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# VULNERABILITIES AND VISIBILITY: THAILAND'S MANAGEMENT OF FEMALE DOMESTIC WORKERS FROM BURMA

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This article examines the difficulties of managing the migration of domestic workers from Burma to Thailand. It suggests that, although measures can be taken to attract registrants, in order for the management process to be successful, policy makers must take into account the acute vulnerabilities associated with domestic service, including workers' isolation, exposure to sexual harassment and abuse, and lack of legal recognition under Thai labor laws. In addition to tracing recent trends in Burmese labor migration and Thai immigration policy, the article identifies six main challenges faced by migrants. The author's policy recommendations, influenced by interviews with relevant stakeholders, seek to address these challenges directly, while providing a foundation for better protection, transparency, and enforcement of labor rights in Thailand.

## INTRODUCTION

International organizations have long struggled with the challenges presented by irregular migrant workers in the informal sector. Agencies such as the International Labour Organization (ILO) have developed frame-

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works for the protection of all workers, regardless of their employment status or nationality. The Declaration of Philadelphia, included in the ILO Constitution as the Declaration Concerning the Aims and Purposes of the International Labour Organization, asserts that economic and financial measures should be evaluated based on their ability to promote the social welfare of all persons. The ILO Declaration on the Fundamental Principles and Rights at Work, unanimously adopted in 1998 by the International Labor Conference, applies to all workers, regardless of employment relationship or formality of status, and specifically addresses the needs of informal sector workers. The ILO cites its objective of “protect[ing] the interests of workers when employed in countries other than their own” in the preamble of its constitution. In addition to these documents, four main conventions prescribe legal and political standards.<sup>1</sup> Migrant workers also are protected by other ILO standards, as ILO conventions and recommendations apply to all workers, regardless of their nationality (Weinert 1992, 191).

Although member states have signed a number of conventions to protect the rights of migrant workers, they have not been ratified by many countries.<sup>2</sup> While most conventions are not widely enforced, Thailand has other international tools to protect migrant and informal sector workers. In 1999, for example, Thailand was a key signatory to the Bangkok Declaration on Irregular Migration. Signed by representatives from eighteen countries, the Declaration states, “irregular migrants should be granted humanitarian treatment, including appropriate health and other services... Any unfair treatment towards them should be avoided” (The Bangkok Declaration on Irregular Migration 1999). Additionally, as a member state of the ILO, Thailand is obligated to uphold the ILO Declaration on the Fundamental Principles and Rights at Work. Unlike conventions, which raise specific legal obligations only when ratified, the Declaration is not subject to ratification and rearticulates the values enshrined in the ILO Constitution to which states subscribe when they join the Organization (ILO 2002, 40).

Among migrant workers in the informal economy, those engaged in domestic work are the least protected. Defined as a person “who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state of which he or she is not a national” and whose duties include performing household chores, caring for children, and managing household duties, a migrant domestic worker occupies one of the least protected positions among migrant and informal sector workers worldwide (UN Convention on the Protection of the Rights of Migrant Workers and the Members of

their Families 1990; National Forum of Migrant Workers 1999).

Virtually all female, migrant domestic workers from Burma are situated at the intersection between status-related, gender-related, and xenophobia-related intolerance. Thailand's 2001 registration accounted for 81,045 registered migrant domestic workers, the vast majority of whom lack the standard legal and social protection available to workers in the formal sectors. Following farming and fishery-related sectors, domestic work employs the third-highest number of registered migrant workers in Thailand, and the largest number of registered female migrant workers. The 2001 registration indicated that nearly a third of all female migrant workers registered in Thailand work in domestic service, followed by work in the farming and fishery-related sectors at 16 percent and 12 percent, respectively.

Soon after the 2001 registration, the statistics changed dramatically. The 2002 re-registration, meant to renew the registration of those who participated in 2001, indicated that the total figure for migrant workers was 22 percent lower than the registration count in 2001. Close to 20,000 fewer migrant workers in domestic service were re-registered, reflecting a drop typical of all industrial sectors. Although Thailand introduced a new registration system to better estimate the number of migrant workers, the policy failed to either attract migrant workers to the polls or to get them out in the second round of registrations.

Many migrant workers chose not to register in these recent exercises because registration introduced additional costs without offering significant benefits. Although the government has begun to assess the size of the general migrant worker population, Thailand has not yet established an effective strategy for managing the flow of Burmese domestic workers into the country. The particular vulnerabilities inherent in domestic service exacerbate the lack of rights and representation or "invisibility" of domestic workers, and the Thai registration system must be reformed to adequately assess the number and needs of Burmese women employed in domestic work.

## **THAILAND AS A RECEIVING NATION FOR BURMA**

### **Geographical Factors**

Due to close proximity and an open border, Thailand is the primary recipient of Burmese migrant workers. Divided by a long porous border, Thailand and Burma share 400 official entry points and countless unofficial crossings. A significant percentage of irregular migrants from Burma who enter Thailand for work easily cross into the country in areas without any

fences or border patrol, sometimes entering Thailand the same day they are deported back to Burma.

