International Migration in Thailand

Jerrold W. Huguet
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International Organization for Migration



International Labour Organization



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United Nations Development Programme



United Nations Economic and Social Commission for Asia and the Pacific



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IOM is committed to the principle that humane and orderly migration benefits migrants and society. As the leading international organization for migration, IOM acts with its partners in the international community to: assist in meeting the growing operational challenges of migration management; advance understanding of migration issues; encourage social and economic development through migration; and uphold the human dignity and well-being of migrants.

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Foreword

International migration has become a significant issue closely related to economic, social and demographic development for receiving and sending countries in the region. Today's virtually instantaneous communication and improved transport infrastructure, combined with the gradual change in national migration management structures, are accelerating the speed of this development. Political events and shifts in the cross-border supply of and demand for labour are also having an impact on migration.

Because of Thailand's central position in South-East Asia, its open economy and its rapid social and economic development, the country has been inextricably involved in international migration as an origin, transit and destination country. This report on international migration as it affects Thailand is meant to capture the myriad causes and consequences of a variety of migration trends impacting the country. The study highlights the interaction between policies and migration trends, making clear that policies react to migration trends as well as shape them.

In the past decade alone, Thailand has provided a safe haven for more than 100,000 persons fleeing conflict in neighbouring countries, has afforded asylum to persons fearing persecution from over 40 countries around the world, has officially deployed over a million of its citizens for employment abroad (while hundreds of thousands migrated unofficially for work) and has attracted perhaps over 2 million migrants seeking employment in the Kingdom. This report examines each of these migration trends, based on government statistics and existing research. It calls attention to some of the implications of these large-scale movements of people and offers policy recommendations.

This report was prepared through collaboration among the organizations, institutes and programmes that are members of the United Nations Thematic Working Group on International Migration. Many ministries and offices of the Royal Thai Government cooperated closely with the agencies preparing this report. Without such cooperation, it would not have been possible to compile the information necessary for the study.

It is our hope that the report will stimulate further dialogue and will be of value to the Royal Thai Government, the United Nations, international organizations and non-governmental organizations in the formulation of policies and implementation of programmes. We also hope that the report and its follow-up will ultimately benefit migrants and asylum seekers.

Kim Hak-Su
Executive Secretary
United Nations Economic and Social
Commission for Asia and the Pacific

Irena Vojackova-Sollorano
Chief of Mission and Regional
Representative
International Organization for Migration

Preface

During the period of increasing globalization over the past few decades, Thailand has remained one of the most open economies in Asia. The country has actively participated in increased international exchanges of investment, technology, trade and tourism. In that context, it could have been anticipated that it would also become involved in international flows of migrants. Because of its economic and social stability, it is has become a safe haven for hundreds of thousands of asylum seekers and millions of migrant workers from other countries. Although Thailand was an early participant in deploying labour to the Middle East, it now attracts more migrant workers than it deploys, and it is simultaneously a sending, transit and destination country.

Because some of these migration trends have evolved and changed rapidly, government policies, legislation, institutions and programmes often lag behind and do not adequately address the current situation, let alone anticipate future trends. It could also be argued that international development agencies often focus on narrow issues within the broader context and, therefore, do not have the impact that they could on many migration issues. Similarly, much of the recent excellent research carried out related to international migration reviews only a fraction of the overall picture.

For these reasons, the inter-agency Thematic Working Group on International Migration believed it would be of value to compile a report on international migration in Thailand that would consolidate and review in one study the existing situation of regular and irregular migrants, refugees, asylum seekers and displaced persons, and the migration of Thais abroad.

Therefore, the objectives of the report are:

- To generate a common knowledge-base for policy recommendations on international migration among member organizations in the Thematic Working Group;
- To provide input to the Thai Government's policy-making process on international migration;
- To identify gaps in knowledge concerning international migration in Thailand.

While the Thematic Working Group on International Migration reports to the United Nations Heads of Agency Meeting in Thailand, its membership is not limited to United Nations bodies. Its members are all from the Bangkok area and comprise the following:

- Economic and Social Commission for Asia and the Pacific (co-chair)
- International Organization for Migration (co-chair)
- Institute for Population and Social Research, Mahidol University
- International Labour Organization
- Joint United Nations Programme on HIV/AIDS
- Office of the High Commissioner for Human Rights
- Population Council
- United Nations Children's Fund
- United Nations Development Fund for Women

- United Nations Educational, Scientific and Cultural Organization
- United Nations High Commissioner for Refugees
- United Nations Inter-Agency Project to Combat Trafficking in Women and Children in the Mekong Sub-Region
- United Nations Office on Drugs and Crime
- United Nations Population Fund
- United Nations Resident Coordinator
- World Bank
- World Health Organization

The preparation of this report has benefited immensely from the data generated by the registration of migrants implemented in July 2004 by Thailand's Ministry of Interior and the subsequent process of issuing work permits, carried out by the Ministry of Labour from July 2004 onward. A number of excellent studies on international migration in Thailand were published in 2004 and have contributed greatly to this report. They include those cited in the references under the Asian Research Center for Migration, Institute for Population and Social Research and Thailand Development Research Institute; Martin; Panam and others; and World Vision Foundation Thailand in collaboration with the Asian Research Center for Migration.

In order to gather information for the report, the researchers interviewed representatives of member organizations in the Thematic Working Group. They also conducted interviews in Bangkok with representatives of the House Committee on Labour, Ministry of Interior, Ministry of Labour, Ministry of Public Health, National Security Council and the Law Society of Thailand.

The researchers made field visits to Kanchanaburi and Samut Sakhon provinces. In Kanchanaburi Province they visited the Ban Don Yang camp for displaced persons, the Sangkhlaburi District Hospital, the Immigration Bureau, the Provincial Labour Office and the Chamber of Commerce. In Samut Sakhon Province they visited the Raks Thai Foundation and a mobile dental clinic provided by the Thai Red Cross Society. In both provinces they had the opportunity to interview migrant workers.

The researchers have attempted to compile information from all major published sources, Internet sites and unofficial documents and statistics provided by government ministries and member organizations in the Thematic Working Group. No original research has been carried out in the preparation of this report. The report is designed to consolidate the state of knowledge in early 2005 concerning the situation of international migration in Thailand.

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The authors are indebted to Ms. Irena Vojackova-Sollorano, Regional Representative of the International Organization for Migration in Thailand, for her inspiration and support throughout the preparation of this report. Ms. Vojackova-Sollorano encouraged United Nations bodies and agencies in Bangkok to establish the Thematic Working Group on International Migration in 2004 and proposed to the Working Group that it should cooperate in preparing and publishing a situation report on international migration for Thailand.

Mr. Federico Soda, Programme Development Officer, IOM, strengthened the report considerably with his meticulous technical editing, and Mr. John Loftus edited the final report for publication.

Numerous departments within the Thai Government devoted considerable time to assist the authors and willingly provided current and unpublished statistics. They include offices in the National Security Council, Ministry of Interior, Ministry of Labour, Ministry of Public Health and Immigration Bureau. The Chair of the House Committee on Labour gave a lengthy interview. Permission was granted to visit Ban Don Yang camp for displaced persons in Kanchanaburi and to interview the Camp Commander, the Principal of the school and a health worker from the American Rescue Committee.

In Kanchanaburi Province, representatives of the Kanchanaburi Labour Office, Immigration Bureau, Sangkhlaburi District Hospital and Chamber of Commerce freely shared information and made recommendations.

Representatives of the Law Society of Thailand and of the Raks Thai Foundation provided invaluable assistance in describing many of the difficulties that migrant workers in Thailand confront.

A number of migration scholars offered valuable suggestions and provided invaluable publications, including Kritaya Archavanitkul, Aphichat Chamratrithirong, Supang Chantavanich, Aree Jamplaklay, Sirinan Kittisuksathit, Chen Chen Lee, Aree Phommo and Orapin Pitakmahakhet.

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List of Acronyms

ARCM	Asian Research Center for Migration (Chulalongkorn University)
BRC	Bangkok Refugee Centre
BBC	Burmese Border Consortium
CPA	Comprehensive Plan of Action for Indochinese Refugees
DNA	Deoxyribonucleic acid
ESCAP	Economic and Social Commission for Asia and the Pacific
GMS	Greater Mekong Subregion
HIV/AIDS	Human immunodeficiency virus/acquired immunodeficiency syndrome
ILO	International Labour Organization
IOM	International Organization for Migration
IPEC	International Programme on the Elimination of Child Labour
KNU	Karen National Union
MOI	Ministry of Interior
MOL	Ministry of Labour
MoPH	Ministry of Public Health
MOU	Memorandum of Understanding
NESDB	National Economic and Social Development Board
NGO	Non-governmental organization
PATH	Program for Appropriate Technology in Health
SGBV	Sexual and gender-based violence
SPDC	State Peace and Development Council (Myanmar)
STD	Sexually transmitted disease
TDRI	Thailand Development Research Institute
UNBRO	United Nations Border Relief Operation
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commissioner for Refugees
UNIAP	United Nations Inter-Agency Project to Combat Trafficking in Women and Children in the Mekong Sub-Region
UNICEF	United Nations Children's Fund
UNIFEM	United Nations Development Fund for Women
UNODC	United Nations Office on Drugs and Crime
WHO	World Health Organization
WVFT	World Vision Foundation of Thailand
ZOA	ZOA Vluchtelingenzorg (ZOA Refugee Care)

Executive Summary

SITUATION

Thailand has actively participated in two-way exchanges of investment, technology, trade and tourism associated with the present era of globalization. As would have been expected, this openness to other countries has also resulted in large flows of international migration, including that of refugees, displaced persons, professional migrants, labour migrants and dependants.

The Thai Government has generally responded quickly to changing migration trends and has recently taken significant steps to regularize unauthorized migration. Because many of the migration trends have evolved and changed rapidly, however, government policies, legislation, institutions and programmes often lag behind and do not adequately address the current situation or anticipate future trends.

The scale of international migration has been increasing steadily at the global and regional levels. A regional labour market is emerging in some occupations in East and South-East Asia, and Thailand participates both by furnishing workers and generating demand for labour. International migration, particularly that into Thailand, is driven by the large disparities between the country and some of its neighbours in levels of economic and social development, and in political climate.

There are about 135,000 official and unofficial residents in nine border camps for displaced persons from Myanmar. Official admittance to the camps has been suspended by the Government since 2001. While the displaced persons in the camps are provided with shelter, food, schooling and health care, they are not permitted officially to leave the camps and thus are barred from employment. Progress in pursuing the durable solutions of repatriation, local integration or resettlement has been slow.

As of November 2004, there were about 1,000 asylum seekers in Thailand, mainly in Bangkok, whose cases were being considered by UNHCR, and another 3,600 "urban refugees" who had been determined by UNHCR to be valid refugees and for whom resettlement was being pursued.

In recent years, Thailand has deployed approximately 150,000 overseas contract workers per year and has received about US$ 1.5 billion per year in remittances through official channels. In both cases, the unofficial figures would also be significant. Four out of five of the Thai nationals deployed overseas are males, the average level of the migrants' education is low and most of the migrants are employed as skilled or unskilled workers.

In a major effort to regularize unauthorized migration, the Ministry of Interior registered 1,280,000 workers from neighbouring countries in July 2004. Subsequently, over 817,000 of them paid to enroll in a health insurance scheme and 814,000 applied for work permits. Among those with work permits, 45 per cent are females. About 600,000 of those with work permits are from Myanmar and 100,000 each are from Cambodia and the Lao People's Democratic Republic. A Cabinet Decision in May 2005 allowed those migrants who had previously registered with the Ministry of Interior to apply for work permits valid up to 30 June 2006. From the numbers involved, it is clear that the movement of migrants into Thailand has become an important business in itself. In principle, migrants with work permits are covered by the same labour regulations and standards as Thai nationals. The work permits are only for a specific employer, however.

Over 93,000 persons under the age of 15 years registered with the Ministry of Interior in 2004. While children of registered migrants have the right to attend Thai schools, it is thought that only a very small percentage of

them are actually receiving any formal or informal education. Many of the older children are believed to be working without permission and often in exploitative situations.

Female domestic workers, whether registered or not, are particularly vulnerable to abuse and exploitation because they work in isolation in individual homes. Thai law makes no provision for the rights and labour standards of domestic workers, irrespective of nationality.

There is no reliable estimate of the number of persons living in Thailand in an irregular immigration status. These include persons overstaying valid entry visas and those who have entered from nearby countries but have not registered with the Ministry of Interior. It is believed that the total in these categories could equal hundreds of thousands.

According to one survey of migrants in Chiang Mai, Tak and Ranong provinces, about 12 per cent of the migrant workers could be considered to have been trafficked for employment. Over 5 per cent of the respondents in the survey reported that they had been forced into prostitution. There are many methodological issues in defining and measuring trafficking but, because of the large numbers of migrant workers in Thailand, even low percentages of trafficking victims imply that many tens of thousands of the migrants have been trafficked.

Many studies have concluded that migrants are especially vulnerable to HIV infection because of their isolation from the local community, separation from their regular partners, their anonymity and their lack of access to health services and information. Migrants trafficked as sex workers and seafarers have been identified as particularly vulnerable groups.

In 2000, the Ministry of Interior estimated that there were about 1 million persons from minority groups and highland populations in the country, but that only half of them had obtained Thai citizenship. While the issue of the highland population is not strictly a migration issue, it suggests parallels with international migration and highlights warning signals. It is likely that significant numbers of the more than 1.3 million migrants in Thailand will want to remain in the country indefinitely, given the lack of economic opportunities and civil rights in their own countries. Government policies in Thailand do not accord full rights to them, including such basic rights as education, movement and free association. The lack of rights for migrant workers often leads to abuse, exploitation and trafficking. Thai society may have difficulty accepting the permanent presence of migrants from its neighbouring countries.

RECOMMENDATIONS

1. International migration policies should be aligned with other economic and social development policies. The Government should consider producing a policy document on international migration and incorporating its recommendations.
2. Because of the broad range of migration issues that Thailand is facing, the Kingdom would benefit from a national comprehensive migration management system, with an appropriate coordination mechanism, that would deal with all types of migration (asylum seekers, regular migrants and irregular migrants) in an integrated manner.
3. The Thai Government should re-establish a border screening mechanism such as the Provincial Admissions Boards in order to provide a means to determine which persons crossing the border from Myanmar are legitimate asylum seekers and deserve the protection of the border camps or the protection afforded those fleeing political persecution. The Government should broaden the concept of persons deserving asylum from those "fleeing fighting" to the definition of a refugee spelled out in the 1951 Convention Relating to the Status of Refugees.
4. Thailand would benefit from developing and implementing a strategy that would give Thai overseas workers a higher level of comparative advantage by targeting more technical occupations.

5. The process of registering for a work permit in Thailand should be simplified and made less expensive through cooperation among the ministries concerned. The Thai Government should articulate the rights and obligations of migrant workers and their dependents. Sanctions should also be applied to employers and others who withhold original registration documents or work permits. The Ministry of Interior should allow for on-going or renewed registration periods for migrants coupled with adequate publicity campaigns.
6. The Ministry of Labour should carry out a programme of pro-active random inspection of workplaces to ensure that they are complying with labour regulations and standards, including the timely payment of mandated wages.
7. The Ministry of Labour and the police should be more pro-active in investigating workplaces thought to have trafficked persons and those subjecting workers to abuse and exploitation. When enforcing laws against trafficking, forced labour and slavery-like conditions, care should be taken to protect the victims of such practices.
8. HIV/AIDS information and prevention programmes should target such mobile and difficult-to-reach populations as migrant sex workers, seafarers and other migrant workers. More cross-border intervention programmes should be implemented.
9. More comprehensive and higher quality research is required in many areas of international migration affecting Thailand in order to strengthen policy formulation and programme implementation. More research is required on:
    - The number and characteristics of Thai nationals overseas;
    - The number and characteristics of the unregistered migrant population in Thailand;
    - The situation of children of migrants and migrant children in Thailand without their parents;
    - The volume and types of trafficking to Thailand;
    - The incidence and prevalence of HIV/AIDS among migrants;
    - Effective intervention programmes for migrants in vulnerable situations.

1

Social and Economic Factors Contributing to International Migration

GLOBAL AND REGIONAL MIGRATION TRENDS

The United Nations (2002:11) estimates that in 2000 there were 175 million persons residing outside their country of birth, or about 2.9 per cent of the global population. In 1965, this figure had been 75 million, or only 2.2 per cent of the global population. Even if the proportion of migrants in the global population does not increase, **there would be 257 million migrants in the world in 2050.** The foreign-born population enumerated by censuses and estimates of refugees gives only an approximate count of migrants. Many of those born in another country have since been naturalized in the country of destination and would not necessarily be considered to be migrants. Irregular and recent arrivals may be omitted by a population census.

However defined and enumerated, it is certain that the scale and importance of international migration is expanding rapidly and the issue is increasingly the focus of the global development dialogue. Thirteen years after being proposed, the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families entered into force of international law on 1 July 2003, although Thailand is not a signatory and, therefore, not bound by its provisions.

The Secretary-General of the United Nations has appointed the Global Commission on International Migration, which was launched in December 2003. Its mandate is to (a) place international migration on the global agenda, (b) analyse gaps in current policy approaches to migration and examine inter-linkages with other areas and (c) present recommendations on how to strengthen national, regional and global governance of international migration. The Global Commission is scheduled to submit its final report to the Secretary-General in mid-2005. Towards those goals, the Global Commission held a regional hearing for Asia and the Pacific at Manila in May 2004 as part of its worldwide review.

The World Commission on the Social Dimension of Globalization also addressed the issue of international migration and issued a number of recommendations. It stated: "The ultimate objective would be to create a multilateral framework for immigration laws and consular practices, to be negotiated by governments, that would govern cross-border movements of people" similar to such multilateral frameworks for the movement of goods, services, technology, investment and information (International Labour Office, 2004a:129).

The volume of international migration from and within the Asian region increased rapidly during the 1990s and has continued to do so. The International Organization for Migration (IOM) (2003a) reported that between 1995 and 1999 about 2 million Asian workers left their country every year for contract employment. Another 600,000 went overseas for employment without reporting to their national authorities for a number of reasons: it was not required, they went in various industrial trainee programmes or they were working in an irregular status. Approximately 1.2 million labour migrants

were from South Asia, 1.3 million from South-East Asia and 100,000 from China.

The number of official deployments from the South and South-East Asian subregions increased markedly between the period 1990-1994 and the period 1995-1999. The average annual number of deployments from Sri Lanka tripled between the two periods to 164,000; those from Bangladesh increased by 50 per cent to 262,000 and those from India increased by one third to 400,000.

The average annual number of official labour deployments from Indonesia nearly tripled between the two periods to 321,000. Those from the Philippines and Thailand each increased by about 20 per cent although the number was much greater for the Philippines, 562,000, than for Thailand, 193,100 (IOM, 2003b:16). As observed in chapter III of this report, however, since reaching a peak in 1995, the annual number of Thai nationals officially deployed for overseas employment has generally declined. At the same time, the number of foreign migrants in Thailand appears to be increasing steadily.

The main characteristics of international migration in Asia are as follows: (a) the recent rapid increases in volume noted above, (b) an increasing proportion of migration within Asia (excluding the Middle East), (c) increasing feminization of international migration and (d) the emergence of subregional labour markets. The Middle East was the primary destination for early, large-scale labour migration from Asia. In the late 1970s, only about 6 per cent of Asian international labour migration was within the region but for the period 1995-1999 the proportion had increased to about 40 per cent (IOM, 2003a). The increased demand for international migrant workers in East and South-East Asia has resulted from rapid industrial development in those subregions coupled with low rates of growth or declining size of the population of labour-force age.

Considerably more female than male workers are deployed overseas from Indonesia, the Philippines and Sri Lanka. While most of them are employed as domestic workers in the Middle East, Malaysia, Singapore and Hong Kong, China, many of the female migrants from the Philippines are employed as nurses, teachers and information technology experts. There are more than 250,000 Filipino registered nurses working in countries around the world (Huguet, 2003:127).

To some extent, a subregional labour market is emerging in East and South-East Asia for certain occupations, particularly for male construction workers and for female domestic workers. Labour supply and demand in these occupations crosses national borders. Many workers have information about jobs in other countries and are able to choose among them (Huguet, 2003:123).

FOREIGN POPULATION IN THAILAND

The number of foreigners residing and working in Thailand is not known with any precision but rough estimates may be made by combining accurate registration data with estimates not based on evidence – only hypotheses that might be feasible. These hybrid estimates are presented in table 1.

There are over 100,000 professional workers who are registered with the Immigration Bureau and have work permits. These are mainly private-sector employees brought in or recruited by companies operating in Thailand. These professionals have entered the country with passports and valid visas, and are legally permitted to be employed. Nearly 19,000 of them are from Japan, which is more than double the number from any other country. Between 5,000 and 7,300 of the registered professional workers come from each of the following: China, the United Kingdom of Great Britain and Northern Ireland, India, Myanmar and the United States of America (table 2). In compiling table 1, the authors have assumed that an equal number of dependants are residing with the registered professionals. Estimates of the sizeable diplomatic community and the number of persons who work for international organizations (and their dependants) are not included in table 1 because the figures could not be obtained.

A large number of foreigners also live in Thailand without a stay permit or work permit, but they reside in the country for long periods of time. Every three months they travel out of the country (mostly to a neighbouring country such as Malaysia or Cambodia) and obtain a new three-month visa at the Thai Embassy or Consulate. The total number of such persons is not known but could well exceed 10,000. They often work as freelancers or for small businesses that do not wish to go through the process of requesting a work permit for a foreign employee.

Another category not included in table 1 is persons with retirement visas. Since 1998, Thailand has

TABLE 1
ESTIMATED FOREIGN POPULATION RESIDING AND WORKING IN THAILAND, BY CATEGORY, 2004

Category	Residing	Working
Total	2,346,438	1,989,964
Registered professionals and dependants	200,000[a]	102,446[b]
Persons on student visas[c]	19,233	..
Persons overstaying visas[b]	502,680	502,680
Displaced persons		
In camps	135,000[d]	
In Bangkok	4,605[d]	3,000[a]
Registered workers and dependants from Cambodia, Lao People's Democratic Republic and Myanmar[b]	1,284,920	1,181,838
Unregistered workers from the above three countries[a]	200,000	200,000

Sources: [a] Unscientific estimate by the authors.
[b] Data provided by the Office of Foreign Workers Administration, Department of Employment, Ministry of Labour.
[c] Data reported by Radio Thailand, 22 January 2005.
[d] Data provided by the United Nations High Commissioner for Refugees Regional Office in Thailand.

