300

- Provides various forms of relief and assistance to migrants

**33. Pattanarak Foundation**

49/83 KC Suwintawong  
Nongchok, Bangkok 10530  
Tel/Fax: +66 29563791  
Email: serit@pattanarak.or.th  
Web: www.pattanarak.or.th

- Pattanarak Foundation carries out programs aiming to improve the quality of life of disadvantaged communities and stateless persons in Thailand's border and protected conservation areas including migrants.

**34. The Peace Way Foundation**

1/11 Soi Piphat 2, Convent Rd., Silom, Bangrak, Bangkok 10500 Thailand  
Tel: + 66 (2) 2346674  
Fax: + 66 (2) 1333132  
Email: peacewayfoundation@gmail.com  
Web: <http://www.burmaissues.org>

**35. Program for Appropriate Technology in Health (PATH) - Thailand**

37/1 Soi Petchburi 15, 3/F Ruamprasong Building, Petchburi Road

Bangkok 10400 Thailand

Tel: + 66 (2) 6537563

Fax: +66 (2) 6537568

Email: info@path.org

Web: www.path.org

**36. Shan Women's Action Network (SWAN)**

P.O. Box 120 , Phrasing P.O, Chiang Mai 50205 Thailand

Email: kenneri@shanwomen.org

Web: www.shanwomen.org

- Promotes women's rights and empowerment among Shan women. The SWAN programs include education program, women's empowerment program, crisis support program, and health program under which it runs clinics for displaced Shan communities along the Thai-Burma border.

**37. Young Chi Oo Workers Association (YCOWA)**

P.O. Box 37

Mae Sot, Tak 63110 Thailand

Tel: +66 (89) 5659899

Email: newdawnzaw@gmail.com

Web: <http://ycowa.blogspot.com/>

- Young Chi Oo Association is a grassroots organisation of migrant workers who collectively struggle for the protection of migrants' rights.

**38. Action Network for Migrants in Thailand (ANM)**

Mailing address: c/o MAP Foundation

Email: action\_migrants@yahoo.com

- ANM is composed of community-based organisations (CBOs) and NGOs working with migrant workers from Burma, Lao PDR and Cambodia. These organisations work directly with migrant workers in order to: improve the understanding and the attitude of the Thai society and of migrants themselves towards issues and challenges faced by migrants; and empower migrant workers so they will be able to struggle for their rights.
- ANM's vision is to realise safe migration and fair work in the Mekong Region. The network collectively advocates for the rights of migrants as workers and their rights to access health services, education and legal justice. Since 2000, the network has met regularly to share experiences and information, strengthen the network and build the capacity of network members. The network has taken collective advocacy action on numerous occasions to respond to discriminatory policies or media against migrant workers and develop recommendations targeting decision-making bodies on migration in Thailand. The ANM members also engage with Thai media to improve the quality of coverage referring to migration.

- As of June 2008, the following are the member organisations of the ANM: Empower Foundation; Foundation for AIDS Rights (FAR); Yaung Chi Oo Workers' Association (YCOWA); Thai Action Committee for Democracy in Burma (TACDB); Friends of Women Foundation; Shan Women Action Network (SWAN); Grassroots HRE; Labour Rights Protection Network (LPN); Peace Way Foundation; Raksthai Foundation; Arakan Workers Union; Seafarers Union of Burma (SUB); Karen Labour Union; Workers Solidarity Association; ADRA; and MAP Foundation. The following are the alliances: Thai Labour Solidarity Committee; Arom Phong Phakhan Foundation; Sub-committee of Labour; The National Human Rights Commission; The Human Rights Sub-Committee on Ethnic Minorities, Stateless, Migrant Workers and Displaced Persons; and The Law Society of Thailand.

## **VIETNAM**

### **39. Center of Research and Consultancy for Development (CRCD)**

Southern Institute of Social Sciences  
 49 Nguyen thi Minh Khai Street – Ben Nghe Ward - District 1  
 Ho Chi Minh City, Vietnam  
 Tel: +84 (8) 9966220  
 Fax: +84 (8) 8223735

- The Southern Institute of Social Sciences conducts research in the field of social science and humanity on issues related to sociology and development, ethnology and religion, gender and family, economics, history, archeology, literature and linguistics, development research and consultancy among others. In particular, poverty reduction issues in the process of urbanization, industrialization, resettlement and migration have become a major research concern.
- Ms. Tuyet Thi Ngoc Huynh (tuyethuynh253@yahoo.com) is a member of the MMN Steering Committee.