### **Economic Factors**

Experiencing rapid economic growth in the 1990s, Thailand attracted many migrants from Burma. As one of the “tiger economies” in Southeast Asia, Thailand has progressed from being a major source of labor to the Middle East and Asia to becoming a major destination for migrant workers from neighboring low income countries (Martin 2002, 6). As its economy was transformed from an agricultural to an industrial base, Thailand became a net receiver of labor resources. Indeed, an estimated 1.7 million foreign workers were living in the country in 1997, over 80 percent of which arrived from Burma (ILO BAO/ EASMAT 2000, 2). Despite low wages, migrant workers were able to earn at least four times as much money as they earned in Burma.

### **Political Factors**

Migration from Burma into Thailand did not depend on the latter’s relative wealth as much as it was driven by Burma’s political unrest and staggering poverty. The International Monetary Fund (IMF) has repeatedly reported on the desperate state of the Burmese economy, citing as the primary causes waning foreign direct investment and the mismanagement of the economy by the country’s governing junta. Attributing the country’s problems to the political regime and military, migrant Burmese women point to the country’s harsh economic conditions, fear of rape and abuse, and an inability to provide security for their family as the principal reasons for their migration to Thailand (O’ Kane 2001, 7). In 2000, the ruling military regime’s economic policies prompted uncontrollable rates of inflation, and official statistics indicated that 70 percent of the 1999 budget deficit was funded or fixed by the printing of money. As the value of money declined, prices rose and the population outside of the civil servant sector suffered from extreme poverty (Federation of Trade Unions-Burma 2002, 1). Although the relative wealth of Thailand certainly played a role in drawing migrants from Burma, migration during the late 1980s and 1990s became an issue of basic survival, initiated by political fears and economic desperation.

Military oppression, political suppression, forced relocation, and armed conflict after the Burmese military coup in 1988 also prompted many ethnic minorities to escape from Burma. The consequent food shortages, high rates of unemployment, and extreme poverty drove hundreds of

thousands of members of ethnic minorities into Thailand. Furthermore, political instability, war, and repressive practices in Burma caused dislocations, which in turn perpetuated widespread poverty throughout the country and fueled increasing migration (Beesey 2002, 5).

As a receiving nation, Thailand was relatively open to the flow of migrant laborers during the “boom” years. All of that changed, however, with the Asian financial crisis of 1997, which made Thailand hostile to them, justifying its anti-migrant worker policies as security initiatives. After the Asian economic crisis hit, policies were established to severely limit the number of registered migrant workers and to deport those who were unregistered (O’Kane 2001, 3). Although much of the anti-migrant worker sentiment was due to economic circumstances—close to 2,000,000 Thais lost their jobs during the financial crisis—many Thais cited national security concerns for the anti-migrant worker backlash. A survey of local Thai residents conducted in the late 1990s found that their views on migrant workers were associated with issues of national security, crime, public health problems, and deteriorating social and environmental conditions (Beesey 2002, 24).

To respond to these public concerns, the government established strict quotas and enforced other restrictive policies to push migrants back across the border (Beesey 2002, 2). Calling for tighter controls on migrant labor, in October 1997 the Ministry of Labor and Social Welfare proposed a scheme known as the “economic-labor security plan” to restrict foreign workers to nine provinces in order to improve efficiency in controlling illegal migration. This number represented a tremendous drop from the forty-three provinces allowed to receive immigrants under Article 17 of the Immigration Act of 1979. Soon after, the government swiftly announced repatriation plans while calling for increased surveillance and border controls. In 1999, the Thai government attempted to deport all undocumented migrants living on Thai soil. To counter private sector pressure to soften migrant labor restrictions, the Ministry of Labor and Social Welfare launched a controversial public awareness campaign that equated migrant workers with poisonous snakes in the backyard (O’Kane 2001, 16). This focus on national security concerns rather than the risks of economic interdependence cast migrant workers as a threat to Thai society. Not surprisingly, when the financial crisis hit Thailand, security reasons were immediately cited as the justification for the government’s anti-immigrant policies.

## LEGAL FRAMEWORK FOR MIGRANT WORKERS

Because Thailand's immigration policy technically prohibited unskilled foreign workers from entering the country, most of the estimated 700,000 to 900,000 (some estimates run as high as 2,000,000) unskilled foreign workers who entered Thailand in the mid-1990s did so illegally (Martin 2002, 6). Those who entered legally did so under Article 17 of the Immigration Act of 1979, which allows the Thai Cabinet to permit foreigners to enter and stay in Thailand. Indeed, Article 17 served as the basis for Thailand's policy toward unskilled migrants in the 1990s, while providing the legal grounds for the migrant registration exercises in 1992, 1996, and 2001 (Martin 2002, 8).