TABLE 2
REGISTERED FOREIGN PROFESSIONAL WORKERS IN THAILAND, BY ORIGIN, 2004

Origin	Number	Per cent
Total	102,446	100.0
Japan	18,888	18.4
China	7,218	7.0
England[a]	6,880	6.7
India	6,491	6.3
Myanmar	6,267	6.1
United States	5,278	5.2
Taiwan Province of China	4,559	4.4
Philippines	3,254	3.2
Australia	2,630	2.6
Republic of Korea	2,517	2.5
Others	38,464	37.6

Source: Office of Foreign Workers Administration, Department of Employment, Ministry of Labour.
[a] As a part of the United Kingdom.

permitted foreigners to retire in the country if they are at least 55 years old and have at least 800,000 baht (US$ 1 = about 40 baht) in a Thai bank account. The fee for a one-year stay permit for retirees is 3,600 baht and that for a multiple entry visa valid for one year is 1,900 baht.

According to a report by Radio Thailand on 22 January 2005, there were 19,233 foreign students studying in Thailand in 2003, a number which has been increasing by more than 10 per cent per annum over the past four years.

The Ministry of Labour (MOL) reports that there are 503,000 persons residing and working in Thailand who have entered the country legally but have overstayed the duration of their visas. It is not clear if this estimate properly accounts for overstayers who have since departed or been deported. The Immigration Bureau can estimate the annual number of overstayers by subtracting the number of persons (excluding Thai nationals) departing the country from the number entering it in one year. Such a calculation indicated that there were 68,679 overstayers in 2000 and 82,341 in 2003. The overstayers in Thailand come from an impressive range of countries. According to data provided by the Immigration Bureau, the overstayers in 2003 came from 178 countries. There were more than 10,000 each from the United Kingdom and the United States, and more than 4,000 each from India and Germany. There were more than 100 overstayers from each of 55 countries.

The numbers of displaced persons indicated in table 1 are discussed in detail in the following chapter.

For the past several years Thailand has attracted increasing numbers of migrant workers, mostly from neighbouring countries. When the number of low-skilled or unskilled workers exceeded an estimated 1 million, migration became a policy issue. Sub-

sequently, the Thai Government has steadily moved to put in place systems that would regularize desired levels of migration while maintaining the integrity of its borders against uncontrolled large-scale immigration. Some of the steps taken by the Government, in consultation with the Governments of neighbouring counties, are elaborated in succeeding chapters. The most recent exercise involved the Ministry of Interior (MOI) registering approximately 1,280,000 persons from Cambodia, the Lao People's Democratic Republic and Myanmar who were in Thailand. The registration took place during July 2004 and those who registered were given permission to stay in Thailand until 30 June 2005 in order to work or seek employment, and as dependants of foreigners working in Thailand. Once a migrant had registered with MOI and had an employer, he or she could apply to MOL for a work permit valid for up to one year. As of 15 December 2004, MOL had received 814,247 applications for work permits. In 2005 the Thai Government allowed migrants who had registered with MOI to renew their work permits for another year or to apply for new work permits.

Of the 1,280,000 persons from the three neighbouring countries who registered with MOI, 103,000 were under age 15 or over age 60 and are assumed not to be in the labour force. About 45 per cent of the migrants who registered with MOI are females but this proportion varied significantly by country of origin. Only 31 per cent of the migrants from Cambodia are women but 55 per cent of those from the Lao People's Democratic Republic are and 45 per cent of those from Myanmar are.

The least reliable estimate in table 1 is that for the number of unregistered migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar. Extensive interviews with officials from MOL, the Chamber of Commerce and non-governmental organizations (NGOs) did not yield any estimate with a scientific base. One MOI official estimated that only about 100,000 migrants did not register. The authors have suggested a conservative estimate of 200,000, which is less than one sixth of the number of registered migrants. As the registration carried out by MOI in July 2004 was at no cost to the migrants and recorded double the number of migrant workers registered in 2001 and 2002, it is assumed that it included a large number of migrants who had been working in the country without being registered previously. It should be noted that migrants who arrived in Thailand after 31 July 2004 have not been permitted to register, and their number would contribute to the rough estimate of 200,000 unregistered migrants from neighbouring countries in Thailand.

Holders of coloured cards comprise a category of residents of Thailand that is not included in table 1. This category will be discussed at greater length in the chapter on irregular migration. It consists of groups of migrants who have been given permission to reside in Thailand but are officially classified as aliens. It includes much of Thailand's highland population and a number of specific groups that have settled along the border with Myanmar. MOI estimates that minority groups in Thailand comprise about 1 million persons, of whom roughly half have not yet been granted Thai nationality.

REGIONAL POLITICAL CONTEXT

This report focuses on the situation of international migration as it affects Thailand and, therefore, largely on Thai legislation, policies and programmes. The Thai Government does, however, participate in and play a leading role in regional consultations on international migration in South-East Asia and in the Greater Mekong Subregion.

In April 1999, Thailand hosted the International Symposium on Migration, the topic of which was "Towards regional cooperation on irregular/undocumented migration". Ministers and other representatives of several Governments in Asia plus Australia, New Zealand and Papua New Guinea participated in the Symposium, which adopted the Bangkok Declaration on Irregular Migration. The Bangkok Declaration calls for a comprehensive analysis of the social, economic, political and security causes and consequences of irregular migration in the countries of origin, transit and destination. The Declaration also encourages countries to pass legislation to criminalize the smuggling of and trafficking in human beings, especially women and children, including as sources of cheap labour. Countries are encouraged to strengthen their channels of communication to resolve the problem of illegal migration and trafficking.

In a recommendation that Thailand has attempted to implement through bilateral Memoranda of Understanding (MOUs) with Cambodia, the Lao People's Democratic Republic and Myanmar, the Bangkok Declaration urges that countries cooperate "in ascertaining the identity of undocumented/illegal migrants who seemingly are its citizens, with a view

to accelerating their readmission". The Declaration also calls for a feasibility study "on the need to establish a regional migration arrangement, linked to existing international bodies, to provide technical assistance, capacity building and policy support as well as to serve as an information bank on migration issues for the countries in the Asia-Pacific region".

Many of the countries that participated in the International Symposium, including Thailand, also participate in the Bali Process, so-named because the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime was organized in Bali, Indonesia in February 2002. The Conference set out to establish a foundation for coordinated regional action to reduce the transnational crimes of people smuggling and trafficking in persons, and to address challenges presented by unregulated migration and the impact it has on society. The Bali Process is guided by a steering group comprising the Conference Co-Chairs (Australia and Indonesia), representatives from New Zealand and Thailand (countries providing thematic technical coordinators), IOM and the United Nations High Commissioner for Refugees (UNHCR); the second Bali Regional Ministerial Conference, held in April 2003; and a senior officials meeting, held in June 2004. Thailand chairs the Ad Hoc Experts' Group on Policy, Legislation and Law Enforcement Issues. The Bali Process focuses on regional and international cooperation on policy issues and on law enforcement (IOM, 2004a).

Thailand participated in the first Labour Migration Ministerial Consultations for Countries of Origin in Asia, held at Colombo, Sri Lanka in 2003 and in the second Ministerial Consultation, held at Manila, the Philippines in September 2004. The first two consultations were among countries of origin and focused on improving the management of labour migration in order to promote and protect the rights of migrant workers while they are overseas. In 2005, a dialogue between countries of origin and countries of destination will be held in Bali, Indonesia. That dialogue will consider human rights, labour migration legislation and agreements, health care, and the smuggling and trafficking of migrants (Philippines, Department of Labor and Employment, 2004).

The Thai Government also initiated a subregional process to address issues of trafficking in persons, the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT). Thailand organized the first intergovernmental meeting of COMMIT in May 2004 and participated in a second meeting at Yangon, Myanmar in October 2004, at which the six participating Governments signed an MOU containing priority actions to address human trafficking.

SOCIAL AND ECONOMIC FACTORS

Disparities in the level of economic development and wage levels between Thailand and Cambodia, the Lao People's Democratic Republic and Myanmar largely account for the desire of workers from the neighbouring countries to find employment in Thailand. The per capita gross national product of Thailand is six times as great as that of Myanmar, seven times that of the Lao People's Democratic Republic and 12 times that of Cambodia (table 3). Demographic factors also serve to promote migration from neighbouring countries to Thailand. While the average annual growth rate of the population of Thailand is now only 0.8 per cent, it ranges from 1.2 to 2.4 per cent in the three neighbouring countries. More importantly, the population of prime labour-force age, 15-39 years, is no longer growing in Thailand but it is increasing by 1.3 per cent per annum in Myanmar and about 3.0 per cent a year in Cambodia and the Lao People's Democratic Republic. Social development in those countries of origin also lags behind that of Thailand, as indicated by the disparities in the infant mortality rate and the ratio of girls to boys in secondary school. Because these neighbouring countries have a considerably lower per capita income and 70 to 80 per cent of their population resides primarily in rural areas where it is assumed unemployment and underemployment (defined as having less work than is desired, or earning a very low level of income) are at high levels, there is a great potential for large numbers of persons in those countries to migrate in search of employment.

Of course, economic factors are not the only ones driving international migration. The lack of social services, particularly education and health, as well as uncertain economic and political environments can also induce persons to migrate. Improved transportation and communication infrastructure also facilitates international migration (United Nations, 2002). **For many, migration to Thailand has become institutionalized by government policies, local officials, employers and private-sector recruitment agents.** For less than 10,000 baht, a migrant can be virtually guaranteed a safe crossing of the border and transportation to an employer in Thailand.

TABLE 3
SELECTED ECONOMIC AND SOCIAL INDICATORS FOR CAMBODIA, LAO PEOPLE'S DEMOCRATIC REPUBLIC, MYANMAR AND THAILAND

Indicator	Cambodia	Lao People's Democratic Republic	Myanmar	Thailand
Population (1,000), 2004[a]	14,482	5,787	50,101	63,763
Population growth rate (%), 2004[a]	2.4	2.2	1.2	0.8
Average annual growth rate (%) of population aged 15-39[b]				
1990-2000	3.2	2.7	2.0	1.0
2000-2010	3.0	2.9	1.3	0.0
Infant mortality rate (per 1,000 live births)[a]	71	86	81	20
Ratio of girls to boys in secondary education (%)[a]	52	67	98	99
Percentage urban, 2004[a]	19	21	30	31
Per capita GNP (US dollars), 2003[c]	177	317	351	2,238

Sources: [a] Economic and Social Commission for Asia and the Pacific (2004). *ESCAP Population Data Sheet 2004*, Bangkok.

[b] United Nations (2003). *World Population Prospects, The 2002 Revision, Vol. II: Sex and Age* (United Nations publication, No. E/03.XIII.7).

[c] Philip Martin (2004). "Policy synthesis paper: Enhancing national capacity on migration management in Cambodia, Lao PDR, Mongolia and Thailand", paper prepared for ILO, 6 July.

The Thailand Burma Border Consortium (2004) carried out a study between April and July 2004 on the internal displacement of the population within Myanmar. It estimated that there were 526,000 internally displaced persons in 2004. Among these, 365,000 lived in ceasefire areas controlled by minority factions, 84,000 lived in free-fire areas and 77,000 lived in designated relocation sites following eviction from their homes. The total number of internally displaced persons had declined from an estimated 633,000 in 2002 because of movement out of the official relocation sites. The decrease occurred through sustainable return or resettlement, forced movement to other areas, and flight to Thailand as refugees or labour migrants.

A study carried out between January and May 2003 by the World Vision Foundation of Thailand (WVFT) and the Asian Research Center for Migration (ARCM) (no date) on labour migration to Thailand attempted to rank the causes of migration. The study covered nearly 400 migrants each in Mae Sai (Chiang Mai Province), Mae Sot (Tak Province) and Ranong (Ranong Province). It concluded that the five main reasons for persons to migrate from Myanmar were (a) low earnings in Myanmar, (b) unemployment in Myanmar, (c) family poverty, (d) traumatic experiences, such as forced labour, and (e) a lack of qualifications for employment.

The WVFT/ARCM study found that 50 per cent of the respondents in Mae Sai had received less than 50 baht per day while working in Myanmar and 24 per cent had earned between 50 and 80 baht daily. Eighty-six per cent of the migrants in Mae Sot and 90 per cent of those in Ranong reported earning less than 50 baht per day in Myanmar. About 19 per cent of the respondents reported having performed forced labour. Seven per cent of the migrants in Mae Sot and 3 per cent of those in Ranong reported having been forcibly relocated by the Myanmar authorities.

A study by Panam and others (2004:46-61) interviewed a total of 528 women from Myanmar who are employed as domestic workers in Chiang Mai and in Mae Sot. Many of the respondents vividly described the dislocation caused to their villages and families because of civil conflict in Myanmar. Thirty-eight per cent of the respondents reported having performed forced labour in Myanmar; 85 per cent of those were from the Shan minority group. Six per cent of the women had been forced to serve as porters for the Myanmar military. Fifty-eight per cent reported that their families had been forced to pay arbitrary taxes

to the Government. Many of the migrants related that arbitrary agricultural policies, principally the establishment of artificially low prices for agricultural production, had impoverished their families. As would be expected, such practices had placed severe stresses on their families and led to a high rate of family breakdowns.

A study of child workers along the Thailand-Cambodia border makes it clear that severe poverty in Cambodia had compelled those children to migrate and work in Thailand. In most cases, their families had moved from other provinces within Cambodia to near the border in order to seek employment (Angsuthanasombat and others, 2003).

MIGRATION POLICY DEVELOPMENT IN THAILAND

Thailand is not a party to the key international conventions concerning international migration and its domestic policy development is not comprehensive; as a result, its migration policies and programmes are marked by omissions and ambiguities.

Although Thailand has long been providing sanctuary to groups fleeing conflict or political repression in nearby countries, it has not signed the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. Thai law does not make provision for the categories "asylum seeker" or "refugee". In spite of these lacunae, the Thai Government cooperates closely with UNHCR in dealing with asylum seekers and, in practice, considers the individuals whom UNHCR has registered as asylum seekers or refugees to be "persons of concern to UNHCR" and accords them protection.

The 1979 Immigration Act (amended in 1992) allows the executive branch of the Government to circumvent the strict application of the Act through Article 17, which stipulates that "[u]nder special circumstance[s], the Minister [of Interior], by the consent of the Cabinet, may authorize an entry into the Kingdom subject to any condition or exempt any alien from compliance with this Act". Under this Article, administrative rules have been adopted to regulate the admission into and stay in Thailand of specific groups, including refugee groups. This flexibility has permitted the Thai Government to allow about 117,000 displaced persons from Myanmar to reside in camps inside Thailand, although they are not considered refugees by the Government and do not undergo the formal refugee status determination procedures of UNHCR.

As mentioned previously, the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families officially entered into force as an instrument of international law on 1 July 2003. In Asia, however, only three countries have ratified the Convention, the Philippines, Sri Lanka and Tajikistan, which are mainly countries of origin of migrant workers.

Thailand is a signatory of several International Labour Organization (ILO) Conventions on labour standards, including the 1999 ILO Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Thailand and 176 other member countries adopted the ILO "Resolution concerning a fair deal for migrant workers in the global economy" at the International Labour Conference in 2004, which includes a rights-based approach to migration (ILO, 2004b). Thailand has not signed the major ILO Conventions on migrant workers, however (Muntarbhorn, 2003:24).

The legislation governing international labour migration from Thailand is the Recruitment and Job Seekers Protection Act, B.E. 2528. Established in 1985, it was amended in 1994. It mainly provides protection for workers during the recruitment process but makes some provision for dealing with contractual problems in the country of destination. The Act is described in greater detail in the chapter on regular migration.

Thailand's legislation provides for persons in certain professions to enter the country and obtain work permits but does not provide for the entry and employment of unskilled migrant workers. Nonetheless, a series of Cabinet Decisions taken between 1992 and 2005 has permitted an increasing number of labour migrants from Cambodia, the Lao People's Democratic Republic and Myanmar to work in the country. Pursuant to a Cabinet Decision, MOI registered approximately 1,280,000 migrants from those countries in July 2004. Subsequently, 814,000 of them applied to MOL for work permits. In 2005, those who had registered with MOI were permitted to renew their registration for up to one year.

The Thai Government has also been attempting to regularize labour migration from neighbouring countries by signing bilateral MOUs with them. The Government signed the first of these MOUs with

the Government of the Lao People's Democratic Republic in October 2002. It also agreed to similar MOUs with Cambodia in May 2003 and with Myanmar in June 2003. Only preliminary steps towards the implementation of these MOUs have been taken, however. A team from the Ministry of Labour of the Lao People's Democratic Republic visited Thailand in early 2005 in order to identify its nationals working in Thailand so that they could be issued formal travel documents by their Government. The Thai Government also signed an MOU with the Government of Cambodia in May 2003 on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking. These Cabinet Decisions, MOUs and administrative procedures for dealing with labour migrants from those three countries are presented in more detail in the succeeding chapters of this report.

CONCEPTUAL ISSUES

The following chapters review (a) refugees, asylum seekers and displaced persons, (b) regular migration and (c) irregular migration. To some extent, the distinctions between these categories are arbitrary, and there may be some overlap in the categories. The previous section has noted some of the reasons that lead people from neighbouring countries to migrate to Thailand. Their status as foreigners in Thailand depends largely on where they cross the border, whether they travel as a community or individually, whether an agent has assisted them to cross the border, and changes in the policies and practices of the Thai Government.

Some individuals may change their migration status. A migrant in Thailand in an irregular status may decide to apply formally to UNHCR for refugee status and thus become recognized by UNHCR as an asylum seeker (and eventually a refugee). In practice, as previously mentioned, such a person would be recognized by the Government as a "person of concern to UNHCR". Displaced persons from Myanmar residing in border camps are not permitted officially to work; many no doubt leave the camps for certain periods in order to find employment and gain some income. Nearly all the labour migrants (as distinct from those with professional work visas) from Cambodia, the Lao People's Democratic Republic and Myanmar had entered the country in an irregular manner, i.e., clandestinely or on short-term border passes that they subsequently overstayed. Their situation was partially regularized by the registration carried out by MOI in July 2004 and the subsequent issuance of work permits by MOL. Officially, however, they remain "illegal migrants".

Although the migration categories used in this report are not completely discrete, the distinctions are important in terms of the protection and rights accorded persons in those categories by Thailand's laws and Cabinet Decisions. The approximately 135,000 displaced persons residing in border camps are permitted to stay in Thailand temporarily but are not permitted to travel outside the camps or to be employed. They receive shelter and food, mostly provided by NGOs which also administer schools and medical centres in the camps.

The more than 4,000 asylum seekers and refugees who have registered with UNHCR are generally recognized by the Thai Government as "persons of concern to UNHCR". As such, they are eligible for resettlement in third countries and will not be expelled from Thailand.

The approximately 1,280,000 migrants who registered with MOI had permission to stay in Thailand until 30 June 2005, and could be employed or seek employment but could not travel outside the province of registration. Of these almost 1.3 million migrants, 814,000 applied for work permits with MOL during the second half of 2004. In most cases, migrants who registered with MOL in 2004 were permitted to stay and work in Thailand until the June 2005 deadline. They were not permitted to travel outside the province where they were registered and their work permit allowed them to work only for the employer with whom they were registered (although, in principle, it was possible for migrants to re-register to work with another employer). Workers registered with MOL were covered by health insurance issued by the Ministry of Public Health (MoPH) (for a fee) and if their dependants were registered with MOI, they could also access Thai health insurance for a fee. Those migrants who registered with MOI but not with MOL were permitted to stay in Thailand until 30 June 2005 but were not legally permitted to work. As elaborated in chapter III, those who had registered with MOI in 2004 were permitted in 2005 to extend their registration for up to one year.

While some law experts, such as Muntarbhorn (2003), argue that labour laws in Thailand cover all workers irrespective of their migration status, in practice the unknown number of unregistered migrants are considered to be in the country illegally and thus are subject to arrest and deportation.

II

Refugees, Asylum Seekers and Displaced Persons[1]

HISTORICAL BACKGROUND

Thailand has long been providing refuge to persons fleeing conflict or political repression in nearby countries. Following the establishment of the People's Republic of China in 1949 about 13,000 defeated nationalist (Kuomintang) army soldiers and family members made their way to Thailand, where they were permitted to settle. Nine thousand of those subsequently moved to Taiwan Province of China but the others and their descendants continue to reside in northern Thailand. Several thousand persons from the Haw ethnic group also moved from China to northern Thailand at that time (Robinson, 1996:2-3).

Thousands of Vietnamese fled to Thailand first when warfare broke out between France and the Viet Minh resistance movement following the Second World War and second when the Democratic Republic of Viet-Nam was established north of the 17th parallel after the 1954 Geneva Accords. Those refugees and their children in Thailand numbered 68,800 in 1959. Between 1960 and 1964 about 34,750 Vietnamese voluntarily returned to the Democratic Republic of Viet-Nam but 36,000 remained in eastern Thailand, more than half of whom had been born there (Robinson, 1996:4-5).

Following the military rout of the Government of the Republic of Viet-Nam in April 1975, approximately 158,000 Vietnamese made their way to Thailand as refugees over the ensuing few years. During the same period, 320,155 asylum seekers entered Thailand from the former Laos (Amarapibal, Beesey and Germershausen, 2003:229). These earlier refugee movements were dwarfed by the hundreds of thousands of persons who poured across the border from what is now Cambodia at various times: during the genocidal Khmer Rouge regime, in the wake of its defeat by the Vietnamese army in early 1979 and during the subsequent period of low-level civil war, in a period of upheaval that lasted from 1975 into 1992. The Thai Government, UNHCR, the United Nations Border Relief Operation (UNBRO), IOM and NGOs cooperated to accommodate these refugees and to resettle or repatriate them. Between 1975 and 1992, more than 235,000 Cambodian refugees in Thailand were resettled in third countries, including 150,000 in the United States (Robinson, 1996:159). When stability returned, over 370,000 refugees were repatriated to Cambodia from Thailand in late 1992 and early 1993, with UNHCR acting as the lead agency.