### **40. Education & Psychology Association -Ho Chi Minh City**

74 Duong Dinh Nghe street , W.8, D.11  
 Ho Chi Minh City, Vietnam  
 Tel: +84 (8) 8581189  
 Email: nhatnguyen1950@yahoo.com

### **41. Social Work and Community Development Center**

572/4 Le Quang Dinh Street, Ward 1, GO VAP District  
 Ho Chi Minh City, Vietnam  
 Tel: +84 (8) 8955034  
 Email: ltmyhien@yahoo.com

### **42. Social Work & Community Development Unit**

130 (Room 306) Pasteur Street, District 1  
 Ho Chi Minh City, Vietnam  
 Tel: +84 (8) 8228652  
 Email: chauthuy@hcmc.netnam.vn

**43. Sunflower Vocational Training Unit**

C 238 Xom Chieu Street, District 4 , Ho Chi Minh City, Vietnam

Tel: +84 (8) 9402691

Fax: +84 (8) 9858202

Email: [truonghiep93@yahoo.com](mailto:truonghiep93@yahoo.com)

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**Regional**

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**44. Asian Migrant Centre (AMC)**

Flat 6, 13/F, Block A, Fuk Keung Industrial Bld., 66-68 Tong Mi Road

Prince Edward, Kowloon, Hong Kong

Tel: +852 23120031

Fax: +852 29920111

Email: [amc@pacific.net.hk](mailto:amc@pacific.net.hk)

Web: [www.asian-migrants.org](http://www.asian-migrants.org)

- Mr. Rex Varona is a member of the MMN Steering Committee.
- Ms. Reiko Harima ([reiko@mekongmigration.org](mailto:reiko@mekongmigration.org)) is serving as the Coordinator for the MMN Secretariat.

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**MMN Project Partners**

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**45. Rockefeller Foundation**

Bangkok Regional Office

21st Floor, UBC2 Building, No. 591, Sukhumvit Road

(Soi 330 Wattana, Bangkok 10110), Thailand

Tel: +66 22620091~95

Fax: +66 22620098

Web: [www.rockmekong.com](http://www.rockmekong.com)

**46. OXFAM Hong Kong**

17/F China United Centre

28 Marble Road, North Point, Hong Kong

Tel: +852 25202525

Fax: +852 27899545

Email: [admin@oxfamhk.org](mailto:admin@oxfamhk.org)

Web: [www.oxfam.org.hk/english/](http://www.oxfam.org.hk/english/)

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**MMN Secretariat**

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**Chiang Mai Office**

c/o MAP Foundation

Tel: +66 (53) 328298

Fax: +66 (53) 811202

Email: [advocacy@mekongmigration.org](mailto:advocacy@mekongmigration.org)

**Hong Kong Office**

c/o Asian Migrant Centre

Email: [info@mekongmigration.org](mailto:info@mekongmigration.org)