Thai immigration legislation has historically reflected a bias toward skilled foreign workers vis-à-vis their unskilled counterparts. In 2002, the Ministry of Labor announced that legal foreign workers designated as "skilled"—the vast majority of whom worked for multinational companies—could renew their permits and stay in Thailand for one year, in contrast to the previous six month limit. Registration fees for skilled workers were capped under the 2002 legislation at 1000 baht (\$25.69) per year in comparison to the 3250 baht (\$83.50) that unskilled migrants were forced to pay every six months (*Bangkok Post* 2002).

Despite the exorbitant fees and limits on immigration, the demand for unskilled workers in Thailand has remained high. Between 1997 and 1998, Thailand attempted to remove unauthorized foreign workers in order to open up jobs for unemployed Thais. The attempt to replace migrant workers with unemployed Thais failed, however, largely because Thais refused to take these jobs due to their inferior status. In 1999, Prime Minister Thaksin Shinawatra announced that his administration would "solve the illegal migrant labor problem," and, soon after, estimates of unskilled migrant workers fell from almost 1,000,000 in 1998 to 664,000 in 1999. However, the number of registered unskilled migrant workers rebounded to 816,000 in September 2001 (Martin 2002, 6-7; Wickramasekara 2000, 6).

Thailand's migrant labor policy of registration and deportation reflects the tug of war between powerful business interests and government forces that evolved in the mid-1990s and remains unresolved today. Powerful business interests oppose the Thai government's policy of deporting migrant laborers. Many industries in Thailand, including fishing, canning, garment production, rubber, fruit orchards, and domestic work, depend on migrant workers to fill shortages in times of high growth, but also enjoy the profits made by employing cheap, unprotected labor (O'Kane 2001, 13). Torn between increasing enforcement to appease public opinion and

engaging in another registration to satisfy business interests, the Thaksin administration agreed in 2001 to another registration to be followed by stepped-up enforcement.

The conflict between economic necessity and public policy has encouraged the phenomenon of illegal migrant workers. As the market demand for migrant workers remains unmatched by legislated supply, restrictions on the means for official entry and legal employment have prompted increases in the number of undocumented, irregular migrant workers. On August 28, 2001, the Thai cabinet acknowledged the economic need for migrant workers for the first time, passing a resolution that begins by stating: "Owing to the lack of Thai workers willing and able to work in some hazardous jobs...[employers are now permitted] to employ illegal foreign workers temporarily prior to deportation" (Martin 2002, 12).

## **REGISTRATION OF MIGRANT DOMESTIC WORKERS**

Conceding that the supply of Thai workers failed to meet demand in certain sectors, the government adopted a registration policy in 1998 to begin regulating the migration of all irregular migrant workers in the country. Instead of pursuing long-term migration policies, the Thai government chose to implement short-term registration measures instead.

### **History of Migrant Domestic Workers and Registration**

In Thailand, housework is historically considered the duty of the female members of the family, or of a poor relative who works in exchange for board and lodging. Laws and regulations concerning the employment of foreign labor suggest that the use of migrant housemaids began around 1978 (Paitoonpong, Plywej, and Sirikul 2002, 8). Previously, domestic workers had generally been Thai rural migrants from the north and northeast areas of the country (Martin 2002, 29). The Royal Decree 281 of 1972, which reserves most occupations for Thai nationals, but specifies twenty-seven occupations permitted for foreigners, did not include domestic workers as such a category. As the number of dual income Thai households increased and their size decreased, families began looking for outside help to perform domestic work, and housework became paid labor.

Article 12 of the Foreigner Employment Act of 1978 specified twenty-seven types of occupations permitted to foreigners and included on this list the categories "Laundry" and "Laborer," which referred to migrants who worked as domestic workers. Although Article 12 passed, there was no direct mention of domestic workers in laws and regulations until 1996, when the August 6 Cabinet Resolution specifically recognized domestic

work as an occupation open to migrant workers (Paitoonpong, Plywej, and Sirikul 2002). Subsequent registration exercises were conducted in 1998, 1999, and 2000. By introducing strict quotas to limit the number of migrant workers, re-registrations aimed to counteract failed efforts to substitute unemployed Thais for repatriated migrant workers. In response to the financial crisis, however, government policies excluded various sectors, including domestic work, from the list of occupations open to foreigners. The government cited national security and public health concerns as the motivation for this change in policy.

As a result, families that had previously employed migrant domestic workers could no longer do so legally. Nevertheless, many households chose to continue to employ foreign domestic workers illegally. In 2001, a national review of labor shortages in Thailand revealed that domestic service needed migrant workers because Thailand's efforts to recruit and train nationals for domestic work had failed.<sup>3</sup> As a result, domestic work as a category was reinstated into the registration policy in 2001.

### **The 2001 and 2002 Registrations**

In 2001, registration was expanded to produce the first "census" of migrant workers in Thailand. According to one government official, the purpose of the latter registration was to determine how many migrant workers were living in Thailand; in which sectors they were working; how many workers were employed in each sector; and how these populations were expanding (Government Official, Thai Ministry of Labor and Social Welfare, 2002).<sup>4</sup> Officials suspected that new births in Thailand and the arrival of new workers and dependents might increase the size of the Burmese immigrant community in Thailand.