It must be made clear that, while the Indochinese who sought asylum in Thailand were considered refugees by the international community and non-specialists, the Thai Government always referred to them as displaced persons in its Cabinet Decisions and committees established for dealing with them. Thus, the terms used to describe them would depend on the perspective of the viewer.

[1] Information for this chapter was obtained in informal interviews with staff members of UNHCR, internal UNHCR reports and other sources. The opinions expressed, however, are those of the authors and do not necessarily reflect any position taken by UNHCR.

The experience with massive refugee flows from the countries of former Indochina has no doubt conditioned the response of the Thai Government to the more recent movements of people from Myanmar. The Thai Government is apparently concerned that too lenient treatment of asylum seekers (or economic migrants) or the prospect of their resettlement in developed countries could be incentives for hundreds of thousands of migrants from much poorer countries further afield to flow into the Kingdom. Although the population of Myanmar is three times that of Cambodia, its per capita income is only about one sixth that of Thailand. Further, civil strife between the Government of Myanmar and ethnic minorities continues sporadically. It is not unreasonable for Thai government officials to see in these facts the potential for the population flows from Myanmar to exceed many times those experienced from Cambodia. In fact, if the numbers of displaced persons, registered migrant workers and irregular migrants from Myanmar are taken into account, the stock of persons from Myanmar currently in Thailand is probably between 1.5 million and 2 million. Demographic, economic and political trends all seem to point to increasing numbers of persons wishing to migrate from Myanmar to Thailand.

As mentioned previously, Thailand has not signed the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. Article 1(A) of that Convention defines a refugee as a person who "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear is unwilling, to avail himself of the protection of that country" (Human Rights Watch, 2004:2). As Thailand has not enacted any legislation dealing specifically with refugees (aside from the Comprehensive Plan of Action for Indochinese Refugees of March 1989), persons entering the Kingdom without permission are considered illegal migrants under Thai immigration law. They are subject to arrest, prosecution, detention and deportation. Nonetheless, since 1975 the Government has signed agreements with UNHCR, the International Committee of the Red Cross, the World Food Programme and international NGOs to provide assistance to asylum seekers. Registered migrants and persons who are victims of trafficking are also afforded protection, as described in the following two chapters.

POPULATION PROFILE

Displaced persons

It is important to distinguish three main groups of persons seeking a safe haven in Thailand. The first group consists of persons living in camps near the Myanmar border whom the Thai Government considers to be displaced persons. For the reasons elaborated above, the displaced persons in the camps fall under the control of the Thai Government and are not permitted to apply to UNHCR for refugee status determination.

A much smaller group consists of those who have come to Bangkok and Mae Sot to apply to UNHCR for refugee status. They are sometimes referred to informally as "urban refugees" and the Thai Government generally recognizes them as "persons of concern to UNHCR". Once they have applied to UNHCR they are deemed asylum seekers until a decision has been taken on their individual cases. If they are determined to be valid refugees, they are entitled to resettlement in a third country if such a country agrees to receive them. Again, Thai law makes no provision for the categories of "asylum seeker" or "refugee" but in practice Thai authorities permit these "persons of concern to UNHCR" to remain in the Kingdom until their cases are resolved.

The third group comprises approximately 15,000 Laotian Hmong who were residing at Wat Tham Krabok in Saraburi Province and who were partially resettled in the United States in 2004. Their situation is distinct from that of the other two groups. They were never formally "screened in" as refugees under the Comprehensive Plan of Action for Indochinese Refugees nor has UNHCR conducted individual refugee status determination for them. Nevertheless, the United States has agreed to resettle them and the resettlement process was begun in 2004.

Owing to policies and practices established recently by the Thai Government (see the following section for a more-detailed explanation), only a small fraction of persons seeking safe haven in the country are formally classified as refugees by UNHCR. The overwhelming majority (about 96 per cent) are treated as displaced persons by the Government, although UNHCR considers this group to be *prima facie* refugees. These are persons who have fled into Thailand from Myanmar in group migrations. The mass movements

of persons from Myanmar (then Burma) began in 1984 when the Burmese army moved into Karen State and established bases near the Thai border, resulting in an influx of approximately 10,000 Karen civilians into Thailand. Owing to annual dry season offensives against ethnic minority groups in Myanmar, the number of persons seeking a safe haven in Thailand had reached 20,000 by 1988.

In 1988, the military in that country staged a coup d'état and established the State Law and Order Restoration Council (SLORC). SLORC declared martial law and made a concerted attempt to eliminate opposition to its rule. These moves caused Burmese students and other pro-democracy advocates to seek sanctuary in Thailand (Burmese Border Consortium, 1994).

The number of persons from Myanmar seeking safe haven in Thailand grew rapidly, reaching 92,505 at the end of 1995, 98,003 by mid-1996 and 127,914 by December 2000 (Burmese Border Consortium, 1996 and 2000). Taking mortality into account, it appears that as many as 90,000 of the displaced persons from Myanmar will have been living in camps in Thailand for nine years by mid-2005.

Provincial Admissions Boards established by the Thai Government in the provinces along the border could allow the groups to remain if they were "displaced persons fleeing fighting". Camps were established for them by the Thai Government and the camps were referred to as "temporary shelters". Table 4 shows the names and location of the nine official camps as well as their registered population, which exceeded 117,000 in June 2004. (See also map 1.)

TABLE 4
NUMBER OF PERSONS REGISTERED IN CAMPS ALONG THAILAND-MYANMAR BORDER, AS OF JUNE 2004

Name of camp	Province	Population
All camps		117,559
Ban Pang Kwai	Mae Hong Son	17,213
Ban Mae Surin	Mae Hong Son	2,924
Mae Kong Kha	Mae Hong Son	17,209
Mae Ra Ma Luang	Mae Hong Son	9,460
Mae La	Tak	33,694
Umpium	Tak	15,747
Nu Pho	Tak	8,692
Ban Don Yang	Kanchanaburi	3,592
Tham Hin	Ratchaburi	9,028

Source: Data provided by United Nations High Commissioner for Refugees Regional Office in Thailand.

For reasons elaborated in the following section, the Provincial Admissions Boards have not functioned since the end of 2001, so the number of persons in the border camps ostensibly increases only by natural increase, i.e., by the number of births minus the number of deaths. This is not actually the case, however. It was reported that the camp population was 110,829 in January 2003 and 116,711 at the end of 2003, which would imply a growth rate of 5.3 per cent a year, probably higher than would occur from natural increase alone. The population of the camps was reported to be 117,559 in June 2004, an increase of only 0.7 per cent over six months. These comparative growth rates imply some amount of movement into and out of the registration system.

In fact, a significant number of persons live in the camps but are not officially registered in them. Because the Provincial Admissions Boards ceased functioning at the end of 2001, there have been no new official admissions to the camps. Key informants estimated, however, that at the end of 2003 there were 19,097 unregistered persons in the camps, bringing their total population to about 135,000. Thus, about one seventh of the camp population was unregistered. In early 2005 the camp populations were completely re-registered. During that process, those persons who had previously been unregistered were included but their cases will still need to be approved by the Provincial Admissions Boards when they resume functioning.

Table 5 presents the sex and age structure of the camp population. About 51.5 per cent of the population is male. A high proportion of the population, 47 per cent, is below age 18, which is a much higher proportion than for the same age group in the entire population of Myanmar, which is 39 per cent. It is believed that many parents send their children to the camps because of the educational opportunities available there, which are lacking in the areas of origin in Myanmar.

Urban refugees

The second main group of persons seeking refuge in Thailand are the so-called "urban refugees". These are persons who have come to offices of UNHCR in Bangkok and Mae Sot to apply for refugee status. Upon application they are considered asylum seekers

TABLE 5
UNHCR BENEFICIARY POPULATION AT THAILAND-MYANMAR BORDER, AS OF 31 DECEMBER 2003, BY SEX AND BROAD AGE GROUP

Age group	Male	Female	Total	Per-centage
All ages	60,058	56,653	116,711	100.0
0-4	7,393	7,065	14,458	12.4
5-17	20,780	19,636	40,416	34.6
18-59	29,735	27,895	57,630	49.4
60 and older	2,150	2,057	4,207	3.6

Source: Data provided by United Nations High Commissioner for Refugees Regional Office in Thailand.

by UNHCR. If approved, they are registered as refugees and considered by the Thai Government to be persons of concern to UNHCR. At the end of 2003 there were 2,343 refugees and 3,346 asylum seekers. The great majority in both categories were from Myanmar, which accounted for 2,051 (88 per cent) of the refugees and 2,657 (79 per cent) of the asylum seekers.

It should be noted that the term "persons of concern" is interpreted somewhat differently by UNHCR and by the Thai Government. UNHCR uses the term to refer to persons who technically are not refugees but who fall under the broad protection mandate of the organization, such as return refugees and asylum seekers. The Thai Government uses the term to refer to the urban asylum seekers and refugees because Thai law makes no provision for identifying persons as refugees.

Owing to events described in the following section, the Thai Government requested UNHCR to suspend refugee status determination activities for persons from Myanmar at the end of 2003, with exceptions made for relatives of persons who had previously applied, reactivated cases and persons who were considered to be extremely vulnerable. Therefore, during 2004 UNHCR could register those exceptional cases from Myanmar along with new applications from persons not from Myanmar, and could continue to screen all the cases of individuals who had previously applied for refugee status. As a consequence of the general suspension of new registration of persons from Myanmar, the number of official asylum seekers had declined from 3,346 at the end of 2003 to 1,013 by November 2004 (table 6) while the number of persons classified as refugees by UNHCR had increased to

TABLE 6
REFUGEES/PERSONS OF CONCERN AND ASYLUM SEEKERS IN BANGKOK, AS OF 25 NOVEMBER 2004

Country/ area of origin	Refugees/ persons of concern	Asylum seekers
Total	3,592	1,013
Myanmar	3,219	267
Lao People's Democratic Republic	58	103
Cambodia	55	82
China	40	48
Sri Lanka	21	31
Other Asia	74	318
Africa	60	164
None (stateless)	1	0

Source: Data provided by United Nations High Commissioner for Refugees Regional Office in Thailand.

3,592. The total of refugees and asylum seekers reached 5,689 at the end of 2003 and 4,605 in November 2004.

The UNHCR Regional Office in Thailand maintains a sizeable caseload. The 1,013 asylum seekers in Thailand in November 2004 came from 43 different countries or territories. In addition to those from adjacent countries (shown in table 6), there were 84 asylum seekers from Iraq, 80 from Viet Nam, 48 from China, 42 from the Islamic Republic of Iran, 41 from Nepal and a total of 164 from countries in Africa. In 2003 the UNHCR Office issued a total of 1,651 decisions, or an average of 146 decisions per month. These decisions include first instance decisions, appeals and review decisions, and cases otherwise closed.

The Office also actively pursues actions to resettle refugees in third countries. From the beginning of 2004 until 26 November that year, the Office submitted cases covering 5,258 individuals for resettlement (table 7). During that time, 1,994 persons had been accepted for resettlement and 1,708 had departed. Among those, persons from Myanmar accounted for 4,829 (92 per cent) of the individuals for whom resettlement was requested, 1,889 (95 per cent) of the individuals accepted for resettlement and 1,232 (72 per cent) of those who departed. Roughly three out of four individual case submissions and acceptances were with the United States; many of the remaining cases were with Norway and Sweden.

TABLE 7
RESETTLEMENT OF REFUGEES FROM THAILAND, BY COUNTRY OF RESETTLEMENT
(From 1 January to 26 November 2004)

Country of resettlement	All nationalities			Myanmar nationals		
	Submitted	Accepted	Departed	Submitted	Accepted	Departed
All countries	5,258	1,994	1,708	4,829	1,889	1,232
Australia	30	31	35	17	17	21
Canada	51	37	43	30	30	29
Denmark	158	8	8	127	1	0
Finland	45	26	27	0	0	0
Netherlands	21	14	16	4	2	3
New Zealand	6	3	7	6	3	7
Norway	756	182	154	717	175	138
Sweden	220	153	20	175	138	6
United Kingdom	82	0	0	82	0	0
United States	3,889	1,540	1,398	3,671	1,523	1,028

Source: Data provided by United Nations High Commissioner for Refugees Regional Office in Thailand.

IOM handles the resettlement of most of the refugees from Thailand to third countries. It assists refugees to prepare the necessary documents for resettlement, provides pre-consular and pre-departure services, conducts DNA-testing to prove relationships, conducts medical screening and provides necessary treatment, and provides cultural orientation and language training. It arranges for the travel of refugees and provides assistance during travel at the points of departure, transit and arrival. In 2004, it resettled a total of 10,685 refugees, including 9,111 Laotian Hmong.

Laotian Hmong

Both during and in the aftermath of the war in Viet Nam and that of the Khmer Rouge regime in Cambodia, several hundred thousand persons from the former Indochinese countries were granted refugee status in Thailand. Most of those from Viet Nam and the Lao People's Democratic Republic were resettled in third countries, while the great majority from Cambodia were repatriated in late 1992 and early 1993. In 2003, however, there were still about 15,000 Laotian nationals from the Hmong ethnic group living at Wat Tham Krabok in Saraburi Province, about 100 km north-east of Bangkok. They had earlier been residents in camps in Thailand but had moved out prior to the conduct of formal screening procedures under the Comprehensive Plan of Action for Indochinese Refugees. Although UNHCR had not conducted formal refugee status determination for them, the United States has agreed to accept them as refugees. In 2004, UNHCR, the Thai Government, IOM, and the United States Embassy in Thailand cooperated to resettle 9,111 Hmong in the United States. Further resettlement was frozen by the United States on 21 January 2005 following reports of Hmong in the United States with active tuberculosis (*Bangkok Post*, 2005a). News of the resettlement encouraged about 6,000 other Laotian Hmong to approach the UNHCR Office in Thailand to seek asylum. UNHCR recorded information about them but was not permitted to conduct refugee status determination procedures for the new applicants.

GOVERNMENT POLICIES

Displaced persons

It is in the context of the country's recent history of large inflows of asylum seekers, described at the beginning of this chapter, that the Thai Government provides sanctuary to large population groups entering from Myanmar only if they are deemed to be displaced persons fleeing fighting, and with the understanding that such sanctuary is temporary. Provincial Admissions Boards in the border provinces were given the responsibility to determine if groups of migrants met these criteria. As described below,

the Thai Government hardened its attitude towards asylum seekers from Myanmar after radical groups temporarily seized the Myanmar Embassy in Bangkok in October 1999 and Ratchaburi Hospital in January 2000. The Government moved to discourage further asylum seekers from Myanmar from entering the country and suspended the functions of the Provincial Admission Boards at the end of 2001. The result of that decision was that no new entrants were considered to be displaced persons and, therefore, eligible to be registered in a camp, with the attendant rights to food, health care and education for children. A consequence is that the official camp populations have grown only through natural increase. In reality, most of the camps have permitted a number of persons to enter and stay in them without being registered and without the regular entitlements. An undetermined number of persons from Myanmar have also settled nearby the camps, as irregular migrants.

The Thai Government has admitted and registered the previously unregistered camp population so that they may be entitled to documentation, food, health services etc. Although the new arrivals so registered are able to receive such entitlements, their status is pending until formally determined by the Provincial Admissions Boards, which are expected to be reconstituted in 2005.

The development of a screening process for asylum seekers from Myanmar is currently being jointly pursued by the Thai Government and UNHCR. It is likely that the Provincial Admissions Boards will be reconstituted in four border provinces and that UNHCR will be represented on them. In addition to reviewing cases of displaced persons, the Boards are expected to be given the mandate to review cases of persons claiming political persecution in their home country. Those judged to be fleeing political persecution would be eligible for resettlement in third countries. The Boards would consider only the cases of persons from Myanmar.

In international law *non-refoulement* refers to the principle that refugees should not be forcibly returned to their country of origin, especially if such deportation endangers them. Because Thailand does not recognize recent entrants as refugees, it regularly carries out both formal and informal deportations to Myanmar. In 2003, a total of 228,062 persons (147,767 from Myanmar, 61,877 Cambodians, 13,277 Laotians and 5,141 other nationalities) were arrested in Thailand for illegal entry or overstaying (compared with 204,582 persons in 2002). This total no doubt comprises those seeking work but also some asylum seekers and some dependants. A total of 126,983 Myanmar nationals (80,851 males and 46,132 females) were deported from Tak Province in 2003 (compared with 98,673 in 2002). The Kanchanaburi Immigration Office deported 4,193 Myanmar nationals and 33 persons of other nationalities in 2003.

Migrants from Cambodia, the Lao People's Democratic Republic and Myanmar who have been arrested as illegal migrants are not prosecuted but can be released from the Immigration Detention Centre only if they volunteer to be deported. The returns to Myanmar are usually "informal" in the sense that the deportees are taken to unofficial border crossings and permitted simply to walk across the border in areas controlled by friendly ethnic factions. In fact, many of the migrants who are returned this way make their way back into Thailand within a few days. Because of these facts, UNHCR considers that the deportations do not constitute de facto *refoulement*, although they could be de jure *refoulement*. UNHCR tries to monitor such deportations to ensure that no persons of concern are involved. Because transfers from Bangkok to Mae Sot usually occur at night, however, the UNHCR Field Office in Mae Sot estimates that it may miss 50 per cent of the deportations.

There are concerns over deportations that take place under the MOU agreed on 7 February 2002 between the Thai Government and the Government of Myanmar. According to that MOU, the names of the individuals being returned to Myanmar are presented in advance to the Government of Myanmar for clearance and the deportees are formally handed over to the Government of Myanmar at a processing centre in Myawaddy. From August 2003, there were generally two such deportations per month, each involving about 200 deportees. The lists of deportees are compiled by the Immigration Detention Centre in Bangkok. UNHCR has taken a number of steps to alert detainees about the deportation procedures and to monitor the lists of deportees in order to ascertain if they include any persons of concern to UNHCR who could face persecution upon return. The UNHCR Office in Mae Sot also conducts monitoring at the point of deportation. UNHCR has so far removed five persons of concern from the deportation process as a result of its monitoring. This figure implies that the overwhelming majority of persons deported to

Myanmar are irregular migrants and not asylum seekers or persons of concern to UNHCR.

Although displaced persons in camps along the border are provided a measure of security, shelter, food, health care and education of children, they face some restrictions and risks. They are not permitted to leave the camps officially, although it is understood that many contrive to do so. The Thai Government maintains that those caught outside the camps risk deportation and loss of their status as refugees or displaced persons. UNHCR intervened with the Government in a number of cases in 2003 in order to prevent the deportation of displaced persons found outside camps.

As the camp residents are not permitted to leave officially, they are not legally allowed to work outside the camps. Again, many do make arrangements to work outside the camps, however. In some cases, corrupt officials have cooperated with local businessmen to allow displaced persons to leave camps in order to be employed at low wages. UNHCR intervened in several cases in 2003 in order to remove displaced persons from exploitative labour situations and to return them to their camps.

In the past the Myanmar military had attacked camps of displaced persons but there were no such attacks in 2003. The security of the camps remains an issue, however, as they are located very close to the border and are occasionally threatened by factional fighting within Myanmar. Because of the proximity of the camps to the border, UNHCR is concerned about cross-border movement (for employment), the possible militarization of camps and the recruitment of soldiers within them. Although UNHCR emphasizes to camp committees that the camps must maintain a humanitarian and civilian nature, it is believed that unauthorized movement of displaced persons and armed elements in and out of the camps continues.

Urban refugees

Asylum seekers and refugees in Thailand come from over 40 countries other than Myanmar; most of them reside in Bangkok. UNHCR considers their applications for refugee status, issues them refugee documents and intervenes on their behalf to prevent their arrest, prosecution, detention and *refoulement*. They are also assisted by the Bangkok Refugee Centre and other NGOs. While according to immigration law these asylum seekers are considered to be illegal migrants without any legal status, in practice Thai authorities generally treat them as persons of concern to UNHCR and do not arrest or deport them.

The Thai Government generally follows different approaches in dealing with Myanmar political dissidents in urban areas and different ethnic groups along the Myanmar border. Ethnic Karen, Karenni and Mon are treated as displaced persons and permitted to reside in the nine main camps established close to the border, although official admittance to those camps was suspended at the end of 2001, as noted previously.

In contrast, the largely ethnic Burman students and other political dissidents were deemed not to meet the criterion of "fleeing fighting"; thus, they were not admitted to the camps and do not have the protection afforded to the camp residents. These "urban refugees" were eligible for resettlement in third countries, however, unlike those in the camps.

MOI carried out a four-month registration exercise in the period 1991-1992 to determine the number of students and political dissidents from Myanmar in Thailand. The Maneeloy Burmese Student Centre was established in 1992 and functioned as a residence for those who had registered with MOI. Individual Myanmar urban refugees recognized by UNHCR were subsequently also admitted to the Centre. In 1996, however, MOI suspended admission to the Centre and informed UNHCR that all Myanmar refugees should be referred to the camps on the border. As Myanmar urban refugees had no legal protection, UNHCR agreed with the policy to "harmonize" the treatment of all asylum seekers.

The Thai Government perceived that the Myanmar students and political dissidents in Bangkok were complicating its relations with the regime in Myanmar. Two high-profile incidents hardened the attitude of the Thai Government to the Myanmar students. In October 1999, a radical group temporarily seized the Myanmar Embassy in Bangkok. Following the resolution of that seizure, the Thai Government announced that all urban Myanmar refugees recognized by UNHCR (about 1,800 persons) should report to the Maneeloy Burmese Student Centre. Most of them were transferred in February 2000 and MOI again suspended further admission to the Centre. The attitude of the Thai Government towards the students also hardened when the same group that had seized the Myanmar Embassy took over Ratchaburi

Hospital in January 2000. Several Thai hostages were held for a period; the incident ended in the death of all of the hostage-takers.

Following the Ratchaburi incident, UNHCR was requested by the Thai Government to assist in closing the Maneeloy Centre and in resettling all of its residents. The facility was closed in December 2001, with most of its residents having been resettled in third countries and a few individuals transferred to the Tham Hin camp in Ratchaburi Province.