# Migrant Registration in Thailand: Timeline of Facts and Figures

2004				2005				2006				2007				2008													
JULY		AUGUST		JULY		MARCH		JUNE		JULY		DECEMBER		FEBRUARY		MARCH		JUNE		JULY		FEBRUARY		MARCH		JUNE		JULY	
<h3>Annual Migrants Registration</h3> <ul style="list-style-type: none"> <li>• Tor Ror 38/1</li> <li>• allowed migrants and their families to register for a temporary residence card</li> <li>• free of charge</li> <li>• valid for one year</li> <li>• The card is independent of employers</li> </ul>																													
<h3>Interim Migrants' Registration</h3> <ul style="list-style-type: none"> <li>• Interim registration</li> <li>• Open for migrants who registered for a work permit in 2004 and for new migrants.</li> <li>• Valid for one year</li> <li>• Deposit fee (THB10,000 for previously registered migrants, THB50,000 for new registration) Forfeited on late withdrawal</li> </ul>																													
<h3>Special Registration for Southern Provinces</h3> <ul style="list-style-type: none"> <li>• Special registration for Yala, Pattani, Narathiwat, Satun and Songkhla in response to the labour shortage in troubled southern provinces.</li> <li>• 11,817 migrant workers registered, 10,540 of whom received work permits.</li> </ul>																													
<h3>Employer</h3>																													
<h3>MOU Process</h3>																													
<p>The Royal Thai Government signs the MOU on Employment Cooperation with Lao PDR, Cambodia and Burma in October 2002, May 2003 and June 2003 respectively.</p>				<p>(May) LAO PDR and Cambodian governments starts the process of verifying nationality of Lao migrant workers in Thailand following the MOU.</p>				<p>(January) LAO PDR starts fresh recruitment of workers for Thailand.</p>				<p>(September) Cambodia starts sending its workers officially to Thailand.</p>				<p>The Provincial Government of Phuket issues a "Decree on Alien Workers"</p>				<p>Provinces of Suratthani, Ranong, Rayong and Pang Nga announce provincial decrees similar to that of Phuket.</p>				<p>The Thai Government announces Working of Aliens Act B.E. 2551</p>					
<p>Government crackdown carried out. Total of 226,508 migrants deported</p>																													
<p>Implementation of 10 May 2005 Cabinet Resolution</p> <ul style="list-style-type: none"> <li>• Renewal of work permits</li> <li>• Total cost: THB3,800 for those who registered for work permit in 2004; THB4,250 for those who had Tor Ror 38/1, but no work permit</li> <li>• allowed to change the place of employment</li> <li>• valid for one year</li> </ul>																													
<p>Implementation of 18 May 2006 Cabinet Resolution</p> <ul style="list-style-type: none"> <li>• Renewal of work permits</li> <li>• Allowed to register with a new employer under specific circumstances.</li> <li>• Total cost: THB 3,800</li> <li>• Valid for one year</li> </ul>																													
<p>Implementation of 19 December 2006 Cabinet Resolution</p> <ul style="list-style-type: none"> <li>• Renewal of work permits</li> <li>• Allowed to register with a new employer under specific circumstances.</li> <li>• Total cost: THB 7,800</li> <li>• Valid for one year</li> </ul>																													
<p>Implementation of 18 December 2007 Cabinet Resolution</p> <ul style="list-style-type: none"> <li>• Renewal of work permits</li> <li>• Valid for one year, renewable for up to two years.</li> </ul>																													
<p>Implementation of 18 December 2007 Cabinet Resolution</p> <ul style="list-style-type: none"> <li>• Renewal of work permits from March 2007</li> <li>• New work permits for migrants with Ror 38/1.</li> <li>• Valid for one year, renewable up to two years.</li> </ul>																													
<p>Implementation of 18 December 2007 Cabinet Resolution</p> <ul style="list-style-type: none"> <li>• Renewal of work permits from March 2007</li> <li>• New work permits for migrants with Tor Ror 38/1.</li> <li>• Valid for one year, renewable up to two years.</li> <li>• 3,549 migrant workers received work permits.</li> </ul>																													
<p>Number of migrants registered for Tor Ror 38/1: <b>1,284,920</b></p> <p>Number of migrants who received work permits during this registration: <b>849,552</b></p> <p>Number of migrants who renewed/received work permits during this registration: <b>705,293</b></p> <p>Number of migrants who received work permits during this registration: <b>208,562</b></p> <p>Number of migrants who renewed their work permits during this registration: <b>460,014</b></p> <p>Number of migrants who renewed their work permits during this registration: <b>141,289</b></p> <p>Number of migrants who renewed their work permits during this registration: <b>394,443</b></p> <p>Number of migrants who renewed/received work permits during this registration: <b>135,004</b></p>																													
<p>Number of migrants who renewed/received work permits during this registration: <b>126,265</b></p>																													
<p>194,133 employers registered requesting 1,333,703 migrant workers. Department of Employment approved quota of 1,226,106.</p>																													