The Thai government used the results of the 2001 registration to justify new policies to open up jobs and to establish quotas for migrant workers. The Thai Ministry of Labor and Social Welfare planned to include dependents and family members in the next registration exercise. In an attempt to address the weaknesses in the current policy, the government planned in 2002 to obtain an assessment of the various sectors with migrant workers, determine the ratio of Thai workers to migrant workers, determine whether unemployed nationals could replace the migrant workers in these sectors, and, if they found that there was still a gap, develop a plan to employ migrant workers.

The 2001 and 2002 registrations were unique for several reasons. First, the Deputy Secretary General of the Office of the Administrative Commission on Irregular Workers, Supat Gukun, indicated that initial discussions with



employers at various levels revealed a demand for about 800,000 migrant workers in all industrial sectors (ILO BAO/ EASMAT 2002). The 2001 registration marked the first time employers in all sectors were allowed to register their migrant workers in all seventy-six provinces. Additionally, the Ministry of Labor and Social Welfare monitored the registration exercise, with registration conducted at the Ministry of Labor and Social Welfare employment offices around Thailand.<sup>5</sup> The threat of increased enforcement provided a new incentive to register.

Although the 2001 and 2002 registrations brought many improvements, they still retained aspects of past registration policies that discouraged migrant workers from participating. Similarly to previous registrations, registration identification cards (RIDs) remained valid only in the short term; migrant workers could not change employers; and fees, including a portion for repatriation, were required. Despite assurances from the Deputy Permanent Secretary, Nakorn Silapa-archa, that migrants who registered in 2001 would enjoy the same protections as Thai workers, government enforcement of labor laws protecting migrant workers continued to be weak. Additionally, akin to past exercises, the language of the registration policy continued to emphasize the eventual deportation of migrant workers and threatened to extradite those who failed to register.

Many migrant workers chose not to register in these recent exercises because registration introduced additional costs without offering significant benefits.

### **Demographics of Registered Migrants in Domestic Service in Thailand**

In 2001, there were 82,389 registered migrant and local domestic workers, or approximately 40 percent of the total number of housemaids in Thailand. Burmese migrants made up 80 percent of the migrant workers in Thailand, with workers from Laos and Cambodia making up a remaining 10 percent each. Eighty percent of the total number of registered female migrants in 2001 consisted of Burmese migrants. Domestic workers comprised 14.5 percent of the total number of registered workers, up from 12 percent in 1996, and more migrants worked in domestic work (82,389) than in construction (47,320) and farming (29,613) combined. More than half of migrant domestic workers (55 percent) were located in Bangkok and the central region of Thailand.

In 2002, 62,858 migrants registered as domestic workers, a drop of 18,187, or about 22 percent, from the previous year. Domestic workers comprised 14.7 percent of the total registered migrant population, slightly

up from 14.5 percent in 2001 and 12 percent in 1996. The decline in this sector reflected the drop in all sectors.

## CHALLENGES AND RECOMMENDATIONS

There are numerous explanations for the decline in domestic worker registrants, including the high registration fee and limited registration period; a lack of information about the second round of re-registration; and the fact that the registrations failed to have any impact on the lives and work of migrant domestic workers. The following section will address and provide recommendations for six distinct challenges faced by migrants to Thailand.

### **Challenge: Registration Costs and Limited Registration Window**

Many migrant domestic workers failed to re-register in 2002 because they could not afford the registration fee or because their employers refused to pay it. A 2001 study conducted by the National Statistical Office in Thailand estimated that the average monthly salary of a migrant domestic worker was 2500 baht (\$64.25), yet the registration fee totaled 3250 baht (\$83.52). In some cases, domestic workers arrived with their husbands or families but chose to register only one member of the household because the fee was so high. Additionally, a number of migrant domestic workers entered Thailand after the first registration exercise in August 2001 and missed their opportunity to participate in the process, since only re-registration was allowed in 2002. Among those who registered in the first round, some took advantage of the Thai New Year to return home during the spring 2002 registration period and missed their chance to re-register.

### **Recommendations for Reforming Registration Costs and Period**

To address the challenge outlined above, the Thai government should introduce adjusted permit fees for migrant domestic workers. The current fee exceeds their average monthly wage, making the cost of yearly registration equal to about 22 percent of their annual salary.<sup>6</sup> Adopting this approach of different fees for different sectors would encourage the Thai government to cooperate with networks of business associations to agree on the prevailing wage for the industry and area (Martin 2002, 5).

Second, the government should explore different registration schemes for an optimal system that can accommodate all sectors. One suggestion offered by the Thailand Development Research Institute is to develop

a year-round registration process monitored by a designated permanent staff from the Ministry of Labor and Social Welfare. Because employers wishing to hire registered migrant workers would also benefit from a longer registration period, employers' umbrella organizations from trades that utilize large numbers of migrant workers have indicated that they would be willing to assist the government in administering registration to migrants (Member, Thai Senate Standing Committee on Economy, Commerce, and Industry, 2002).