In 2003, the Thai Government put additional pressure on Myanmar political groups by closing some of their offices near the border. The Thai Government was also cracking down on illegal immigrants at that time, increasing the number of arrests and deportations. Relations between the Government and migrant groups deteriorated further when 11 Myanmar nationals were arrested in June 2003 for demonstrating in front of the Myanmar Embassy and the United Nations Building in Bangkok. When it was learned that they were UNHCR-recognized refugees or asylum seekers (and one rejected case), rhetoric from the Thai Government increased, with threats to arrest and deport all Myanmar asylum seekers and refugees.

In early 2005 the Thai Government announced that the persons of concern from Myanmar who had been living in urban areas (about 3,000 persons) would be required to move to the camps for displaced persons in Ratchaburi and Kanchanaburi provinces by 31 March. The processing for their resettlement in third countries would continue, however. Those persons of concern who failed to report to the authorities for relocation in the camps would lose their protected status and could be deported to Myanmar (*Bangkok Post*, 2005b).

The concurrent crackdown on illegal migrants in 2003 created an upsurge in applications from Myanmar nationals for asylum and refugee status. At the end of 2003 there were 2,051 Myanmar nationals recognized as refugees by UNHCR residing in Thailand, a 45 per cent increase over a year earlier. There were another 2,657 Myanmar nationals classified as asylum seekers, including 689 who had applied at the UNHCR Office in Mae Sot. These represented a 330 per cent increase over the number at the end of 2002. The large increase in applications for asylum at Mae Sot resulted from restrictions on the movement of illegal migrants and threats of deportation. It is likely that UNHCR activities became better known in Mae Sot as a result of the three refugee status determination missions that the agency conducted there in March, May and December 2003 in order to reduce the rapidly growing backlog.

The increase in applications for asylum resulting from a crackdown on illegal immigrants illustrates the complementary nature of the migration categories, as pointed out in chapter I. Migrants who fear persecution or civil strife at home may be content to be employed "registered migrants" or "irregular migrants" if status in those categories is easy to obtain and does not entail much risk. When migrants in those categories are subject to deportation, however, they are likely to apply for asylum and refugee status in order to avoid it.

The refugee status determination procedure as implemented by UNHCR in Thailand is designed to assist asylum seekers to present their case in a sympathetic environment. When asylum seekers first approach the UNHCR Regional Office in Thailand they are requested to complete a basic bio-data form and provide a written statement in their preferred language. They are then given an appointment for an interview. Applicants receive general counselling in a language they can understand on basic refugee criteria, procedures to be followed, their rights and obligations, and assistance that may be provided by NGOs. That information is also provided in leaflets in English or in unofficial translations in Burmese, Karen, Mon and Arabic. Owing to the large number of Myanmar nationals approaching the UNHCR office in Bangkok in 2003, they often could not be registered on the same day. In that case, they were assigned a date for registration, with an average waiting period of about one month. The UNHCR officer assigned to the Immigration Detention Centre was also responsible for ensuring access to UNHCR by asylum seekers arriving at Bangkok International Airport.

At the beginning of 2003 the waiting time for a refugee status determination interview after registration was approximately two months for Myanmar nationals and one month for others. In 2003, however, the number of applications for asylum increased greatly, the number of interviews per day for eligibility officers was adjusted and a two-month moratorium on interviews was implemented in order to clear individual case backlogs. As a consequence of these actions, the average waiting time for an interview had increased to approximately eight months for Myanmar nationals and five months for others by the end of 2003,

although special consideration could be given to specific cases. Because of these reasons and because about 45 per cent of individual cases did not appear at the time of their scheduled interview, rescheduling of interviews was frequently required. The Bangkok staff of UNHCR occasionally travelled to Mae Sot to conduct refugee status determination interviews. That was the only location outside of Bangkok where the interviews were held. Because of staff shortages, however, the backlog for an interview at Mae Sot grew to nearly one year.

Interpreters are provided at the interviews if the applicant is not fluent in English or Thai. A standard checklist of refugee status determination procedures is followed. Everyone in the room is introduced, the rights and obligations of the applicant and the examiner are explained, and the applicant is asked if he or she is well enough to be interviewed. At the end of the interview, the applicant is asked if he or she has anything further to add and he or she is then advised about the next steps of the procedure.

Owing to the large caseloads of the eligibility officers, the waiting period for status decisions at the end of 2003 was six to eight months. Decisions are issued in writing and reasons for rejection are explained verbally, upon request. For those applicants that are recognized as refugees, general counselling is provided on the validity period of the refugee certificate and the procedure for its extension, as well as the assistance provided by the Bangkok Refugee Centre.

Rejected applicants for asylum are informed of their right to appeal the decision within 30 days of the receipt of the rejection letter. The UNHCR Office in Bangkok considers all appeals, examining whether they contain "materially new or additional information" and the correctness of interpretation of facts and law in the first instance decision. An assessment of whether a second interview is required is made on a case-by-case basis. The legal aid programmes run by a number of NGOs in Bangkok provide counselling to asylum seekers on their first application and, if necessary, on their appeal submissions. Decisions on appeals are also issued in writing, with verbal explanations of the reasons provided upon request.

The refugee status determination procedures give special attention to children, women and older asylum seekers. When asylum seekers first register they may express a preference for a female or male interviewer and interpreter, and these preferences are met if possible. Female eligibility officers are often called upon to counsel or interview asylum seekers with gender-based claims. It is UNHCR-Bangkok policy to interview adult family members and children (old enough to be interviewed) separately in order to ensure that the claims of female applicants are heard. Women who are victims of sexual and gender-based violence are informed during the refugee status determination procedures about the medical services provided by the Bangkok Refugee Centre.

A number of unaccompanied minors approached UNHCR offices in Bangkok and Mae Sot during 2003 and they were given priority for interview scheduling and rendering of decisions. Older asylum seekers without support in Thailand were given similar priority.

SOCIAL AND ECONOMIC IMPACT

The social and economic impact of refugees, asylum seekers and displaced persons in Thailand is limited, especially relative to that of regular and irregular migrants, because their numbers are smaller and 96 per cent of them (the displaced persons) are ostensibly confined to camps. However, a population totalling about 140,000 persons is clearly not without impact.

Health

Health services, including reproductive health, and sanitation in the camps are provided by NGOs, which in principle follow standards of the World Health Organization (WHO). The camps provide both in-patient and out-patient medical services. More serious cases are referred to local hospitals.

The Bureau of Epidemiology, Department of Disease Control, MoPH monitors the morbidity and mortality situation in the border camps. Monthly statistics on the incidence of disease prepared by the Bureau are posted on the WHO Thailand web site <http://www.whothai.org>. The statistics for September 2004 indicate that the top five diseases in terms of incidence that month were acute diarrhoea, dysentery, malaria, sexually transmitted diseases (STDs) and scrub typhus. There were 1,952 cases of acute diarrhoea reported, representing a rate of incidence of 14.8 cases per 1,000 population. The disease was common in all nine camps. There were 754 cases of dysentery (5.7 per 1,000), 450 cases of malaria (3.4 per 1,000) and 123 cases of STDs (0.9 per 1,000).

There are concerns over the crowded conditions in Tham Hin camp in Ratchaburi Province, fearing that

they lead to periodic health epidemics. The statistics reported by the Bureau of Epidemiology reinforce this concern. In September 2004, the rate of incidence of diarrhoea equalled 22.7 per 1,000 population, compared with 14.8 per 1,000 in all camps. The incidence of malaria was 6.2 compared with 3.4 per 1,000 in all camps and that for STDs was 2.6 per 1,000 compared with the average of 0.9 per 1,000. Of particular concern is the prevalence of dengue fever in the Tham Hin camp. There was an outbreak of the disease in April 2003. In September 2004, 64 cases were reported, or 6.8 cases per 1,000 population. This was the second most prevalent disease in the camp, after diarrhoea. In contrast, the other eight camps combined reported only two cases of dengue fever that month.

In the capital, the Bangkok Refugee Centre provides free medical services. In the event of an emergency or serious illness, the Centre would refer the patient to a government hospital. The Centre reimburses the patient for expenses or pays the government hospital directly. It also provides maternity assistance and psychiatric treatment, as well as HIV/AIDS testing and counselling. In 2003, 15 cases of HIV/AIDS were reported, 9 among refugees and 6 among asylum seekers.

Education

In the border camps, education is provided in schools run by the refugees themselves, with some logistical support provided by NGOs. The NGOs supply some school necessities, language training (English, Karen, Burmese and Thai) and teacher preparation. The education subcommittee of the Coordinating Committee for Services to Displaced Persons in Thailand coordinates NGO education activities in order to prevent duplication. A drawback of the education provided is that it does not extend beyond tenth grade in most camps so that refugee children face many obstacles in obtaining more advanced education. A few students transfer to Mae La camp in Tak Province for tertiary education. The Catholic Office for Emergency Relief – Refugees constructs school buildings and provides some vocational materials.

Although education is offered to all children in the camps, its quality is limited by numerous factors. The teachers are recruited from among camp residents, provided training by ZOA Refugee Care (Netherlands) and given a monthly subsidy of 500 baht. A visit to the Ban Don Yang camp in Kanchanaburi Province indicated that about 1,370 students receive instruction in one large school building, without solid partitions between classrooms. Note-taking was minimal. Blackboards and posters comprised the only educational equipment present. Students who complete tenth grade receive a certificate issued by ZOA, but the certificate is not recognized by education authorities in either Myanmar or Thailand.

MOI permits vocational education courses in the camps so as to prepare displaced persons for repatriation and to occupy their time. ZOA, in cooperation with Ratchaburi Polytechnic Institute, has begun training in Tham Hin camp in sewing, mechanics, food and bakery, Thai language, animal husbandry and agriculture. It is planned to expand the courses to all the camps.

The Bangkok Refugee Centre coordinates with over 20 Thai public schools to enable the urban refugee children to study in them. Most refugee children are enrolled at kindergarten, primary and secondary levels, in both public and private schools. At the end of 2003, 194 students were in primary education and 11 in secondary education. UNHCR covers the tuition fees and related expenses of the children in public schools. For those in private schools, UNHCR pays the equivalent of public school costs; the parents must pay the additional amount.

As refugee children who do not speak Thai or English face difficulties in gaining admission to public or private schools, the Centre provides non-formal education to newly recognized refugee children who are awaiting enrolment in local schools. The Centre's English- and Thai-language courses are taught at the primary level. Students wishing to take higher-level language courses are encouraged to do so outside the Centre nearer their homes in order to reduce travel time and to minimize the possibility of arrest. The Centre also offers courses in computers, electronics, secretarial skills, hairdressing and dressmaking.

Sexual and gender-based violence

UNHCR recognizes that **timely reporting of incidents is important in identifying and dealing with sexual and gender-based violence** (SGBV). It thus began monitoring cases of SGBV in Thailand in late 2002. By the end of 2003, a total of 93 incidents had been reported, 10 of which occurred in the country of origin. In the other 83 cases, the perpetrator was most often another refugee, but in 20 cases it was a Thai national. In 14 of the latter cases the person

was denoted as a "Thai authority"; in 6 of the cases, a Thai villager. The age of the victim was known in only 69 of the cases but among those, 39 (or 57 per cent) were under the age of 18 – in fact, minors.

Because UNHCR does not have a permanent presence in the camps, it must rely on SGBV focal points, such as NGOs and women's organizations, to report cases of SGBV and to ensure that the protection needs of the women are met. In 2003, UNHCR introduced a modified version of its incident report form and consent form designed for SGBV reporting. After cases have been reported, Field Offices follow up to ensure the safety of the victim to see that medical attention is provided, to determine if she wishes to pursue a camp or a Thai legal remedy and subsequently to monitor the investigation and legal proceedings.

The Bangkok Office of UNHCR maintains a special central database on SGBV cases in order to monitor effectively follow-up actions and to compile required statistics. For example, the 83 cases of SGBV that occurred in Thailand included 9 cases of attempted rape, 34 of rape, 16 of domestic violence, 13 "other", 2 sexual assaults, 4 of sexual exploitation, 4 of trafficking and 1 of unknown type.

UNHCR has developed a comprehensive programme to deal with SGBV. The programme incorporates prevention and awareness-raising activities (including workshops for refugee women and refugee men), reporting and response mechanisms, and legal representation and advocacy for victims. The programme was developed using consultants and UNHCR staff from Geneva, and in consultation with NGOs working with refugees and displaced persons. In 2002, UNHCR established the post of Community Services Officer to oversee SGBV activities. One Community Services Assistant was hired for each of three Field Offices to work with refugee communities on prevention and responding to the needs of survivors. The UNHCR training manual entitled "Prevention and Response to Sexual and Gender Based Violence in Refugee Situations", was translated into the Thai, Burmese and Karen languages and distributed to refugees, NGO staff and government officials.

UNHCR emphasizes that the key to effective SGBV programmes is refugee community involvement and that refugee-run committees are a necessary part of maintaining sustainable camp prevention and response programmes. In 2003, UNHCR conducted workshops in the camps in order to establish such committees. The committees then decided on dates for further training workshops and who should attend them. In the subsequent workshops, initially men and women's groups met separately to discuss the issues. The participants then had a combined meeting to report their findings and suggestions. Smaller combined groups then discussed possible solutions to SGBV in their camps. Later, the committees were responsible for educating their communities through other workshops, posters, leaflets and dramatizations.

In spite of the SGBV programme activities, there remains a reluctance to report cases if the perpetrator is from within the camp. Camp leaders often fear that if cases are reported security measures will be strengthened by the Thai authorities. The camp leaders may put pressure on victims of SGBV not to report cases and not to seek remedy through the Thai legal system.

An obstacle to pursuing cases of SGBV is that the Thai authorities generally prefer to leave the administration of justice in the camps to the camp or judicial committees. Because the sanctions exercised by these committees do not meet the standards either of international or Thai law, the victims lack appropriate remedies and a climate of relative impunity for SGBV crimes exists. Another complication in pursuing SGBV cases is that the camp commanders often want to decide by themselves whether cases should be referred to the Thai legal system or be handled by camp committees. UNHCR has attempted to address these barriers by engaging legal representation for victims to assist them in bringing perpetrators to justice. UNHCR also conducts legal training workshops for refugee representatives and for local Thai authorities. As a result of these efforts, an increasing number of SGBV cases are being reported and investigated by the Thai authorities.

Refugee children

In January 2003, UNHCR and the Catholic Office for Emergency Relief – Refugees, an in-camp implementing partner, established a system for monitoring separated children. In this context, separated children are defined as those under 18 years of age who are separated from both parents or from their previous legal or customary primary caregiver. When a child is identified as separated, a Catholic Office community service worker visits the child once a month to monitor any changes in his or her status.

The Catholic Office reports changes to a UNHCR Field Office, which forwards the information to the Bangkok Office for compilation in a special database. Camp-specific lists of separated children are compiled for the community service workers to visit each month.

At the end of 2003, 1,997 separated children were being actively monitored by the Catholic Office. Among these, 57 per cent were males. By age, 107 were under age 5; 382 were ages 5-9; 892 were ages 10-14; and 609 were ages 15-17. One reason for the relatively high number of separated children in the camps is the educational opportunities, which are frequently better than those available in the area of origin in Myanmar. Many children already in the camps choose to attend school in other camps because of the different courses offered. For example, NGOs in Mae La camp in Tak Province offer teacher training and curriculum development – courses not available in other camps. UNHCR sometimes needs to intervene with camp authorities to ensure that children studying in another camp are not removed from camp registers.

The children studying in another camp often live in groups in children's homes. In 2003, UNHCR and NGOs collected information about the homes and identified 74 such sites with 2,898 children, about two thirds of whom were boys. The children are primarily those who come from Myanmar for the educational opportunities. Seventy-five per cent of them had parental contact but 25 per cent were classified as separated children without parents.

UNHCR made a systematic effort in 2003 to collect information about the possibility of recruitment of child soldiers in the camps and about the presence of former child soldiers in or near the camps. Owing to the sensitive nature of this subject, information was limited and difficult to obtain. Resettlement to a third country was arranged for some individuals who had been forcibly recruited by the Myanmar army, as returning to that country would put them at risk. In other cases, persons under age 18 were identified who had been soldiers in one of the anti-government factions. UNHCR worked with camp committees to ensure that such children received protection within the camps and would not return to military units in Myanmar.

Because the issue of child soldiers constituted a significant protection problem, in 2004 UNHCR and UNICEF developed plans to implement a joint programme that would include monitoring, demobilization programmes, protection interventions and possible third country resettlement. UNICEF has developed interventions for the protection of vulnerable children in the camps, including child soldiers and children at risk of trafficking or other types of exploitation. UNICEF, in cooperation with numerous NGOs and in coordination with UNHCR, is working to improve the protection of children in the camps through the creation of a child protection network, promotion of basic child rights, awareness-raising and specialized training of teachers and social workers.

Birth registration of children born in the camps, trafficking of children and exploitation of children in employment are also significant issues and these will be considered in the section below on human rights issues.

Economic impact

The refugee and displaced persons population in Thailand has relatively little impact on the host economy because about 96 per cent of it resides in the border camps. The camps would have small positive and negative effects on the Thai economy. The positive effects result from external assistance coming into Thailand to assist the camp populations and the purchase of camp supplies from Thai companies. The negative impact would come from the amount that the Thai Government must allocate for its personnel to operate the camps and provide security for them.

Although the presence of large camps may benefit local businesses providing goods and services, the camps can have a negative impact on the surrounding environment. In January 2003, the population in the camp at Ban Mai Nai Soi in Mae Hong Son Province was relocated to Ban Pang Kwai camp, partially because the refugees were blamed for illegal logging near the former camp. The Mae Kong Kha camp in Mae Hong Son Province is located in a national forest reserve. In September 2002, heavy flooding and mudslides killed many refugees and damaged hundreds of houses. The Thai Government subsequently relocated some of that camp population to the Mae Ra Ma Luang camp. The environmental impact of the camps for displaced persons would be insignificant compared with those resulting from such economic development activities as illegal logging,

and housing and business construction in those provinces.

The most significant economic impact of the camps is borne by the displaced persons residing in them owing to the fact that they are not permitted to work legally. That means that the population of 135,000 has no regular means of income and is not gaining useful work experience. The prolonged period without employment or significant income must hinder the ability of the displaced persons to return and re-integrate successfully in Myanmar. The ban on legal employment has more pernicious impacts as well. **The large numbers of unemployed persons are natural targets for recruitment into armed groups in Myanmar and for local employers desiring labourers.** As the work is illegal, the employment situation can easily become exploitative.

ENFORCEMENT ISSUES

Authorities of the Thai Government generally leave much of the operation of the camps, including the administration of justice, to the refugees themselves and their camp committees. This can be problematic when the camps are run by political or military groups, such as the Karen National Union; Union members may be given preference in cases in which they are involved. Also, the administration of justice may not conform to either Thai or international standards. UNHCR believes that the most common threat to refugees in the camps is sexual and gender-based violence. It has developed a strategy to ensure that serious crimes threatening the personal security of refugees are dealt with by the Thailand criminal justice system.

HUMAN RIGHTS ISSUES

Although Thailand is a party to the Convention on the Rights of the Child, it has recorded reservations with regard to Article 7, dealing with the registration of births, and Article 22, concerning the nationality of children and the children of refugees and asylum seekers.

To obtain a birth certificate in Thailand it is first necessary to have a delivery certificate, which is issued by a hospital. The delivery certificate is then taken to the district office, where a birth certificate is issued. Urban refugees who give birth in government hospitals receive the delivery certificate and can obtain a birth certificate. The birth certificate issued to them clearly indicates that the certificate does not confer Thai citizenship on the child. **Refugees who deliver at home or in NGO medical facilities do not receive a delivery certificate and, thus, are unable to apply for a birth certificate.**

Prior to May 2003, delivery certificates were not issued for births occurring in the camps for displaced persons. After prolonged negotiations between the Government and UNHCR, MOI gave instructions to issue delivery certificates for children born to registered camp residents in Mae Hong Son, Tak, Kanchanaburi and Ratchaburi provinces. Medical NGOs in the camps are to issue the delivery certificate and it is to be endorsed by district officials. Problems remain in many cases, however. The MOI instruction applies only to children born after 1 March 1999 and only to registered persons in the camps. Thus, many children born in the camps remain unable to receive delivery and birth certificates. Furthermore, the Thai Government does not record births to refugees in an official system of birth registration, making verification of the birth in cases of lost documents virtually impossible.

Many children from the camps look for work outside them in order to gain some monetary income for their family. Boys and young men may find jobs in agriculture or on fishing boats while many women and girls work as domestic servants. Because it is not legal for camp residents to be employed outside the camps, they can easily enter exploitative work situations and have no recourse. The families of children in exploitative work situations are often reluctant to report them because they need the income provided. Because camp residents may not be employed legally, they are vulnerable to being trafficked for employment, with traffickers operating both within and outside the camps. UNHCR is attempting to gain more information about trafficking from the camps in order to develop programmes to prevent, raise awareness about, respond to and monitor such activities.

Thailand is a State party to the International Covenant on Civil and Political Rights. Refugees are not exempt from the protections afforded by the Covenant, including the freedom of movement, expression and assembly, whether or not they are residing in camps or in urban areas. However, beginning in late 2002 and continuing into 2003 the Thai Government carried out a number of actions to restrict the civil and political activities of persons from Myanmar in

Thailand. The Government does not want groups of these persons to organize for political purposes or to stage demonstrations in Thailand. In December 2002 and early 2003 the military and district authorities in Sangkhlaburi district of Kanchanaburi ordered Myanmar political groups to close their offices and move out of the province. In July 2003, local officials ordered persons from Myanmar without residency permits to leave Mae Sariang District in Mae Hong Son, a move understood to target political activists operating there. In Bangkok during 2003 a number of Myanmar dissidents were arrested, including those recognized by UNHCR as refugees and asylum seekers. Further, many groups organized to assist persons from Myanmar in Thailand have not been permitted to register as NGOs.