### **Challenge: Lack of Information**

Most migrant domestic workers were not aware that they were required to re-register in 2002 because they could not read the public campaign materials, which were only published in Thai. A 2002 survey found that in Tak province, where there is a significant population of migrant workers, only 20.6 percent of the people interviewed were aware of the registration requirement (Beesey 2002, 44). A large number also did not know they had to re-register, as their employers kept their registration identification cards.

### **Recommendation for Promoting Registration**

Thailand should provide public campaign materials in various languages to inform migrant workers of their rights and responsibilities. Authorities should advertise the registration in Burmese, Laotian, and Cambodian through various media such as television and radio in order to reach a wider domestic worker audience. The Federation of Trade Unions-Burma has already partnered with the human rights network Forum-Asia to propose to the Thai government a Burmese language radio show. Although allowing the Burmese language to be aired could be perceived by some in the government as a threat to national security, it is important to note that the public campaign messages would be under the primary control of the government.

### **Challenge: Failure to Protect Migrant Workers**

Many migrant domestic workers who initially saw registration as an investment in their well-being quickly grew disillusioned when the protections they were promised by the Thai government failed to materialize. Although the government claimed that migrant workers would receive protections similar to those enjoyed by Thai workers, no enforcement was conducted to ensure that labor rights, such as the right to a minimum wage, were protected. Consequently, many workers lost faith in the system and did

not register in the second round. Moreover, instead of protecting migrant workers' rights, registration forced workers to continue working for the same employers, some of whom were abusive. As a result, some migrant workers ran away or did not re-register because they feared deportation (Federation of Trade Unions-Burma 2002).

Many migrant workers cited safety and security concerns as reasons not to register in 2002. Some who registered in the first round were harassed or arrested. In several cases, police tore up migrants' work permits when they refused to pay bribes. Additionally, a 2002 survey found that a number of migrants did not see a difference between access to services and labor protection for those who were registered and those who were not, suggesting that "the registration is yet to be an effective system for supporting migrant workers" (Beesey 2002, 51).

### **Recommendations for Providing Better Protection and Support to Migrant Workers**

**Protection.** In order to ensure better protection for migrant workers, the Thai government should make registration a worker-initiated process where migrant workers would be able to change employers. Migrant workers should be required to pay their own registration fee in exchange for a guarantee of personal autonomy. Workers should also be permitted to maintain their own registration identification cards and travel documents.<sup>7</sup> The Ministry of Labor and Social Welfare might consider requiring that migrant workers inform the agency whenever they change employers or occupations. As the monitoring and mediating agency for migrant workers, the Ministry also should assist in placing migrant workers who have been dismissed from their jobs in new positions. In this way, the Ministry of Labor and Social Welfare would be better able to maintain information on the number and condition of migrant workers in Thailand.

Second, the government should explore channels for migrant domestic workers to seek redress, such as permitting accredited non-governmental organizations (NGOs) to serve as intermediaries. Often, migrant workers do not seek redress with enforcement authorities because they fear deportation. Additionally, the government or relevant NGOs should explore the possibility of establishing a telephone hotline service or a one-stop crisis center in urban regions with high migrant populations. Migrant workers in many industrialized provinces such as Bangkok and Samutsakhon currently visit their local hospitals when they need emergency assistance, usually when their emergencies have reached a crisis level. Hence, the demand for an information center and information hotline

for migrant workers is great.<sup>8</sup> Establishing such centers in urban areas could serve as a prelude to the development of more widespread protective mechanisms for migrant workers in Thailand. These centers should be staffed with trained volunteer translators, health workers, and experts who can provide legal assistance. Non-governmental organizations that already work with migrant workers should be commissioned to develop these services in partnership with the government. To ensure effective leadership and participation, contributing NGOs should have a verifiable history of working with migrant workers in Thailand.

**Support.** The Thai government must clearly and extensively advertise the benefits of registration to migrant workers to convince them that registration will yield significant safety and economic benefits. The government or relevant NGOs should publish a registration-related brochure in Burmese, Laotian, and Cambodian to explain immigrants' legal rights and responsibilities.

Additionally, the NGO community should develop a toll-free hotline with translators for migrant workers who have questions about the registration process and locations. The Federation of Trade Unions-Burma currently maintains several booklets about workers' legal rights and responsibilities published in Burmese, and the Thai government published informational brochures regarding registration in Burmese, Laotian, and Cambodian in 2002.

Second, the country must explore channels to develop and regain trust among migrant domestic workers. Suggestions for supporting migrant domestic workers include assisting them with remittance transfers, developing a life skills and health manual in Burmese, and providing trained translators at medical facilities in communities with large migrant populations. Human rights organizations such as the Thai Action Committee for Democracy in Burma (TACDB) and the Federation of Trade Unions-Burma (FTUB) have developed a life skills and health manual in Burmese. The government can assist in providing wide scale distribution of these manuals in order to demonstrate state support of migrant workers.

## CHALLENGES PARTICULAR TO REGISTERING MIGRANT DOMESTIC WORKERS

Thailand continues to face considerable challenges in managing the migration of foreign domestic workers because of the isolating nature of the work, the exposure to sexual harassment, and the lack of legal protection under Thai labor laws.<sup>9</sup> Despite these challenges and the inherent vulnerabilities of domestic work, the recommendations introduced here could make registration more attractive to domestic migrant workers.

**Challenge: Isolation**

The isolating nature of domestic work is a significant barrier to managing the migration of foreign domestic workers. Usually individualized, the conditions in housework physically separate the domestic worker from others, limiting the extent of her social contact and social support. Foreign domestic workers experience linguistic isolation and greater social alienation. Many are confined to the residence where they work, explicitly ordered not to make visual or other contact with people outside of their homes, and in extreme cases, not allowed to leave the compound. Some have been locked inside the house while the family was away, not given the keys to the residence, and not informed of their address.<sup>10</sup> Unless they are given a day off when they can meet others outside of the house, migrants in domestic service have little chance of coming into contact with other people and information. Indeed, many migrants in domestic service were dissuaded from registering because their employers noted that they never left the house anyway. The employers argued that registration would be a waste of money because the likelihood of being out in public and getting stopped by the police was very low.

**Recommendation for Addressing the Isolation of Domestic Work**

The Thai government should partner with women's organizations to facilitate the process of working with migrant domestic workers. In Thailand, a number of women's organizations have already begun working with migrant domestic workers. These organizations include the Migrant Action Programme (MAP), Global Alliance Against the Trafficking in Women (GAATW), Committee for Asian Women (CAW), Swan, Empower, and the Foundation for Women. The Thai government should collaborate with these groups to obtain more accurate information on the population of migrant domestic workers. In turn, the government should assist them with developing more comprehensive support programs for migrant women. Women's associations, as well as human rights and Burmese migrant advocacy groups in Thailand, can serve as a powerful institutional mechanism to organize migrant domestic workers.

**Challenge: Sexual Harassment**

The prevalence of sexual harassment in domestic service further discourages migrant domestic workers from registering, which in turn hinders the management of their migration. According to local NGO estimates,

approximately 95 to 99 percent of all domestic workers in Bangkok are female (Representative, Thai Action Committee for Democracy in Burma, July 2002; Representative, Forum-Asia, July 2002). Moreover, a considerable number of Burmese domestic workers are child laborers, with an average age of fifteen or sixteen.<sup>11</sup> Some are made to sleep in the kitchen, living room, or bathroom; on the roof or a balcony; or under staircases. Without privacy or their own sleeping quarters, domestic workers are physically unprotected from many forms of sexual assault (Asian Migrant Workers Centre 1991, 53, 72). Their invisibility, high degree of subordination, and work locations expose domestic workers to the risk of sexual abuse (Committee for Asian Women 2002, 4; Haspels et al 2001, 56). In a 2001 study conducted by the Migrant Action Programme, more than 50 percent of the thirty-one migrant domestic workers interviewed said that they faced attempted rape, physical harassment, or verbal harassment (Tay Tay 2001, 4).

Despite its prevalence, migrant domestic workers do not frequently report sexual harassment. NGO representatives claim that among female migrants, rape causes deep shame, while sexual harassment is also a source of embarrassment. Beyond the shame entailed in speaking out, migrant women often remain silent out of economic necessity, as “finding alternative work may be very difficult if they are dismissed. For workers who are undocumented, the situation is even more critical” (Haspels 2001, 57). The high level of dependence on one’s employer, and the fear of further retaliation, violence, or dismissal relegate many migrant domestic workers to silence. Disabling circumstances such as isolated working conditions, long hours of work, and lack of social contact exacerbate the situation and contribute to their reluctance to publicly register with the government.<sup>12</sup>

### **Recommendations for Addressing Workers’ Vulnerability to Sexual Harassment**

In order to address this challenge, the Thai government should consider developing confidential counseling services through health facilities or non-governmental organizations that currently work with migrant workers. With the cooperation of the Thai health department and funding from international agencies, CARE International has established two centers in Samutsakhon to train health volunteers among the migrant community, produce Burmese manuals on health education, and run a clinic. The activities of these two centers help to educate the community on issues of reproductive health and family planning. As places already recognized among migrant workers and not seen as suspicious by employers, these

health facilities could serve as sites for confidential counseling services for domestic workers dealing with sexual harassment. Because the centers primarily function and are recognized as health facilities, their anonymity as sites for sexual harassment counseling can be maintained. Confidential counseling services are important in providing a safe space for victims to speak about abusive incidents.