CONCLUSION

During the period of the Khmer Rouge regime in Cambodia and following its defeat by the Vietnamese army in early 1979, over 600,000 Cambodians sought refuge in Thailand. UNHCR, UNBRO and IOM cooperated to resettle more than 235,000 of them in third countries and another 370,000 eventually repatriated to Cambodia when relative stability was achieved. Following the collapse of the Republic of Viet-Nam in 1975, 158,000 persons entered Thailand to seek refuge. Following the change of Government in the Lao People's Democratic Republic also in 1975, 320,155 persons from that country sought asylum in Thailand. Nearly everyone in those two groups was resettled in third countries or eventually repatriated. The Thai Government apparently wants to avoid a similar refugee situation developing as a result of the political situation in Myanmar, fearing that too lenient a policy would constitute a magnet for another massive refugee movement. The Government poses many obstacles to the accommodation of persons crossing the border from Myanmar. In spite of the Government's reluctance to foster a large-scale refugee population, it must be recognized that Thailand is more attractive than other neighbouring countries for persons fleeing from Myanmar. Thailand has a long border with Myanmar that is mostly unpatrolled. The Government has set up camps to house large numbers of the asylum seekers. Although residents in the camps are not permitted to work legally, many are able to move out of the camps and seek employment. In many cases, the educational opportunities and health facilities in the camps are superior to those in the area of origin of the refugees.

In addition to the 135,000 persons from Myanmar housed in camps along the border, about 4,600 so-called urban refugees from over 40 countries are in Bangkok. Over 75 per cent of these "urban refugees" are from Myanmar.

The reluctance of the Thai Government to accommodate a large-scale refugee flow has led to a number of issues having an impact on the refugees and asylum seekers. The functioning of the Provincial Admissions Boards, whose responsibility it was to certify that persons fleeing Myanmar were eligible for admission to camps for displaced persons, was suspended at the end of 2001. As a consequence, officially no additional persons should be admitted to the camps. In reality, camp commanders and refugee committees have taken a more lenient approach and about 19,000 others have entered the camps. They have since been registered and their cases will be put before the Boards when they are reconstituted.

The Thai Government requested UNHCR to suspend refugee status determination procedures for Myanmar nationals (with certain exceptions) at the end of 2003. While UNHCR could continue to process asylum seekers from Myanmar who registered before that time, it was not able to accept any new applications from them for asylum or refugee status during 2004. Thus, some asylum seekers from Myanmar in Bangkok have no official status and may be viewed by the Thai Government as illegal immigrants, subject to arrest and deportation.

When persons from Myanmar who are not registered for employment are detained by Thai authorities, they are usually deported. In 2003, approximately 130,000 persons were deported to Myanmar. Most of these, no doubt, were seeking employment rather than asylum, but it can be assumed that some among them would have had valid grounds for claiming asylum. Most of the deportations are informal in that the deportees are permitted to walk across the border in an area assumed to pose no threat to their security and are not handed over to Myanmar authorities. Since September 2003, however, Thailand has been formally deporting about 400 persons per month to the Myawaddy processing centre, which is operated by the Myanmar Directorate of the Defense Service Intelligence of the Ministry of Defense (Human Rights Watch, 2004:13).

The asylum seekers housed in camps along the Myanmar border live in a legal, social and economic

vacuum. They are considered by the Thai Government to be fleeing fighting. They are considered to be displaced persons and the camps to be temporary shelters. They are not permitted to leave the camps, and thus are not eligible for employment outside the camps. Although significant numbers do travel outside the camps, they are subject to detention and deportation if apprehended by Thai authorities. Because the displaced persons may not legally be employed, they either remain unemployed and without income or they are tempted to take illegal (and sometimes exploitative) work outside the camp. **The lack of income and work experience for the majority of camp residents means that they are not being equipped either for repatriation or for sustainable residence in Thailand.** As many as 90,000 of these displaced persons have been living in border camps for nine years.

Some refugee children are not eligible to obtain a birth delivery certificate, which is necessary to obtain a birth certificate. Those born in the camps prior to 1 March 1999 and those born to parents who are not registered in the camps are not eligible to receive a delivery certificate. Refugees and asylum seekers in Bangkok can obtain a delivery certificate only for births that occur in government hospitals, not at home or in NGO medical facilities. A significant number of children are stateless and without birth certificates as a result of these regulations.

III

Regular Migration

MIGRATION OF THAI NATIONALS ABROAD

Population profile

The migration of Thai nationals for overseas employment increased rapidly during the early 1990s, from 63,200 workers officially deployed in 1990 to a peak of 202,300 workers in 1995 (table 8). The great majority of them migrated to the Middle East, especially Saudi Arabia. Since 1995, however, the number of workers deployed officially has fluctuated and declined, and about 85 per cent of them now migrate to destinations in East and South-East Asia.

Following a diplomatic contretemps in the late 1980s, Saudi Arabia virtually ceased issuing employment visas to Thai workers. Thailand has also faced greater wage competition from other Asian labour-supplying countries, such as Bangladesh, Indonesia and Sri Lanka. From the peak in deployment of about 202,000 Thai workers in 1995, the total declined to approximately 150,000 in 2003 and 2004.

The age range of Thais going overseas to work is relatively broad, although about 56 per cent of them are between the ages of 26 and 35 (table 9). The great majority (82 per cent) are males and most have low levels of education, although the average level of education has been increasing in the recent past (figure 1). **Fifty-six per cent of Thai workers deployed abroad officially in 2004 had only a primary school education.** However, the women workers have higher levels of educational attainment. For example, 46 per cent of the female workers had completed at least lower secondary school or were graduates, compared with only 34 per cent of the males (table 10).

TABLE 8
NUMBER OF WORKERS DEPLOYED OVERSEAS AND AMOUNT OF REMITTANCES RECEIVED, THAILAND, 1990-2004

Year	Workers deployed (1,000)	Remittances (millions of US dollars)
1990	63.2	973
1995	202.3	1,695
1996	185.4	1,806
1997	183.7	1,658
1998	175.4	1,424
1999	159.6	1,460
2000	177.7	1,500
2001	165.0	1,117
2002	160.8	1,481
2003	147.8	1,304
2004	148.6	1,509

Sources: Battistella (2003), Chalamwong (2004), International Organization for Migration (2003b), Jones and Kittisuksathit (2003), Martin (2004:63), and data provided by Ministry of Labour and Social Welfare, and Ministry of Labour.

Note: The data should be treated with caution as the various sources are not always in agreement. General magnitude may be inferred but the estimation of trends is hazardous owing to fluctuations in the time series.

Taiwan Province of China is by far the major destination of Thais migrating for employment, with more than half of such workers going to that area (figure 2). About 88 per cent of the migrants to

TABLE 9
NUMBER OF WORKERS DEPLOYED OVERSEAS, BY BROAD AGE GROUP, THAILAND, 2001

Age group	Number
Total	165,047
21-25	23,825
26-30	45,788
31-35	45,832
36-40	33,376
41-45	16,226

Source: International Organization for Migration (2003b:178).

TABLE 10
NUMBER OF WORKERS DEPLOYED OVERSEAS, BY SEX AND EDUCATIONAL ATTAINMENT, THAILAND, 2004

Level of education	Male	Female	Total
All levels	121,200	27,396	148,596
Primary school	71,329	12,567	83,896
Secondary school	37,894	9,930	47,824
Vocational school	3,304	878	4,182
Higher vocational school	4,530	1,233	5,763
Graduate	4,129	2,783	6,912
Other	14	5	19

Source: Data provided by Ministry of Labour.

Taiwan Province of China are males. Singapore is the second most important destination and also attracts mostly male workers (table 11).

Thailand has created a niche market for workers in Israel and the occupied territories. In 2001, over 12,000 Thai workers (7 per cent of the total) were deployed there. About 90 per cent of those workers are males. The number of Thai workers being deployed to Israel now exceeds the number deployed to all other Middle Eastern countries combined. Residing in Israel and the occupied territories carries a greater risk than in the other major destinations. The *International Herald Tribune* (2004) reported that three Thais had been killed in the occupied territories in 2004. The workers there apparently are satisfied with working conditions, however. Following the death of a Thai worker in a Jewish settlement in the occupied territories in December 2004, Thailand's Minister of Labour, Ms. Uraiwan Thienthong, travelled to Israel to attempt to convince Thai workers to return home, but most rejected the offer (*International Herald Tribune*, 2004).

The fourth and fifth most important destinations for Thai workers are Brunei Darussalam and Hong Kong, China (table 11). The latter is the only major destination where the majority of Thai workers are female. In 2001, nearly 90 per cent of the workers deployed to Hong Kong, China were females, mostly working as domestic servants.

FIGURE 1
THAI WORKERS DEPLOYED OVERSEAS, BY EDUCATION, 1998-2004

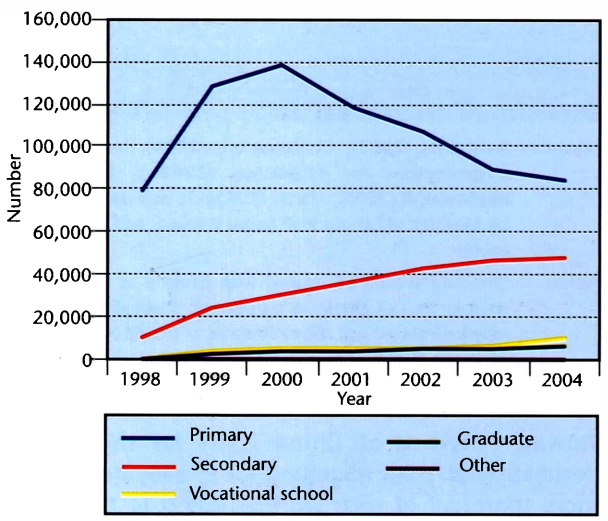


FIGURE 2
THAI WORKERS DEPLOYED OVERSEAS, BY DESTINATION, 1995-2004

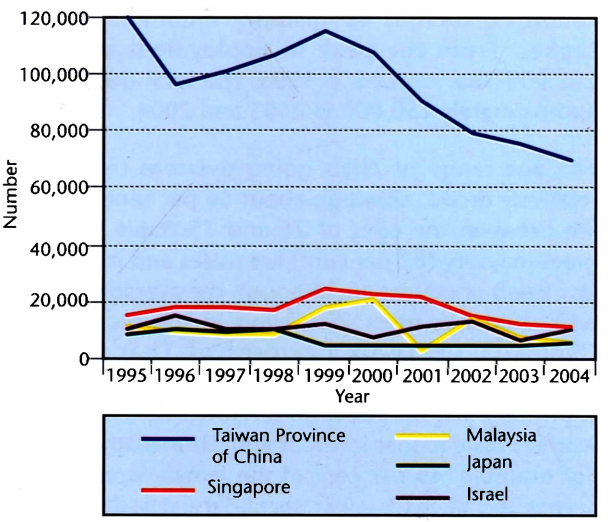


TABLE 11
NUMBER OF WORKERS DEPLOYED OVERSEAS, BY SEX AND DESTINATION, THAILAND, 2001

Destination	Male	Female	Total
Total	**140,104**	**24,943**	**165,047**
Asia	**118,155**	**21,558**	**139,713**
Brunei Darussalam	6,847	1,760	8,607
Hong Kong, China	589	4,899	5,488
Singapore	19,935	476	20,411
Taiwan Province of China	82,705	11,421	94,126
Other Asia	8,079	3,002	11,081
Middle East and Africa	**18,110**	**1,944**	**20,054**
Israel	11,037	1,126	12,163
Other	7,073	818	7,891
Other regions	**3,839**	**1,441**	**5,280**

Source: International Organization for Migration (2003b:176).

TABLE 12
NUMBER OF WORKERS DEPLOYED OVERSEAS, BY SEX AND OCCUPATION, THAILAND, 2004

Occupation	Male	Female	Total
All occupations	**121,200**	**27,396**	**148,596**
Professional, technical and related	3,568	1,437	5,005
Administration and management	749	239	988
Clerical and related	674	481	1,155
Trade and commerce	154	163	317
Service workers	5,458	9,435	14,893
Agriculture, forestry and fishery	11,426	1,537	12,963
Manufacturing	9,502	1,388	10,890
Skilled workers, including in transport	56,162	10,272	66,434
General workers and others	33,507	2,444	35,951

Source: Data provided by Ministry of Labour.

Given the low educational levels of Thai workers overseas, it is not surprising that they work in relatively low-skilled occupations. Less than half of the workers deployed were considered skilled workers. Over one third of the women workers were service workers, mostly domestic servants. Less than 5 per cent were working in professional, technical and related fields; in administration or management; or in clerical positions. Women were more likely than men to be in these categories, with about 7.9 per cent of the deployed women working in these three categories, compared with only 4.1 per cent of the men (table 12).

A regional labour market exists for certain occupations, including for domestic servants (Huguet, 2003). Thus, Thai workers face competition for positions as domestic servants from Indonesian and Sri Lankan women in Singapore and from Indonesian and Filipino women in Hong Kong, China.

In the period 1988-1995, between 40,000 and 60,000 Thais migrated to Japan for employment in most years and a total of 105,666 did so in 1991, the peak of the trend (Chantavanich, 2001a:13). That flow declined rapidly, however, owing to increased competition from other labour-supplying countries and efforts by the Japanese Government to reduce the flow of irregular migrants. By 2001, only 5,246 Thai workers were officially deployed to Japan (IOM, 2003b:176). The largest single occupational category for Thais working in Japan is entertainer. In 2003, 748 Thais entered Japan in the entertainer category (Japan, Ministry of Justice, 2004).

In 2003 there were 34,825 Thai nationals residing in Japan with authorization. The Japanese Ministry of Justice (2004) estimated that there were also 14,334 Thai nationals overstaying their visas as of January 2004. Japan had deported more than 2,000 Thai nationals each year from 2000 to 2003.

The Thai workers migrating to Japan are better educated and earn more than those deployed to other destinations. A survey of Thai workers in Japan conducted by ARCM in 1999 found that 90 per cent of the workers had more than primary school education. More than half the workers had been in Japan for at least seven years. Their median equivalent earnings in Japan were in the range of 50,000-75,000 baht per month. About 71 per cent of the workers remitted at least 100,000 baht per year and 10 per cent remitted more than 2 million baht per year (Chantavanich, 2001a:13-16).

In addition to the official labour migrants deployed to Japan, 3,000 to 5,000 Thais have been going to Japan

every year since 1990 as industrial trainees through a programme operated by the Japan International Training Co-operation Organization, or JITCO (Chantavanich, 2001a:17).

The number of Thai nationals working in Malaysia is not known because only a small percentage of them are deployed officially. Most come from the Southern Region of Thailand and work in Kelantan and Kedah States along the Thai border. Thais may enter Malaysia with a 14-day border pass and some work there and return every two weeks; however, most probably simply overstay the period of the pass. In a survey of Thais working in Malaysia, ARCM found that 75 per cent of them understood the Malaysian language and 56 per cent had spouses in Malaysia. The survey found that 73 per cent of the workers were unsure whether they would return to Thailand or not. Forty-two per cent of the respondents worked in restaurants, 16 per cent in agriculture and 10 per cent in factories (Chantavanich, 2001a:21-22).

In 2001, over 20,000 Thai workers were officially deployed to Singapore, second only to the number going to Taiwan Province of China (table 11). Chantavanich (2001a:23) has estimated that there were 65,000 Thais working in Singapore in 1999. Of these, perhaps 10,000 were illegal entrants and as many as half the total may have been working illegally. An ARCM survey of Thai migrant workers in Singapore found that 68 per cent worked in construction and 23 per cent worked at shipyards. The survey also found that the workers remitted an average of 12,800 baht per month. Thus, the 65,000 workers would remit a total of about 10 billion baht per year (Chantavanich, 2001a:24).

As mentioned previously, by far the largest number of workers deployed annually currently go to Taiwan Province of China (table 11). Chantavanich (2001a:28) estimated that there were 140,000 Thai workers there in 1999 and that they represented half the foreign workers. Seventy per cent of the Thai workers were employed in manufacturing and 30 per cent in construction. An ARCM survey found that very few Thais migrated to Taiwan Province of China on their own. Nearly all had been recruited by recruitment agencies or employers in Thailand or by the Thailand Overseas Employment Administration. **Recruitment and travel costs were high,** with over 90 per cent of the migrants paying at least 80,000 baht, and a quarter of them paying twice that amount. **Wages were not exceptionally high, however.** The minimum wage was the equivalent of 21,000 baht per month; three fourths of the respondents received less than 40,000 baht per month. Construction workers earned more because they were able to work more overtime. The modest wages earned meant that Thai workers needed to work nearly half a year to repay their recruitment and travel costs (Chantavanich, 2001a:28-29).

Many Thai migrants work outside of Asia, of course. *The Seattle Times* (2005) reported that about 170 Thais were working in eastern Washington State during the agricultural harvesting season. They entered the United States legally with H-2A visas for up to three years. They had paid up to US$ 8,000 to a recruitment company in Bangkok to secure employment in the United States. They could earn about US$ 14,000 in 10 months by working for 40 hours a week. Many of the workers planned to find employment in Hawaii following the harvesting season in Washington.

Government policies

International labour migration from Thailand is governed by the Recruitment and Job Seekers Protection Act, B.E. 2528. The 1985 Act, amended in 1994, covers recruitment for both local and overseas employment. The Act does not prevent the migration of any Thai national with proper travel documents. Its main purpose is to regulate recruitment so as to prevent the cheating or exploitation of prospective migrants and to curtail illegal migration. It also offers some protection to workers after deployment in terms of their contracts and wages.

Under the terms of the Act, only a limited company or a limited public company may apply for an overseas recruitment licence and no one without such a licence is permitted to engage in the overseas recruitment business. A recruitment company must have registered paid-up capital of at least 1 million baht and provide a financial guaranty or bank guaranty of at least 500,000 baht.

Recruitment companies must submit the recruitment contract and the employment conditions to the Director-General of the Overseas Employment Administration Office for approval. The companies must also arrange a medical examination and skills test for prospective migrants and for their attendance at an orientation session at either the Central or Provincial Registration Office, or other designated

institution. Recruitment companies are not permitted to collect any fees from job seekers more than 30 days prior to their departure.

The Act established the Overseas Workers' Welfare Fund, which comprises government contributions, the guaranty paid by the licensed recruitment companies, fees required to be paid by overseas employers and other sources of funds. The Welfare Fund is used for (a) arranging for abandoned job seekers to be repatriated to Thailand, (b) providing aid to workers overseas or those planning to go overseas, and (c) implementing the selection process, skill testing and pre-departure orientation.

If the job seeker arrives in the destination country but employment as prescribed in the employment contract is not available, the recruitment company is required to return the migrant to Thailand and to pay all associated transport, food and accommodation costs. If the recruitment company can demonstrate that the unavailability of the prescribed employment or the payment of lower wages than agreed in the employment contract are not because of any deficiency on its part, it may apply to the Director-General of the Overseas Employment Administration Office to have half of the expenses it incurred to repatriate the job seekers reimbursed from the Overseas Workers' Welfare Fund.

If the employment offered at the destination is different from that specified in the recruitment contract or at a lower wage, the migrant worker may either accept the revised conditions or request the recruitment company to return him or her to Thailand. The worker has 90 days to make such a request. If the recruitment company cannot be contacted, the worker may send the notice to the Royal Thai Embassy or Consulate-General at the destination.

If the recruitment company is not able to send a worker overseas, it must reimburse all collected recruitment fees and expenses within 30 days of the proposed deployment date. If a worker chooses to return because the employment offered at the destination is different from that in the recruitment contract or the wages are less, the recruitment company must also reimburse the recruitment fees and expenses within 30 days of the date when the worker returns to Thailand. If the wages received overseas are less than stipulated in the recruitment contract but the worker chooses to continue the employment, the recruitment company is required to reimburse the recruitment fee in proportion to the shortfall in wages (IOM, 2003b:172-173). In spite of the provisions of the Recruitment and Job Seekers Protection Act, **Thai workers are sometimes victimized by unscrupulous individuals or companies recruiting them for overseas employment.** Sometimes fees are collected but the individual or company disappears without providing overseas employment. Often companies charge fees in excess of those stipulated by the Government.

In 2003 the House Committee on Labour compiled a list of 800 influential persons in the job placement business, by province, for the Government to investigate any dishonest or illegal activities. The Chairman of the Committee estimated that the "labour mafia" had cheated 43,807 Thai workers of almost 2.3 billion baht between 1996 and 2002. The dishonest practices were concentrated in the north-eastern provinces (*Bangkok Post*, 2003). Thus, in spite of considerable improvement in the environment for overseas labour migration that has been enacted and implemented by the Government, some problems persist.

Social and economic impact

Thais working overseas may encounter a number of difficulties with their employment conditions or remuneration. Sometimes the contract is changed by the employer so that the worker receives lower wages and other benefits. Workers may be laid off before the end of their contract and the employer may refuse to pay the transportation cost for them to return home. Wages may be paid at a lower rate, delayed or not paid at all. Working conditions may not conform to the employment contract or local labour law. Employers may transfer workers to other employers in violation of the employment contract and local law. Employers may not provide the appropriate benefits or health-care services when workers fall ill (IOM, 2003b:173-174).

While these violations are a cause for concern for the Thai Government, the Government at the destination and especially for the workers concerned, the vast majority of workers deployed overseas find the conditions and remuneration acceptable. They are able to save considerably more money than they could by working at home and they remit much of their savings, primarily to family members. Although both the number of workers deployed and the volume of remittances have declined from their peak about

a decade ago, Thai workers still remit close to US$ 1.5 billion per year through official channels (table 8).

In order to study the social and economic impact of overseas labour migration, Jones and Kittisuksathit (2003) conducted a survey covering 1,400 households in 14 villages in Penn District of Udon Thani Province in 1997 and 1998. They examined the quality of life of non-migrant households, those households with a migrant currently overseas and those with a returned migrant. Quality of life indicators identified by the villagers focused largely on material goods. The researchers found that households containing returned international migrant workers had the highest quality of life. Households with a worker currently overseas had the lowest quality of life. These findings imply that low income and wealth prompted many households to send a member overseas for employment. The fact that workers need to borrow money for recruitment fees and travel expenses may also help to explain the low quality of life of these households. The authors observed that the differences in quality of life among the three groups of households were modest, however, and concluded that the experience of international migration was so widespread in their study area that it has had a "demonstration and emulation" effect throughout the communities in terms of consumption aspirations. The survey did **not** indicate that working overseas led to significant social problems, such as family break-ups or behavioural problems among children.

Bryant (2005), in a study initially carried out for the UNICEF East Asia and Pacific Regional Office in Bangkok, has estimated that perhaps about half a million Thai children aged 0-14 years (or 2-3 per cent of the total) have a parent working overseas. The authors of the present report reviewed the little research available for Thailand on the situation of children left behind by migrant parents. While some studies reported adverse effects from such migration, many did not find such effects. The findings are similar to those in Indonesia and the Philippines. Apparently two main factors mitigate the effect of family separation because of international migration. First, families with members working overseas usually receive remittances, which support the education and well-being of children. Second, the extended family in these Asian societies tends to assist in caring for children of migrants and largely compensates for the absence of a parent.

MIGRATION TO THAILAND

Population profile

Estimates of the number of foreign population residing and working in Thailand, by their immigration status, were presented in table 1 and discussed in the first chapter. The present chapter will focus on registered labour migrants from Cambodia, the Lao People's Democratic Republic and Myanmar. Of the 814,000 persons who applied to MOL for work permits by mid-December 2004, three fourths were from Myanmar and roughly 100,000 each were from Cambodia and the Lao People's Democratic Republic (table 13). Although registration procedures were completed, there were delays in issuing the actual work permits, and large numbers of workers held only the receipt (or a copy of the receipt) of their registration at the end of the year. The workers are concentrated in agriculture, domestic service, the fishing industry and construction. A precise distribution of the work permit holders by industry is not possible because 30 per cent of them are listed in the "other" category in the MOL statistics. The MOL statistics are not disaggregated by sex but women constitute a large majority of workers in seafood processing and domestic services.

While large numbers of migrants from neighbouring countries work in border provinces or provinces on the coast, close to half (43 per cent) of them work in Bangkok or provinces in the Central Region (table 14 and map 2). The central area attracts large numbers of migrants from each of the three neighbouring countries. More workers from the Lao People's Democratic Republic are employed in Bangkok than in any of the other regions, with the Central Region being the second most important destination.

Few foreign workers are registered in the North-Eastern Region; of those who are registered, they are predominately (72 per cent) from the Lao People's Democratic Republic. As would be expected, the majority of the foreign workers in the Eastern Region are from Cambodia but one third of them are from Myanmar. Provinces in the Southern and Northern Regions bordering Myanmar or accessible by sea attract large numbers of workers from that country. Over 97 per cent of the foreign workers with work permits in the Northern Region are from Myanmar,

TABLE 13
NUMBER OF WORK PERMITS REQUESTED AND ISSUED, BY TYPE OF BUSINESS AND NATIONALITY OF WORKER, 1 JULY – 15 DECEMBER 2004

Type of business	Number of work permits requested	Number of work permits issued				
		Number of employers	Total	Cambodia	Lao People's Democratic Republic	Myanmar
Total	1,598,752	197,804	814,247	104,789	99,352	610,106
Fishing boats	127,796	6,518	58,686	22,874	2,634	33,178
Fishery processing	130,935	2,548	68,602	4,666	1,013	62,923
Agriculture	380,488	44,811	179,404	18,816	16,795	143,793
Rice mill	12,692	778	6,923	186	266	6,471
Brick factory	9,440	700	5,280	280	395	4,605
Ice factory	7,626	572	4,514	387	485	3,642
Transport	7,764	57	3,002	1,770	124	1,108
Construction	259,884	10,387	114,459	24,463	8,442	81,554
Mining	2,770	146	1,489	93	38	1,358
Private household	178,588	88,059	128,514	8,746	31,449	88,319
Others	480,769	43,228	243,374	22,508	37,711	183,155

Source: Data provided by Office of Foreign Workers Administration, Department of Employment, Ministry of Labour.

as are 90 per cent of those in the Southern Region (table 14).

Prior to July 2004, it is likely that the majority of the migrants from Cambodia, the Lao People's Democratic Republic and Myanmar were not registered with the Thai Government and there was little systematic information about them available. For this reason, WVFT, in collaboration with ARCM, conducted a survey of migrant workers in the provinces of Chiang Mai, Tak and Ranong, interviewing close to 400 migrants in each province during the first half of 2003.

The ambiguity of the status of registered migrants in Thailand should be noted. Although they were registered with MOI and permitted to stay in the country until 30 June 2005, their status according to immigration law would be "illegal migrants" because they had either entered without permission or had overstayed temporary border passes. Although such labour migration is categorized as illegal, the results of the WVFT/ARCM survey demonstrate that much about the flow of migrant workers from Myanmar has become regular. The majority of the respondents in Mae Sai (Chiang Mai Province) and Mae Sot (Tak Province) were women (table 15). While most of the migrant workers were young, about 43 per cent were aged 26 years or older. **Migrants' duration of stay in Thailand is relatively long.** The majority of the migrants had been in Thailand for three or more years and 29 per cent had been in the country for over five years.

Although the migration of the respondents to Thailand would be considered illegal by the Thai Government, three out of four of the respondents had entered the country at an immigration checkpoint on the border (table 15). Many no doubt entered with day passes but then remained and took employment in the border towns where the survey was conducted. Others who entered at immigration checkpoints may have done so through cooperation between the migrants' agents and immigration police.

Migrant workers from Myanmar possess low levels of education. Seventeen per cent of the respondents in the WVFT/ARCM survey did not report any education. Over 60 per cent had studied for 1-8 years and only 20 per cent had studied for 9 or more years (table 15).

The WVFT/ARCM survey used quota sampling in order to capture respondents in a broad range of occupations; thus, the occupational distribution of respondents is not strictly representative of the

TABLE 14
NUMBER OF WORK PERMITS ISSUED, BY REGION AND PROVINCE, AND BY NATIONALITY OF WORKER, 1 JULY – 15 DECEMBER 2004

Region and province	Number of employers	Number of work permits issued			
		Total	Cambodia	Lao People's Democratic Republic	Myanmar
Total	**197,804**	**814,247**	**104,789**	**99,352**	**610,106**
Regions excluding Bangkok	**138,022**	**662,084**	**87,543**	**62,743**	**511,798**
Bangkok	**59,782**	**152,163**	**17,246**	**36,609**	**98,308**
Central	**37,366**	**195,407**	**21,149**	**23,636**	**150,622**
Nakhon Pathom	5,429	23,380	1,098	2,834	19,448
Nonthaburi	7,273	19,593	3,300	4,447	11,846
Pathum Thani	6,946	29,621	7,123	5,105	17,393
Samut Prakan	6,341	27,027	5,712	2,880	18,435
Samut Sakhon	5,357	74,225	1,337	5,089	67,799
Others	6,020	21,561	2,579	3,281	15,701
East	**20,808**	**100,309**	**52,019**	**14,886**	**33,404**
Chonburi	5,551	33,654	11,147	5,934	16,573
Trat	3,358	15,734	11,498	197	4,039
Rayong	3,535	22,193	14,341	2,734	5,118
Others	8,364	28,728	15,033	6,021	7,674
West	**10,683**	**51,331**	**2,083**	**3,331**	**45,917**
North	**29,977**	**131,674**	**801**	**3,048**	**127,825**
Chiang Mai	12,672	48,502	4	73	48,425
Tak	5,593	50,961	9	20	50,932
Others	11,712	32,211	788	2,955	28,468
North-east	**8,912**	**15,940**	**1,443**	**11,502**	**2,995**
South	**30,276**	**167,423**	**10,048**	**6,340**	**151,035**
Chumphon	4,150	18,239	457	1,090	16,692
Phangnga	4,643	22,480	14	182	22,284
Phuket	3,333	27,300	18	530	26,752
Ranong	7,339	30,158	44	27	30,087
Others	10,811	69,246	9,515	4,511	55,220

Source: Data provided by Office of Foreign Workers Administration, Department of Employment, Ministry of Labour.

TABLE 15
DEMOGRAPHIC AND SOCIAL CHARACTERISTICS OF A SAMPLE OF WORKERS FROM MYANMAR IN THAILAND

Characteristic	Mae Sai	Mae Sot	Ranong	Total
Number in sample	395	399	393	1,187
Percentage female	51.9	51.0	31.6	44.9
Age (%) 0-14[a]	1.0	1.5	0.5	1
15-18	7.6	13.3	10.9	11
19-25	47.8	43.1	41.0	44
26+	43.5	38.6	47.0	43
Duration of stay (%)[a]				
Less than 1 year	29.4	14.3	20.4	21
1-2 years	25.0	31.6	20.6	26
3-4 years	16.2	24.6	30.8	24
More than 5 years	29.4	28.3	30.8	29
Years of education (%)[a]				
None/no answer	35.7	7.1	7.4	17
1-4 years	25.8	37.1	23.2	29
5-8 years	23.3	30.3	43.5	32
9-10 years	9.9	20.1	16.0	15
11 or more years	5.3	5.5	9.7	5
Percentage who entered at immigration checkpoint	69.4	68.4	88.0	75.2

Source: World Vision Foundation of Thailand in collaboration with Asian Research Center for Migration (no date). *Research Report on Migration and Deception of Migrant Workers in Thailand.*

[a] Some percentages shown in the source do not sum to 100 per cent.

migrant population. Nevertheless, the distribution presented in table 16 is generally consistent with the type of business reported for migrants who obtained work permits from MOL during the second half of 2004 (table 13). Migrants from Myanmar who work along the Thai border are mainly employed in fishing, seafood processing, agriculture, manufacturing and domestic services. (The WVFT/ARCM survey did not have a separate category for construction worker.)

Government policies

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by United Nations General Assembly resolution 45/158 of 18 December 1990, entered into force on 1 July 2003. Of the 30 countries that have ratified, or acceded to, the Convention, only three are from the Asia-Pacific region: the Philippines, Sri Lanka and Tajikistan. In addition, Bangladesh has signed, but not yet ratified, the Convention (Piper and Iredale, 2004:1). Although Thailand has not signed the Convention, it has recently actively taken steps at the national, bilateral and regional levels to strengthen its control and management of migration. Those steps represent considerable accommodation and regularization of labour migration between Thailand and three of its neighbours, as described in the following sections.

Cabinet Decisions

The Thai Government has responded to requests from employers to allow them to hire foreign workers by rapidly expanding the size and scope of its plans to register such workers for employment in Thailand. Initially, such employment was limited to the provinces along the Myanmar border and to a few specific sectors of the economy. Currently, over 800,000 migrants in all provinces of

TABLE 16
PERCENTAGE DISTRIBUTION OF A SAMPLE OF WORKERS FROM MYANMAR IN THAILAND, BY OCCUPATION, 2003

Occupation	Mae Sai	Mae Sot	Ranong	Total
Total[a]	100.0	100.0	100.0	100.0
Agriculture[b]	25.6	16.8	1.0	14.5
Fishing	0.8	..	44.8	15.1
Fishery processing and net production	24.6	..	22.4	15.6
Manufacturing worker	13.2	36.3	..	16.6
Sales and service	1.3	5.3	9.9	5.5
Carpenter	0.3	2.0	..	0.8
Transport worker	1.8	1.0	0.3	1.0
Domestic worker	20.8	3.0	5.6	9.8
General worker	11.9	30.6	15.0	19.2
Unemployed/no response	..	4.1	0.8	1.6

Source: World Vision Foundation of Thailand in collaboration with Asian Research Center for Migration (no date). *Research Report on Migration and Deception of Migrant Workers in Thailand.*

[a] The percentages shown do not sum to 100 per cent owing to rounding.

[b] Includes fishery workers for Mae Sot.

the country have work permits for employment in a wide range of economic sectors.

According to information provided by the Department of Employment of the Ministry of Labour, a Cabinet Decision in 1992 permitted employers in 10 provinces along the border with Myanmar to register workers. Another Decision in 1993 allowed the fishing industry in 22 coastal provinces to hire foreign workers. A Cabinet Decision in 1996 established a system of two-year work permits for foreign workers in 39 provinces and 7 industries. The scope was later expanded to cover 43 provinces and 11 industries. Under this plan, 372,000 migrants registered and 303,988 two-year permits were granted. For the first time, registration fees included a health fee. Two Cabinet Decisions in 1998 expanded the scope of the foreign worker system to 54 provinces and 47 job types. The 1996 work permits that expired in 1998 could be extended.

Under two Cabinet Decisions in 1999, a migrant employment plan was instituted covering 37 provinces and 18 sectors in five industries. Nearly 100,000 workers received one-year permits. A Decision in 2000 essentially extended this plan to the end of August 2001.

In 2001, the new government instituted a major expansion of labour migration. A Cabinet Decision that year permitted employment of foreigners in all industries and jobs. The fee for a six-month work permit was 3,250 baht and for a six-month extension of that permit, 1,200 baht. Under this scheme 568,245 migrants registered.

Plans instituted in 2002 and 2003 covered all provinces and employment sectors. Under these plans, 409,339 migrants registered in 2002 and 288,780 registered in 2003. Following a Cabinet Decision in April 2004, the most comprehensive registration to date took place in that year, when MOI registered 1,280,000 foreigners during the month of July; 814,000 of those had applied for work permits by mid-December. Martin (2004) and Archavanitkul and Kanchanachitra-Saisoonthon (2005) provide valuable summaries of the recent history of migration from Myanmar to Thailand and of the development of the Thai Government's policies related to migration from neighbouring countries.

A Cabinet Decision in May 2005 permitted those migrants who had registered with MOI in 2004 to apply for work permits and health coverage valid up to 30 June 2006. Even migrants who had not registered with the MOL in 2004 could do so in 2005.

Cabinet Decisions not designed primarily as migration policies can have a significant impact on migration.

On 19 October 2004 the Cabinet endorsed the Mae Sot Border Economic Zone Project. The project covers areas of Mae Sot, Mae Ramat and Phop Phra districts in Tak Province and Myawaddy in Myanmar. The Economic Zone would attract industry and, consequently, migrant workers. The *Bangkok Post* (2005c) reported that sales of land and buildings in the three districts had increased by 90 per cent in 2004. The Mae Sot branch of the Tak Land Office handled transactions valued at 648 million baht in fiscal year 2004, generating 50 million baht in taxes and fees. It can be anticipated that as businesses relocate to or expand within the Economic Zone they will generate increasing demand for migrant workers.

Bangkok Declaration on Irregular Migration

During the past six years, **the Thai Government has also initiated cooperation with the Governments of neighbouring and other regional countries in order to regularize, manage and control labour migration.** With support from IOM, the Thai Government organized the International Symposium on Migration, at Bangkok from 21 to 23 April 1999. Nineteen Governments from Asia and the Pacific participated. Ministers and representatives of those Governments adopted "The Bangkok Declaration on Irregular Migration" at the Symposium; it closely reflects the policy approach that the Thai Government had begun and would subsequently pursue with even greater effort.

The Bangkok Declaration notes that "international migration, particularly irregular migration, has increasingly become a major economic, social, humanitarian, political and security concern for a number of countries in the Asia-Pacific region". Although the Declaration emphasizes that "comprehensive, coherent and effective policies on irregular/undocumented migration have to be formulated within the context of a broader regional framework based on a spirit of partnership and common understanding", no significant regional efforts have gained ground since then. The more significant agreements for Thailand and other countries in Asia have been bilateral rather than regional.

The operational paragraphs of the Bangkok Declaration spell out goals that the Thai Government has pursued in its migration policy. The Declaration encourages Governments "to pass legislation to criminalize smuggling of and trafficking in human beings, especially women and children, in all its (*sic*) forms and purposes, including as sources of cheap labour". The Declaration calls on Governments to exchange information on migration legislation and procedures for analysis and review. It also encourages countries of origin, transit and destination to "strengthen their channels of dialogue at appropriate levels, with a view to exchanging information and promoting cooperation for resolving the problem of illegal migration and trafficking in human beings".

Two items in the Bangkok Declaration especially reflect the approach that the Thai Government would subsequently follow in addressing irregular migration.

12. Concerned countries, in accordance with their national laws and procedures, should enhance cooperation in ascertaining the identity of undocumented/illegal migrants who seemingly are their citizens, with a view to accelerating their readmission;

13. Timely return of those without right to enter and remain is an important strategy to reduce the attractiveness of trafficking. This can only be achieved through goodwill and full cooperation of countries concerned. Return should be performed in a safe and humane way.

The Bangkok Declaration states: "The participating countries and Region (referring to Hong Kong, China) should each designate and strengthen a national focal point to serve as a mechanism for bilateral, regional and/or multilateral consultations and cooperation on questions of international migration".

Memoranda of Understanding

The concepts of bilateral agreements, of identifying and returning illegal migrants and of designating national focal points for migration issues have been important elements in the Thai Government's policies for engaging the Governments of neighbouring countries in processes to manage migration and to control irregular migration. In October 2002 the Thai Government signed an MOU with the Government of the Lao People's Democratic Republic on cooperation in the employment of workers. It signed a similar MOU with the Government of Cambodia in May 2003 and one with the Government of Myanmar in June 2003. The MOUs express concern about the negative social and economic impacts caused by illegal employment.

Those signed with Cambodia and the Lao People's Democratic Republic recognize the "principles enshrined" in the Bangkok Declaration on Irregular Migration but the one with Myanmar does not. Although differing somewhat in language, the three bilateral MOUs are essentially the same in substantive respects. (The MOUs are reprinted in Morris (2004).)

The first article of the MOU signed with the Government of Cambodia calls for "proper procedures for employment of workers" and "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".

The three bilateral MOUs describe a rather elaborate system for the temporary employment of the nationals of one country in the other, a system which requires active participation by the Governments of both countries. The MOUs require consultations at the senior official and/or ministerial level at least once a year. They state that the employment of workers requires prior permission of the authorized agencies in the respective countries. The MOUs state that one country may prepare a list of jobs available to nationals from the other country. The second country would then provide a list of selected applicants for those jobs, complete with their permanent addresses, references and work experience. Once the applicants are chosen for the job openings, the countries would work together to ensure that each worker meets the requirements for a visa, a work permit, health insurance, contributions to a savings fund, taxes and an employment contract (the first MOU, with the Lao People's Democratic Republic, does not state that a contract is necessary).

The MOUs state that the terms and conditions of employment of workers shall not exceed two years. This term may be extended for another two years but in no case should it exceed a total of four years. A worker who has completed four years of employment in the other country must take a three-year break before becoming eligible to re-apply for employment. Both Governments are required to ensure the return of workers to their permanent address upon completion of their employment contract.

According to the MOUs, the employing country shall set up and administer a savings fund. Workers are required to contribute 15 per cent of their monthly salary to the fund. The workers shall receive their entire contribution to the savings fund, plus interest earned, upon returning to their permanent address but must apply for this at least three months prior to returning. The Governments must then refund the amount owed to the worker within 45 days of his or her return (7 days in the MOU with Myanmar). Even workers whose employment is terminated prior to completion of their contract should have their contributions returned to them within 45 days (7 days for Myanmar). The MOUs are explicit: "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".

Both the Bangkok Declaration and the MOUs signed by the three neighbouring countries make it clear that the goal of the Thai Government is to regularize labour migration according to the demand for labour in the receiving country but also strictly to control the smuggling or trafficking of persons as well as illegal migration and employment. These documents reflect the desire of the Thai Government to prevent unregistered migrants from settling in the country and to ensure that registered foreign workers depart the country upon completion of their employment. The Bangkok Declaration makes explicit, in a regional inter-governmental agreement, that countries of origin have an obligation to accept back their nationals. The bilateral MOUs create an elaborate structure, complete with employment contracts and financial incentives, for the return of cross-border workers upon completion of their employment.

Migrant registration and work permits

On 21 July 2003 the National Security Council adopted a resolution on new measures to manage the problem of illegal migrant workers. The resolution contained six main approaches to such issues of migration management: (a) accept the use of irregular migrant workers in some sectors but limit the overall number by considering demand by sector; (b) prepare personal records and identification cards for the migrant workers; (c) employ only the migrant workers, not their family members; (d) ensure that proper wages are paid; (e) implement effective repatriation measures; and (f) develop the economy of regions opposite the Thai border in order to reduce the volume of migration.

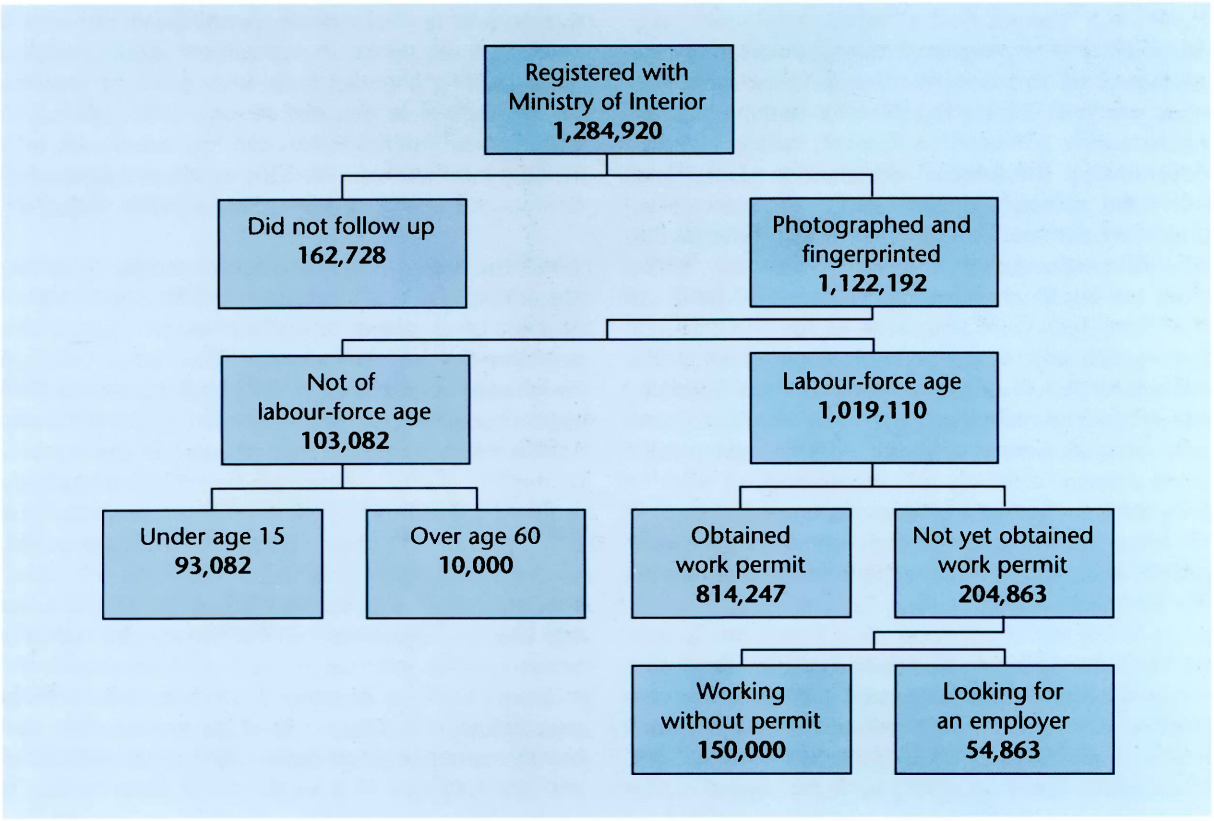
In order to implement the National Security Council resolution, MOL first required employers in all provinces to submit requests for the number of foreign workers they wanted to employ. This system applies only to workers from Cambodia, the Lao People's Democratic Republic and Myanmar. A total of 248,746 employers submitted requests to employ 1,598,752 foreign workers. The Government reviewed the requests and allocated a "quota" of 1,512,587 migrant workers that could be hired by 245,113 employers.