Although services may be limited to migrant domestic workers who have the freedom to visit these health centers, cases of domestic workers being completely locked away at home are, fortunately, still rare. Offering counseling services to the majority of migrant domestic workers who need them can serve as a steppingstone toward greater and more widespread access in the future. Moreover, although providing services to migrant domestic workers poses certain challenges, various Thai NGOs have already found ways to bring migrant domestic workers together, such as providing transportation to meeting sites and scheduling meetings around workers' days off. Additionally, a number of accredited Thai and international NGOs already offer monthly training sessions to migrant workers on sexual harassment and violence against women, usually involving ten to fifteen migrant workers at each session.

Second, the international and local NGO community should enlist the support of women's groups to mobilize people around the issue of sexual harassment. Sexual harassment is a problem that affects men and women, young and old, nationals and immigrants. Raising awareness about sexual harassment among the general public would help to protect migrant domestic workers. Indeed, women's groups in Thailand have played a vital role in spearheading advocacy and lobbying campaigns, providing crucial services to women in crisis, and forming alliances and networks with other social movement groups, trade unions, academia, and legal bodies to strengthen the support for women workers. By providing direct services to migrant domestic workers and recording cases of sexual abuse, women's organizations can play a crucial role in exposing and addressing sexual harassment.

### **Challenge: Lack of Legal Protection**

The lack of legal recognition of domestic service as employment serves as an enormous barrier to migration management. Manifest even in the language used to refer to the domestic worker—such as “the help, the girl”—the informal nature of the work perpetuates the migrant domestic worker's invisibility. Unlike international labor standards, which are intended to apply to all “workers,” the labor legislation in most countries, including



Thailand, is designated to protect “employees” (ILO 2002, 48). Inadequate legal criteria for determining employment make domestic work difficult to recognize legally. In essence, anyone not defined as an “employee” is not included in the legal system.<sup>13</sup> As such, most countries do not have labor standards concerning domestic service, even for nationals of the receiving countries.

In Thailand, none of the seven laws concerning labor and social welfare issues for employees provides full protection to domestic workers, and none protects migrant workers. Domestic workers in households connected to other economic activities, such as restaurant or assembly-line work, were granted limited protection under the Labor Protection Act of 1998.<sup>14</sup> Domestic workers who are not affiliated with other economic activities, however, are left unprotected. Moreover, while registered migrant domestic workers are theoretically protected under Thai labor laws, unregistered migrants in domestic service are completely unprotected, as there are no legal provisions that cover them.

Thai culture also poses a significant challenge to the legal recognition of migrant domestic workers. According to discussions with the Consultation on Thai and Migrant Domestic Workers, obstacles to securing improved living and working conditions include the fact that Thai society continues to consider domestic workers to be part of employer families, rather than employees. Introducing laws and regulations to change their status would challenge the traditional value system. Another factor is that in many cultures and societies, housework is considered traditional women’s work performed by the females of the household. Not considered lucrative employment, housework is not held in high esteem by most Thais. In addition, there are no existing national standards regarding hours of work, wages, or compensation for wives and mothers; therefore, standards for domestic workers, especially for foreign ones, are not easily conceived (Abrera-Mangahas 1992). Domestic service has now shifted into the sphere of paid work, however, and domestic workers must be governed and protected accordingly.

### **Recommendation for Improving the Social Recognition of Domestic Work**

Thailand’s NGO community should launch an information campaign to change popular attitudes toward domestic workers. Relevant NGOs should attempt to pressure Thai television networks to present more accurate information about the contribution of domestic workers to the Thai economy and to Thai family life. Positive portrayals, where viewers

can see the daily life of a domestic worker, in such venues as Thai soap operas, commercials, documentaries, movies, billboards, and posters would serve to reach a broad audience and would help change social perceptions of the acceptability of domestic workers as a profession.

Second, Thailand needs to explore mechanisms to strengthen the enforcement of human rights. An ombudsman for migrant workers on the federal level can provide crucial access to the Thai judicial system if rights are not enforced. The Office of the National Human Rights Commission currently receives complaints from any person living in Thailand, regardless of his or her status as a national, documented migrant, or undocumented migrant. Its mandate, as stated in the National Human Rights Act, provides it with the authority to protect the human rights of all persons in Thailand. Although the Commission has not yet received a direct complaint from migrant workers or domestic workers, non-governmental organizations have issued complaints on behalf of domestic workers. In this capacity, NGOs can continue to play a vital role as advocates of domestic worker rights.

## CONCLUSION

Thailand's legal framework technically does not allow the immigration of unskilled foreign workers, and as a result, the government does not adequately protect the rights of these employees. Taking into consideration the numerous failed attempts to replace migrant workers with Thai nationals, the government has allowed unskilled migrants to work and has resorted to a registration system in order to begin monitoring the number of migrant workers in Thailand. The registration system was not effective in capturing the numbers expected, and the 2002 registration actually indicated declining figures for migrant workers in all industrial sectors.