In the first step of the registration process, migrants from the three neighbouring countries were required to register with MOI during the month of July 2004. Registration took place at the district level. In most cases, employers carried out the registration of their employees but migrants without an employer were permitted to register individually with MOI. The registration with MOI was at no cost and permitted migrants to remain in Thailand until 30 June 2005; those without an employer were allowed to seek employment during that period. A total of 1,284,920 migrants were registered with MOI during July 2004. Following the initial registration, workers were required to report to the district office in order to be photographed and fingerprinted for identification. A total of 1,122,192 migrants completed this step. Among those, 93,082 were below the age of 15 years and about 10,000 were over the age of 60 and thus deemed ineligible for a work permit (see figure 3).

Of the 1.0 million migrants eligible for work permits, 814,247 had applied for their work permit prior to mid-December 2004 and 204,863 had not yet applied. As shown in figure 3, MOL estimated that, of those who had not yet applied for work permits, about 150,000 were working illegally and 54,863 were seeking employment.

Prior to applying for a work permit, migrants must obtain a medical check-up at a designated hospital or clinic, usually the government hospital in their district. By December 2004, 817,254 migrants had done so.

FIGURE 3
NUMBER OF FOREIGNERS WHO REGISTERED WITH THE MINISTRY OF INTERIOR IN JULY 2004 AND WHO SUBSEQUENTLY OBTAINED WORK PERMITS



They had to pay a fee of 600 baht for the check-up and 1,300 baht for health insurance. The migrants received a laminated identification card with their photograph as verification that they were enrolled in the health insurance scheme. The funds for health insurance are administered at the provincial level, where a portion is used for health promotion, and a small amount is transferred to MoPH to cover administrative costs. If migrants require medical services, they may report to the same facility at which they had their medical check-up. They are then treated the same as if they were Thai nationals availing themselves of the Government's 30-Baht Health Scheme, i.e., they pay 30 baht per visit but receive the required medical treatment no matter what is the cost. The government hospital may then claim costs from the migrant health insurance pool at the Provincial Public Health Office.

Migrants must next apply to MOL for a work permit. While the previous steps could be carried out within their district, the application for a work permit needed to be made at the Provincial Labour Office owing to a lack of MOL staff members to implement the registration process in all districts. In most cases the employers handled the application process for their employees.

The validity of work permits issued in 2004 covered periods of up to three months, up to six months or up to one year. Fees to register for a work permit valid up to a year totalled 3,800 baht, which included 600 baht for the medical examination, 1,300 baht for health insurance, 1,800 baht for the work permit and 100 baht for the registration fee. The total cost of a six-month work permit was 2,900 baht. In this case, the fee for the work permit was 900 baht and the other fees were the same as for the one-year permit. Similarly, for a permit valid up to three months, the fee for the work permit itself was 450 baht and the other fees were the same. Registered migrants who were allowed to apply for work permits in 2005 were assessed differing fees depending on whether they were extending a valid work permit (1,800 baht for a one-year work permit), renewing an expired work permit (450 baht) or were applying for a work permit for the first time (450 baht).

As these amounts may be nearly a month's wages for many of the workers, employers generally advance the fee and then obtain reimbursement through several monthly deductions from the employees' wages. Upon application for a work permit, an original receipt and a copy are given by MOL. Although the employee is meant to obtain the original receipt, it is generally the case that the employer keeps the original and gives only the copy to the employee. Migrant workers in Samut Sakhon Province informed the authors that the police accept the copy of the receipt as a valid document, however.

The information concerning migrant workers obtained when they apply for a work permit is forwarded from the province to MOL in Bangkok for entry into a database. This information is then transmitted to MOI, which prepares a combined identification card and work permit. The work permit is a pink plastic card similar in format to the national identification card for Thai nationals. It contains a photograph of the migrant and his/her name and address as well as the name and address of the business employing the worker. An implication of this procedure is that only migrants that apply for a work permit are issued a plastic identification card. Those who registered with MOI but not MOL hold only a copy of their application.

Irrespective of when the migrant registered with MOL, all of the combined identification cards/work permits were to expire on 30 June 2005 (or earlier for the three-month and six-month permits). Thus, even if a migrant registered in September 2004 and paid 3,800 baht for a work permit valid up to one year, the permit expired at the end of June 2005. As noted above, those migrants who had registered with MOI in 2004 were allowed in 2005 to extend their work permits and health insurance for up to one year.

When the work permits are completed by MOI they are sent to the Provincial Labour Office, which then notifies the employer to come to collect them. This is a time-consuming process. The Labour Office in Kanchanaburi Province noted that of the 16,000 applications that had been forwarded to MOL, only 4,000 work permits had been returned to the Province by the end of 2004. Although the foreign workers are required to hold their work permits, in most cases the employer holds them and gives the employee a copy.

The registration process that began in July 2004 has met many of the needs articulated by the National Security Council, employers and international migrants. It is a combined process that involves registration with MOI, a medical examination and health insurance from provincial health authorities and the issuance of a work permit from MOL. It

clearly represents a significant movement towards regularizing a desired level and type of international labour migration.

Many individuals, including government officials involved in the system, employers, NGO representatives, academics and the migrants themselves, have noted shortcomings in the process, however. Even those who have designed the system and are implementing the registration must acknowledge that it still meets few of the goals of the MOUs signed with Cambodia, the Lao People's Democratic Republic and Myanmar. The current system does provide work permits and health insurance to migrants, both of which are a major improvement over their previous status as illegal migrants. Nonetheless, the migrants have not entered Thailand with passports or visas and are still considered irregular migrants for some purposes. The great majority of the migrants do not have employment contracts. The work permits are for a one-year period rather than for two years as envisaged in the MOUs. The workers' savings fund envisaged by the MOUs has not yet been established.

Both the migrant workers and their employers benefit from a major deviation from the terms of the MOUs, however. The MOUs specified that contracts should be for two years and renewable only once so that all workers would be required to return to their home country after a maximum of four years. The current registration and work permit system does not invoke any maximum duration of stay, and a significant percentage of the registered migrants have been in Thailand for five years or longer.

Although registration with MOI is not necessarily tied to the employer and individuals may register in order to stay in Thailand and seek employment, the work permits issued by MOL are specific for the employer, and the health insurance system is valid only for the district in which it was obtained. In principle, a worker can change employers by re-registering for a work permit. Few migrant workers are aware of this and, in practice, it may not be possible in most cases because the first employer would continue to hold the original of the MOI registration. Because employers usually advance the fees for the registration and work permit, they want the work permit to be valid only for employment with them. The system denies workers many basic rights, however. Even if working conditions or wages do not meet legal requirements, it is difficult for the worker to leave his or her job. Apparently the Government does little to monitor working conditions or wages. The Kanchanaburi Labour Office informed the authors that it could inspect a workplace only if a formal complaint had been filed, for example, by another company or by an employee.

The total fee of 3,800 baht required to obtain a one-year work permit is considered high by both employers and migrants. For a company with a large workforce, the fee represents a sizeable initial outlay, as employers generally advance the amount. Employers fear that workers will leave before the amount of the fee can be reimbursed. From the migrant worker's perspective, the fee often represents close to a month's wages for a one-year work permit. The amount of the fee no doubt acts as a disincentive for employers and workers to apply for a work permit. Of the 1.0 million migrants who had completed registration with MOI and were eligible to apply for a work permit, only 814,000 had done so by late 2004 (figure 3). The amount of the fee may well have discouraged many from doing so.

Many persons associated with the work permit system, including government officials, employers and migrant workers, have noted the commitment in time and travel required to obtain a work permit. A minimum of five trips are required by the employer or a migrant acting on his or her own. They are for: (a) application to MOI at the district office, (b) taking of photographs and fingerprints at the district office, (c) a medical examination at the district hospital, (d) application for a work permit at the Provincial Labour Office and (e) obtaining the work permit from the provincial office. It is likely that further trips are required in order to obtain information, the necessary forms etc.

Some workers wait several months to receive their work permit after applying for it. During this period they usually hold only a copy of their work permit application to verify their employment to authorities.

As previously mentioned, although workers are required to hold their work permit, in most cases the employer holds it and gives the worker only a copy or, as noted above, a copy of the work permit application. Local police generally accept this situation but the fact remains that most migrant workers do not have access to the documents necessary to demonstrate that they are permitted to stay in Thailand and are legally employed.

While the work permits issued by MOL in 2004 were valid for varying periods, Martin (2004:5) has recommended making work permits also available for a period of 24 months, with the fees varying accordingly. Work permits of shorter duration and for a lower fee are appropriate for such seasonal work as in agriculture, or for workers who do not wish to be away from home for a full year. Two-year work permits (as envisaged in MOUs) would provide greater certainty to both employers and employees.

Many persons involved in some aspect of labour migration in Thailand believe that the period for registration with MOI should be extended, on-going or renewed. Although the Government had approved quotas for 1.5 million foreign workers, by late 2004, only 814,000 had applied for work permits. An extended period for registration would permit the Government to regularize more foreign labourers and would accommodate migrants who have arrived since 31 July 2004, all of whom are currently considered illegal migrants.

Although, **in principle, the process of registering the migrant population and issuing work permits is designed to enable Thai nationals to be offered employment in jobs they would accept, in practice, little attention is devoted to attracting Thais to the jobs being filled by migrant workers.** In the registration process, employers were first asked to indicate the number of jobs they wanted to fill with migrant workers. Nationwide, employers requested to employ 1.6 million foreign workers; provincial committees set up to evaluate the requests granted quotas totalling 1.5 million. In fact, employers then registered fewer than 1.3 million migrants with MOI, and they had applied for only 814,000 work permits in the first 5½ months of the registration process.

The extent of labour shortage in Thailand is a matter for debate. Clearly, employers perceive that they cannot recruit Thai workers for the types of job that migrants fill, and government policy reflects that opinion. In a study cited by Martin (2004:31), ARCM in the year 2000 attempted to estimate the need for migrant workers during the period 2003-2005 by interviewing 6,000 employers as well as migrants and Thai workers. The study estimated that there were more than enough Thai workers to meet needs in the agricultural and construction sectors, but that there would be a shortfall of 475,000 workers in the fishing, fish-processing and manufacturing sectors.

Thai workers said they would be attracted to jobs close to home, that paid at least the minimum wage and that had good working conditions. The ARCM study estimated, however, that most migrants earned only 60-80 baht per day in 2000, about half the minimum wage. Registered migrant workers are covered by national labour laws but most labour laws, including for minimum wage levels, apply only to companies that employ 10 or more workers. Martin (2004:30) estimates that in 2000 only about 18 per cent of the labour force in Thailand were employees in companies with 10 or more workers, partially because many workers are unpaid family workers or self-employed. It could, therefore, be argued that if employers paid at least the minimum wage and improved working conditions they could attract more Thai workers and would require fewer migrant workers.

The lack of connection between employment policies for Thai nationals and those for foreign workers is sometimes evident. The Minister for Agriculture and Cooperatives, Mr. Wan Muhamad Nor Matha, announced in early November 2004 that the Government would offer 100,000 jobs to people in the deep Southern Region in order to ameliorate the political discontent there (*Bangkok Post,* 2004a). Earlier in the year, however, the Government had allocated a quota to southern provinces of 285,000 foreign workers, and 30,000 employers had applied for work permits for 167,000 foreigners (table 14).

IOM and ILO have cooperated in carrying out detailed studies of the management of foreign workers in Thailand. National policies have been reviewed and case studies of five industrial sectors have been carried out by Thai research institutes. TDRI conducted studies on the agricultural sector and on domestic servants; ARCM carried out studies on the fishing and fish-processing industries and on the construction industry; and the Institute for Population and Social Research (IPSR), Mahidol University studied the garment-manufacturing sector. Information from those studies is cited throughout this report. (The consolidated reports are cited as ARCM, IPSR and TDRI (2004) and Martin (2004) in the references at the end of this report.)

Social impact

Health, education and family status

It is widely perceived in Thailand that migrants, particularly from Myanmar, have diseases that have

been eradicated or are rare in Thailand and, therefore, **pose a public health risk.** It is also believed that migrants place a burden on government hospitals near the border by using services for which they are not able to pay. Before applying for a work permit, migrants are required to undergo a medical examination that tests for tuberculosis, leprosy, elephantiasis, syphilis, drug addiction, alcoholism and pregnancy. Of approximately 817,000 migrants who underwent the medical examination in the second half of 2004, a total of 9,532 (1.2 per cent) tested positive for one of the diseases but would be allowed to work if treated (based on statistics provided by MOL). Among these, 5,399 had tuberculosis and 3,092 had syphilis. Another 809 persons (1 per 1,000) were found to have a contagious stage of one of the diseases and would not be allowed to work. For these, the Government should provide medical care but also deport them.

In an interview, the director of the government hospital in Sangkhlaburi District, Kanchanaburi Province, stated that migrants were more likely to have malaria than the Thai population. He said that his hospital benefited from the worker registration system that included a medical examination and health insurance. Migrants needed to pay 600 baht for the medical examination, which could be provided within that cost. Because the migrants were mostly young and healthy, their health insurance adequately covered the treatment they received. As noted above, workers with health insurance were treated as though they were enrolled in the 30-Baht Health Scheme of the Thai Government. Their insurance contributions of 1,300 baht per person were transferred to the Provincial Public Health Office, and local hospitals could be reimbursed from that fund for treatment provided to insured workers. Funds from the migrant health insurance programme were also used to support health promotion and disease prevention programmes.

The director of the Sangkhlaburi District Hospital said, however, that the hospital lost money from treating holders of coloured cards in the district, many of whom could not afford to pay fully for the services provided. (See the following chapter for a discussion of the coloured card system in Thailand.)

While the health insurance system for migrant workers is very beneficial to them, it has limitations. Only workers may be enrolled, not non-working family members. The insurance does not cover dental care. The Thai Red Cross Society tries to meet some of the need for dental care among migrants by sponsoring a mobile dental clinic to visit, on a monthly basis, sites with concentrations of migrants.

The main obstacle to receiving medical care that migrants face is that they are not permitted to be away from their jobs. Most employers make no provision for sick leave; if a worker is absent the wages for the day are not paid. Workers in town may be able to seek medical care after work hours, although that can also be difficult when working 12 hours or more a day. Domestic workers and agricultural workers generally live at their place of employment and are often not allowed to be away elsewhere. Language differences often serve as a barrier to communication between Thai health workers and migrant clients, and hospital forms are generally available only in the Thai language.

In December 2004, the Government's Alien Labour Management Committee, chaired by the Deputy Prime Minister, Mr. Phinij Jarusombat, decided that the 9,383 women who were identified as being pregnant when taking the medical examination as part of the worker registration system would be repatriated to their home countries (*Bangkok Post*, 2004b and 2004c). The Committee feared that if the foreign women gave birth in Thailand their children would be stateless. Although there was opposition from the National Human Rights Commission, MOL planned to proceed with the repatriation. However, as of mid-February 2005, there had been no reports of repatriation of pregnant workers. According to MoPH, there had been 14,296 births to foreign women in Thailand in 2001. In 2002, the number was 15,928, with 96 per cent of the deliveries assisted by health personnel (Acthichat and Kongkhunthot, 2004).

International organizations and NGOs are implementing many programmes to improve health conditions and health services in border areas. The WHO office in Thailand carries out the Border Health Programme, under which technical publications and information are produced, technical meetings are organized and coordination is strengthened. The Programme operates in 10 Thai provinces bordering Myanmar from Chiang Rai in the north to Ranong in the south. Because migrant families are mobile, they often do not hold their medical records. The Programme has developed and distributed widely a maternal and child health booklet (in Burmese, Thai and English) that mothers retain and that can be used

to record basic information about pregnancy history, and the growth and immunization of the child.

The Programme organizes the annual border health meeting in a border province in order to improve coordination among the Government, United Nations agencies, NGOs, donors and others. It also supports provincial health coordination meetings between Provincial Health Offices and NGOs. The Programme supports a migrant health data technical officer position in the Bureau of Epidemiology, MoPH. The purpose of the position is to improve data collection on migrants and a system is being established within MoPH to collect and compile statistics pertaining to migrants from government hospitals and clinics. WHO will work with MoPH to produce a border health report in 2005.

The IOM mission in Thailand and the MoPH are implementing the Migrant Health Project on communicable disease control, reproductive health and primary care for migrants and host communities in Thailand in Tak, Chiang Rai, Phangnga and Ranong provinces. The project focuses on awareness-raising and the delivery of preventative and curative services, and seeks to create a replicable model for improving the health care of migrants and providing them with health services that can be easily accessed. It has established and supports a network of migrant community health volunteers who assist local health authorities in service delivery. NGOs and WHO also collaborate in carrying out the Project.

IOM also implements a project on the Provision of Health and Social Services in Immigration Detention Centres in Thailand. Between 2001 and 2004, IOM conducted a series of training courses and other activities at the Suan Plu Immigration Detention Centre in Bangkok. The activities included HIV and tuberculosis prevention through life-skills training for immigration police officers and detainees, vocational training for detainees and tuberculosis screening and treatment. During the period 2005-2006, IOM will work with partners to broaden the scope of the project and extend it to other detention centres in Thailand.

The United Nations Population Fund (UNFPA) Country Programme for Thailand is funding research by IPSR on the reproductive health situation of international migrants in Phuket and Ranong provinces and the migrants' access to health services. The research is being used to design projects providing reproductive health interventions.

UNFPA also supports a project on "Improved access to reproductive health services by border populations", which is implemented by WVFT in collaboration with Provincial Public Health Offices. The project began in Ranong Province in 2003. Components include a rapid assessment (carried out by IPSR) of reproductive health needs within migrant communities, the operation of a clinic with a full range of reproductive health services, a health volunteer system, a mobile clinic, information materials and advocacy. The project will be expanded to serve Phangnga and Phuket provinces in 2005.

UNFPA is supporting another project executed by WVFT to expand reproductive health-care services to migrants in areas affected by the tsunami that occurred on 26 December 2004, in particular, Phangnga and Ranong provinces. The project provides migrant workers in these provinces with reproductive health information, counselling and services, including on maternal and child health care, and the prevention and treatment of STDs, including HIV.

Among the NGOs providing health and social services for migrants is the Raks Thai Foundation. It operates an office and health information centre in Samut Sakhon Province, where there are 72,000 registered migrant workers, mostly in fishing, seafood processing, agriculture and domestic services. It provides migrants information in their language on reproductive health, including family planning and the prevention of sexually transmitted infections and HIV. A lawyer from the Law Society of Thailand spends one day a week at the Raks Thai centre in Samut Sakhon to advise migrants of their rights and the legal obligations of employers and government agencies.

The Raks Thai Foundation works to strengthen the ability of the health system to meet the health and medical needs of the migrant community. It operates a health volunteer system in which volunteers provide information to migrants and can act as interpreters when migrants seek medical care. It has worked to develop a network for health services and referrals. The Foundation is a member of a committee established by the Health Services Support Group of MoPH, which is operating a pilot programme in seven provinces to promote and provide information on successful health practices.

Several United Nations agencies, programmes and offices, and NGOs are working to prevent the spread of HIV/AIDS and to ensure support for persons living

with HIV/AIDS. These programmes are described in more detail in the following chapter.

Education for migrant children and the children of migrants is a particularly troublesome aspect of cross-border migration to Thailand. There were 93,000 persons under age 15 among persons who registered as migrants with MOI in July 2004. Included among those were 63,000 children from Myanmar who were under age 12. They accounted for 6.9 per cent of the number of persons from Myanmar who registered with MOI, a much higher percentage than among migrants from Cambodia (3.3 per cent) or the Lao People's Democratic Republic (2.7 per cent). Persons who are registered have a right, in principle, to social services in Thailand, including attending local public schools.

Statistics from the Ministry of Education indicate that in the 2003 school year, there were 13,637 students from Cambodia, the Lao People's Democratic Republic and Myanmar attending school in Thailand (Samienrum, 2004). The number of such students in secondary school and lower levels was 13,459 in 2004, or 14 per cent of the registered migrants under age 15. If an adjustment is made for the number of registered migrants below school age, the enrolment rate would be between 15 and 20 per cent. The actual percentage is probably lower because many of the foreign children enrolled in Thai schools may be the children of professional workers with work permits, rather than of workers who registered with MOI in July 2004. The enrolment rate estimated here also assumes that no children of unregistered migrants are attending school. The low percentage is due to a number of obstacles. Some migrants report that local schools simply do not accept the children of migrants. The fees involved may also be a deterrent for many of the migrant families, given their low level of earnings. Given the tenuous acceptance of migrants in communities, it is also likely that many migrant families are not prepared to assert their rights with local officials.