The main reasons for not re-registering include the high registration fee and the short registration period, a shortage of information about the second round of re-registration, and the lack of tangible benefits experienced by those who already registered. Although measures can be taken to attract unskilled foreign workers to the registration booth, managing the migration of Burmese domestic workers is particularly difficult in view of the vulnerabilities in domestic service that shroud migrant domestic workers. The vulnerabilities involved in domestic service include the isolating nature of the work, the exposure to sexual harassment and abuse, and the lack of legal recognition under Thai labor laws.

In a world of decreasing tolerance for human rights abuses, it is critical that the Thai government focus its efforts on addressing the challenges

associated with the high prevalence of Burmese migrants. By decreasing the vulnerabilities of Burmese migrants through the proposed policy recommendations, the rights of all migrant workers to Thailand could be better protected. If the Thai government intends to manage the migration of domestic workers from Burma in a meaningful way, it needs to focus particularly on the informal arena of domestic work. By building cross-sector and cross-national relationships with such agencies as the International Labour Organization, employers' network organizations, the Ministry of Labor and Social Welfare, local and international women's associations, and human rights, democracy, and migrant advocacy organizations, Thailand can effectively address a multi-sector challenge that encompasses issues of economics, national security, human rights, labor, and social attitudes.

## NOTES

- <sup>1</sup> These include: the Migration for Employment Convention (revised), 1949 (No. 97); the Equality of Treatment (Social Security) Convention (revised), 1996 (No. 118); the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143); and the Maintenance of Social Security Rights Convention, 1982 (No. 157).
- <sup>2</sup> As of February 2002, among the countries in the Asian Pacific region, only New Zealand and the Malaysian State of Sabah had ratified Convention No. 97, and none have ratified Convention No. 143. As of February 2004, Thailand had not ratified any of the four conventions that protect migrant workers.
- <sup>3</sup> In 1999, Thailand attempted to train nationals to become domestic workers. Faced with a shortage of domestic workers, the Department of Employment conducted a project with a budget of 1.5 million baht (\$38,550) on "The Supply of Domestic Workers 1999" in Bangkok and other provinces. Confronted with difficulties in recruiting applicants into the project, only 326 trainees participated, of which 248 were already employed as domestic workers. At the completion of the project, most of the trainees wanted to live near their homes and refused to move in with their employers. Some employers also declined to hire the trainees, claiming that their wages were too high. See Paitoonpong et al., 2002 for further details.
- <sup>4</sup> At their request, and to ensure their personal safety, interviewees' names have been withheld by the author.
- <sup>5</sup> For further details on the registrations of 2001 and 2002, see ILO BAO/ EAS-MAT, 2002.
- <sup>6</sup> This figure is based on an annual salary of 30,000 baht (2500 baht \* 12 months), or \$771.

- <sup>7</sup> In many cases, migrant workers received only a photocopy of their work permit or were sold a false copy. Passports were also withheld as insurance against migrant workers running away before the fee was recouped. The 1978 Working of Aliens Act specifies that migrant workers can hold onto their identification cards and can get a new one if their card is lost (WAA 1978).
- <sup>8</sup> The majority of migrant workers in urban areas have access to personal phones or pay phones, and depending on the industry, a large percentage of migrant workers can access a local crisis center if emergency situations arise.
- <sup>9</sup> Although there were cases where migrant domestic workers were content with the working conditions in the household, obtained high wages, and were well treated, there are numerous vulnerabilities that are inherent in all domestic work, regardless of working conditions, wages, and treatment. See Paitoonpong et al. 2002 for cases of domestic workers in satisfactory conditions.
- <sup>10</sup> For further details on the limitations on the personal liberties of domestic workers, see Tay Tay 2001.
- <sup>11</sup> The author's communications with accredited and relevant NGOs and migrant domestic workers reveal that the average age of Burmese females who entered domestic work is approximately fifteen or sixteen, but many who entered domestic service were as young as thirteen. Haspels et al. (2001) contend that age is a factor in the level of vulnerability to sexual harassment. As such, child laborers in domestic service are especially vulnerable. See ILO 1998a and ILO 2001a.
- <sup>12</sup> For more reasons why sexual harassment is infrequently reported, see Haspels et al. 2001.
- <sup>13</sup> Those not considered "employees" include consultants, taxi drivers, hawkers, and shop assistants. See Meesit 2002.
- <sup>14</sup> A list of the limited protections offered to domestic workers who are part of business undertakings can be found in Meesit 2002. For a list of rights designated under the Labor Protection Act of 1998, see Meesit 2001. Additionally, provisions relating to work hours, days off, wages, and compensation under Thai labor laws can be found in Tay Tay 2001.
- <sup>15</sup> Haspels et al. 2001 provides additional information on and guidelines for effective counseling and investigation.
- <sup>16</sup> Examples of when Thai women's groups and their networks were vital in mobilizing around sexual violations include cases in 1985 when a production manager in a garment factory sexually blackmailed his employees and in 1999 when an ambassador sexually harassed his employees. See Haspels et al. 2001.

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