Some long-term migrant workers in the city of Samut Sakhon informed the authors that they had sent their children to Myanmar for their education. Those migrants believed that there were 2,800 children of migrants in Samut Sakhon but they were not aware of any who were attending Thai schools. About 100 of them gathered at a local temple every day but apparently that was more for informal supervision than for education. A significant number of the older children probably work in an irregular status, but it seems that few if any are receiving any formal education. Even if a few are enrolled in school, the medium of instruction would be the Thai language. That could be a barrier to learning for many of them and would also mean that their education may be of little use when they return home.

Although there is little research touching on the subject, migration from the three neighbouring countries to Thailand must place considerable stress on the families of migrants. Because hardly any of the migrants are in a regular status, crossing the border is a very expensive exercise. Thus, once they arrive in Thailand they usually stay for some years before returning to their country of origin. Because of the work situation in which they find themselves and because of the weak infrastructure in their countries of origin, most migrants have infrequent contact with their families at home. The WVFT/ARCM (2004:94) survey of migrant workers in Mae Sai, Mae Sot and Ranong found that 24 per cent of them never contacted their families. About one in six had irregular contacts and one in four contacted their families 1-3 times a year. Only 35 per cent of the workers had monthly contacts with their families.

An unknown number of migrants are in Thailand with other members of their families. This situation may be better for family cohesion but many stresses would remain. Often husband and wife would work at different jobs. Given the long days that most migrants are required to work, often with no days off, maintaining family functions would be difficult. If the wife becomes pregnant she is threatened with deportation. If a couple have a child in Thailand, its parents might or might not be able to obtain a birth certificate, but would still have no claim either to citizenship or residence in Thailand. Further, the Thailand birth certificate could be an obstacle to obtaining citizenship in the country of the parents.

As women constitute an increasing proportion of international migrants within Asia, the Bangkok office of the United Nations Development Fund for Women (UNIFEM) has been implementing the "UNIFEM Asia Pacific and Arab States Regional Programme on Empowering Women Migrant Workers in Asia". To date, the Programme covers Indonesia, Nepal and the Philippines as countries of origin and Jordan as a country of destination, but it will be expanded to include Thailand as well as Bangladesh, Cambodia, the Lao People's Democratic Republic and Hong Kong,

China in 2005. The Programme attempts to achieve its goals by helping to create enabling policy, and institutional and socio-economic environments to ensure women equality of opportunity and access to resources and benefits at all stages of the migration process.

Domestic workers

Female migrant domestic workers are particularly vulnerable to exploitation and abuse because they often work in isolation and are not covered by labour regulations. During 2004, approximately 129,000 persons applied for work permits as domestic servants and it must be assumed that nearly all of them were women (table 13). If unregistered migrants are taken into account, the number of foreign women employed as domestic workers may be between 150,000 and 200,000. About two thirds of them are from Myanmar and one quarter from the Lao People's Democratic Republic (table 13). Although the majority of the migrant domestic workers probably currently possess work permits, prior to July 2004 Panam and others (2004:3) estimated that only one third of the migrants in Thailand were registered. This proportion was probably lower for domestic workers. Although domestic workers may hold work permits, their situation remains precarious because of the lack of legal protection.

Because of the important social issues involved in the employment of migrants as domestic workers and the little systematic information that was previously available, IPSR conducted a large-scale field survey of domestic workers from Myanmar in Chiang Mai and Mae Sot between August 2002 and January 2003. The survey was funded by the Rockefeller Foundation in Thailand and by the United Nations Inter-Agency Project to Combat Trafficking in Women and Children in the Mekong Sub-Region (UNIAP). It is listed in the references as Panam and others (2004).

The IPSR survey interviewed a total of 528 domestic workers in the two field sites. As would be expected, the respondents were generally young and unmarried. Nineteen per cent of them were under 19 years of age, 41 per cent were aged 19-24 years and 39 per cent were older than 25 years. Among the respondents, 52 per cent were unmarried, 35 per cent were currently married and 13 per cent were widowed, divorced or separated. About two thirds of the respondents had no children and 31 per cent had between one and three children.

The average level of education of the migrants employed as domestic workers was considerably higher than that among Thai women who migrate overseas for employment. Among the respondents in the survey, 15 per cent had no education, 32 per cent had primary education, 35 per cent had secondary and 18 per cent had high school or a higher level of education (Panam and others, 2004:35). In contrast, nearly two thirds of Thai female overseas workers have only a primary school education (table 10). Sixty per cent of the domestic workers from Myanmar spoke at least three languages. Migration for employment is not short-term. Eighty-seven per cent of the respondents had first migrated to Thailand at least 18 months previously and the mean duration of residence was over three years. At the time of the survey, 57 per cent of the respondents held a work permit. The researchers assume that this percentage is higher than the overall average for domestic workers because those who were registered were more likely to be included in the survey. This figure has no doubt increased following the new registration in 2004.

Most of the migrant domestic workers found employment through an agent. None of them knew what their working conditions would be until they arrived at the house of the employer. Thirty-two per cent of them received 1,000 baht or less per month in wages, 30 per cent received between 1,001 and 2,000 baht, 22 per cent received between 2,001 and 3,000 baht and only 15 per cent received over 3,000 baht per month. Eighty per cent of the women were expected to work more than 12 hours a day, and 61 per cent were expected to work more than 14 hours a day. Many of the domestic workers worked seven days a week, with no regular days off.

About 80 per cent of the domestic workers were provided with accommodation, but only 30 per cent had a private room. The others slept in a common area or shared a room with family members of the employer whom they were expected to take care of. About two thirds of the respondents were responsible for caring for a child or an elderly person in the household, which meant that they were expected to be available to provide care at all hours.

Most of the domestic workers were confined to the house of the employer and not allowed to receive outside visitors. Forty-three per cent of them were permitted to leave the house and 42 per cent were allowed to receive visitors.

In these conditions, the migrant domestic workers felt vulnerable and threatened. Half of them reported being threatened by their employer and 1 in 10 reported being subject to physical abuse. Almost 20 per cent reported being touched when they did not want it, 8 per cent had been subjected to sexual advances and 1.3 per cent were victims of rape.

As many of the migrant domestic workers were not registered at the time of the survey, they were also vulnerable to threats or arrest from the authorities, usually the Thai police. Of the 43 per cent who reported encounters with Thai authorities, 49 per cent said they had been asked for money and 29 per cent had been threatened with deportation (Panam and others, 2004:xv).

Access to health care was a problem for the domestic workers because their employers usually refused to allow them to leave the house in order to obtain health information or services. When they required health services, 79 per cent of the employers refused to cover the costs. The expenses could be difficult for the migrants to pay themselves because of their low wages. Many employers also deducted wages for any sick days taken.

As is true for all migrant workers currently, a work permit is valid only for the specified employer. In most cases the employer holds the work permit and gives the migrant only a copy, which may not be accepted as valid by the police. Thus, the domestic workers find themselves with few options if they are exploited or abused. Their working conditions and wages are not covered by labour regulations. If they leave their employer, their status reverts to illegal immigrant, subject to detention and deportation.

Economic impacts

The impact of international labour migration on Thailand and its neighbouring countries occurs through the contribution to production made by the workers; the wages the workers earn; the amount of money remitted to countries of origin; and the fees paid for registration, border crossings and sending remittances.

Migrant workers make a significant contribution to economic growth in Thailand in that there may be between 1.2 million and 2.3 million such workers (including unregistered migrants and visa overstayers) employed in the country. While their wages are low, their impact on the economy is valuable because many of the migrants help to produce or process items for export, such as agricultural products, seafood and garments.

The ratio of work permits issued per employer (4.1) indicates that migrant workers often benefit relatively small enterprises. The ratios are high for seafood processing (26.9 workers per employer), construction (11.0) and fishing boats (9.0), although one employer may own more than one boat. It would be expected that the ratio for domestic servants would be low (1.5) but it is also low in agriculture (4.0) and in the large "other" category (5.6). (The ratios may be calculated from table 13). It is possible that some employers register only a fraction of their workers, on the assumption that it would be sufficient to avoid legal sanctions.

Migrant labour has different impacts on various groups within the Thai economy. A study by TDRI cited by Martin (2004:30) estimated that 700,000 unauthorized migrants in 1995 increased Thailand's GDP by 0.5 per cent but decreased the wages of Thai workers with primary or lower level of education by 3.5 per cent. As the number of foreign workers in Thailand is currently two or three times as great, their impact may be at least double. The National Economic and Social Development Board (NESDB) has estimated that the real income of the poorest 60 per cent of households fell by 0.4 per cent as a result of migrant labour, while the real income of the richest 40 per cent rose by 0.3 per cent. NESDB has concluded that migrants benefit primarily the employers and a few government officials (Martin, 2004:30).

The studies carried out by research institutes in Thailand for IOM and ILO on specific sectors of employment for migrants collected information on the wages of migrant workers (Martin, 2004). The TDRI study of the agricultural sector found that wages were well below the minimum wage even when taking into account that employers provided housing and food. Farm workers growing fruits and vegetables in Kanchanaburi Province earned 60-70 baht per day for working 8 hours a day, 6-7 days a week. Migrants performing pre-harvesting work in sugarcane fields in the same province earned about 80 baht per day. Migrants who worked on hog farms in Nakhon Pathom or Lop Buri provinces earned 120-130 baht per day for working 8-10 hours a day, 7 days a week.

The ARCM study of the fishing industry found that the catch from fishing boats was typically split, with 70 per cent going to the boat owner and 30 per cent shared among the crew. That allowed the crew members to earn approximately 200 baht per day. Migrants working in construction reported earning 150-200 baht per day by working 8-9 hours a day, 7 days a week. An IPSR study in Mae Sot, indicated that migrant women working in sewing shops for garment manufacturing earned between 40 and 80 baht per day, or about 1,500 baht a month. The TDRI study of migrant domestic workers found that they had to pay brokers 5,000-6,000 baht to find employment and they earned between 2,000 and 4,000 baht a month, with food and accommodation provided free of cost (Martin, 2004:43-48).

In interviews conducted in Samut Sakhon Province, women workers in a seafood-processing factory indicated that they earned 150-170 baht per day and worked seven days a week. They had to meet quotas or their pay would be cut. Workers in a shrimp-processing factory indicated that they were paid a piece rate, typically 8 baht to clean a kilogramme of shrimp, and could earn 200-300 baht per day, depending on the volume of shrimp available. They began work at 01.00 hours and sometimes worked until 20.00 hours, i.e., 19 hours with a half-hour break every 8 hours. They had to stand throughout the day. It should be noted these wage rates essentially meet the minimum wage of 170 baht per day in the province and that Thai workers in the factories receive the same wages as migrant workers.

There are numerous reports in the media and complaints to the Law Society of Thailand and NGOs concerning non-payment or underpayment of wages by employers. Without a more systematic inspection process by MOL, it is impossible to determine the prevalence of such practices.

Some very approximate estimates can be hazarded of the volume of money remitted by migrants to their home countries of Cambodia, the Lao People's Democratic Republic and Myanmar. A migrant working in a shrimp-processing factory in Samut Sakhon stated that she sent home remittances of about 3,000 baht per month. It is assumed that that amount came from both her husband (who worked on a fishing boat) and herself. The amount is no doubt above average because her earnings were higher than those of most migrants and she had been in Thailand without interruption for several years.

Most remittances are sent through informal, but well-organized, channels. A minimum volume of remittances sent to Cambodia, the Lao People's Democratic Republic and Myanmar may be estimated by assuming that there are 1,180,000 migrants (the number of migrants aged 15-59 years who registered with MOI in July 2004) who are sending remittances and that the average amount sent is 500 baht per month. Those conservative assumptions yield a minimum estimate of 590 million baht (almost US$ 14.8 million) per month, or 7,080 million baht (US$ 177 million) per year.

A more realistic estimate may be constructed by assuming that there are 1.4 million workers sending remittances (taking into account unregistered workers) and that they remit an average of 750 baht per month (less than US$ 20 per month). These assumptions yield an estimate of 1,050 million baht (US$ 26 million) per month in remittances, or 12.6 billion baht (US$ 315 million) per year. Thus, even these conservative assumptions imply a "back of the envelope" estimate that migrant workers in Thailand are remitting about 1 billion baht per month to their home countries. If it is assumed that the volume of remittances is proportional to the number of workers from those countries, about 75 per cent would be sent to Myanmar and about one eighth of the amount would be sent each to Cambodia and the Lao People's Democratic Republic.

Migrant workers support the industry that enables them to travel to Thailand, to be authorized to work and to send remittances, with high fees at every step. Reports on the amounts paid to travel from Myanmar to a destination in Thailand vary from 5,000 to 10,000 baht. Usually the migrants pay an agent to bring them across the border and to deliver them to their destination. Alternatively, an employer may pay an agent to deliver an agreed number of workers. The employer then recovers the cost by deducting the payment from the migrants' wages. At 5,000 baht per person, the estimated 1.4 million foreign workers in Thailand paid a total of 7 billion baht to enter Thailand and to find employment. If the average cost is 10,000 baht per person (as reported by some migrants), the migrants now in Thailand would have paid a total of 14 billion baht. Thus, the recruitment and transport of migrant workers is a business worth approximately 10 billion baht. While the business is well established and operates rather routinely, it is technically illegal. The great majority of migrants cross at border checkpoints

without permission to stay in Thailand. Technically, they are being smuggled into the country but there is nothing clandestine about the operation.

Even going home comes at a cost. Migrants in Samut Sakhon reported that the cost of returning to Myanmar was 2,000 baht per person, with 600 baht for the agent and 1,400 baht for permission to cross the border. Because these workers have not yet been recognized by the procedures in the MOUs, if they want to return to Thailand they must again pay an agent up to 10,000 baht to help them cross the border and travel to their destination.

While MOI registered 1,280,000 migrants at no cost to the migrants in 2004, those who wished to obtain a work permit needed to pay well for it. A total of 817,000 migrants paid 600 baht each for a medical examination, for a total payment of 490 million baht, which went to the local hospitals that administered the examination. They also paid 1,300 baht each to MoPH for medical insurance, providing a pooled amount of 1,062 million baht. As of mid-December 2004, 814,000 migrants had applied for work permits, paying fees of between 550 and 1,900 baht each to MOL. Thus, if it is assumed that 80 per cent of the migrants paid for a one-year work permit and 20 per cent for a six-month permit, MOL collected a total of 14 billion baht in order to issue the work permits. While the total cost to obtain a one-year work permit may be high at 3,800 baht, Martin (2004:45) reports that some migrants consider the fee to be less than they were previously paying police to avoid arrest. It is also much lower than the cost of returning to Thailand were they to be arrested and deported.

Migrants in Samut Sakhon reported that in order to send a remittance of 3,000 baht through informal channels, they had to pay between 500 and 900 baht for "telephone charges". That implies at least a 20 per cent fee for remittance payments. That fee is probably higher than average. Other migrants may accumulate greater amounts before remitting in order to reduce the rate of the commission. Some migrants have reported that it costs between 300 and 500 baht to send a remittance to Myanmar from Tak Province. If it is assumed that an average fee of 10 per cent was paid to transfer the remittances estimated above, an idea of the size of the business may be obtained. Based on the lowest estimate of remittances of 590 million baht per month, the fees to transmit those funds would equal 59 million baht (US$ 1.5 million) per month or 708 million baht (US$ 17.7 million) per year. If the higher estimate of remittances is applied, these figures would essentially double. The migrants in Thailand pay for remittances in Thai Baht but they are delivered in Myanmar Kyat, so it may be assumed that the informal channel also profits somewhat from the currency exchange rate.

Thus, recruiting and facilitating the movement of migrant workers to Thailand has become a lucrative business. However, because much of it is informal and unregulated, it gives many indications that it is exploiting the migrants.

CONCLUSION

International migration provides an opportunity, albeit one associated with many risks, for Thai workers and for those in neighbouring countries with relatively low levels of education and skills to earn considerably more than they could at home. Because most Thai nationals migrating abroad for employment have a low level of education, they work primarily in low-skill and low-wage occupations. Most of the male workers are employed in some type of manufacturing. While many of the female migrants also work in manufacturing, the largest single occupational category for women is service work, primarily as domestic workers.

The number of Thai nationals officially deployed overseas for employment has fallen steadily from 202,000 in 1999 to about 150,000 in 2003, owing to increased competition from more populous countries that supply low-wage labour and because of greater regulation of labour migration in Thailand and in destination countries. In spite of the reduced volume of migration, it still remains a valuable channel for individuals to improve their earnings and for their families and communities to benefit from remittances. Thai workers overseas still remit close to US$ 1.5 billion per year through official channels.

In spite of often-harsh working conditions and discriminatory treatment, approximately 1.2 million workers from Cambodia, the Lao People's Democratic Republic and Myanmar are currently registered with MOI as migrants in Thailand. There could be as many as another 700,000 foreigners working in Thailand if one takes into account an unknown number of persons from these three neighbouring countries who have not registered with MOI and the number of persons from other countries who have overstayed their entry visas (table 1).

Although the wages that the migrants receive in Thailand are below or barely meet the country's minimum wage standards, they are considerably higher than the migrants could expect to earn at home. Thailand is relatively easy to enter because of day-pass systems and lax enforcement at land border checkpoints and because its visa regime is designed to encourage tourism. MOL is very limited in its ability to investigate workplaces because of its mandates and staffing levels.

Migrant workers make a significant contribution to the Thai economy because many of them work in producing or processing goods for export, as in agriculture, seafood processing and manufacturing. NESDB has concluded, however, that the benefits of migrant labour accrue largely to employers and some government officials. Because of its scale, labour migration to Thailand probably has a negative impact on the wages of Thai workers.

The Thai Government has moved steadily in its attempts to regularize much of the labour migration coming from Cambodia, the Lao People's Democratic Republic and Myanmar, and to implement measures to control unregistered migration. It has pursued these goals through national programmes and bilateral agreements, and international consultations and forums.

In a major advance over the scope and terms of earlier registrations, the Thai Government put into place a migrant worker registration system in 2004 that met many of the Government's objectives as well as responded to recommendations from other stakeholders and many of the needs of the migrants themselves. The system pertained only to migrants from Cambodia, the Lao People's Democratic Republic and Myanmar. Those migrants were encouraged to register at no cost with MOI in order to be allowed to stay in Thailand for one year. They were allowed to have medical examinations and to be enrolled in a health insurance scheme, with a fee assessed for each. The migrants' employers could apply for work permits for them of 3, 6 or 12 months' validity, again with a fee that the workers ultimately paid. Nearly 1.3 million migrants registered with MOI in July 2004, about 817,000 had medical **examinations and 814,000 had obtained work permits by mid-December 2004.**

As significant an improvement as the new system is, it still has several limitations. The cost to a worker for a one-year work permit is 3,800 baht, close to a month's wages for many of them (although that fee includes health insurance). To complete the entire process required a minimum of five visits by the employer and/or the employee to government offices or a hospital. The application for a work permit could be made only at a provincial office, and another trip was required to receive the actual permit.

The approach to irregular migration by the Thai Government has been to regularize the desired volume and type of migration while controlling illegal migration. Thus, migrants who have not registered with MOI or who are working without a permit may be detained and deported. For a formal deportation to be implemented, however, requires the cooperation of the country of origin of the migrant. Comprehensive procedures for the countries of origin to recognize their nationals and to agree to accept those being deported have not yet been put in place, although progress is being made in that regard with Cambodia and the Lao People's Democratic Republic.

Although the working conditions of migrants may be difficult and their wages low, a great many of the migrants work alongside or in the same conditions as Thai internal migrants. Registered migrant workers are meant to be subject to the same labour legislation as Thai workers but such legislation generally applies only to businesses with 10 or more employees. (It should be noted that there are sound reasons for such a minimum, as it is intended to encourage small enterprises by not burdening them with excessive regulation.) Migrant workers are not permitted to form labour unions, but they are allowed to join existing Thai labour unions at their place of employment. In reality, however, the migrants are reluctant to join unions and the Thai unions are hesitant to include migrants in their meetings.

The medical examination that the registered migrants took indicated that their aggregate health status was not as poor as many in Thailand had expected. Only 1 per 1,000 had a communicable disease that MoPH believed should prevent them from working in Thailand.

The opportunity for migrants to register in order to be able to reside in Thailand and to work has been very beneficial to them as a group. Many migrants are exploited, however, in terms the fees required to cross the border into Thailand and to send remittances home.

Owing to the difficult conditions that migrants encounter in living and working in Thailand, including discriminatory behaviour, most of them wish to return to their countries of origin when they feel they have saved enough to put their families on a stable economic basis. That may take a number of years, however. A survey of migrant workers in provinces along the border with Myanmar conducted by WVFT, in collaboration with ARCM, found that 43 per cent of the respondents were age 26 or older, that 53 per cent of them had been in Thailand for more than three years and that 29 per cent of them had been in the country for over five years (table 15). Although most of the migrants plan to return home in the future and the Thai Government plans to implement policies that would restrict employment to no more than four years at a time, it is probable that some amount of permanent settlement will occur.

As there are probably between 1.2 million and 1.4 million workers from Cambodia, the Lao People's Democratic Republic and Myanmar in Thailand, it would be surprising if significant numbers of them did not decide to stay for a long duration or permanently. As they make contacts with employers and friends in Thailand and gradually lose contact with friends at home (in the WVFT/ARCM study, 24 per cent of respondents reported that they never contacted their families at home), some migrants will find little reason to return home. It is natural that with a migrant population exceeding 1 million, with many sharing the same religion and similar cultural practices as their hosts, some of the migrants will marry Thai nationals and not wish to return to their own country. Currently, there are few avenues to attain Thai nationality, as discussed in greater detail in the section on minority groups in the following chapter. Even spouses of Thai nationals have no automatic claim to citizenship but are considered on a case-by-case basis.

The MOI registration identified 93,000 migrants under the age of 15. Even without formal education in Thailand, many of them will be assimilated in Thailand, learning the language, making friends, and developing employment skills and contacts. They will become more comfortable in Thailand than in the country of their parents' birth. It is probably fair to say that most Thai nationals think of their country as having essentially a single culture and one clearly dominant religion. They learn in history classes that the Thai people migrated to the Chao Phrya valley approximately 800 years ago. Although Thailand does not perceive itself as a country of immigration, the **current policies regarding international labour migration can be expected to lead to a society with a significant number of migrants and with some demand for a multicultural environment.** An IPSR study has revealed that a significant level of mistrust exists between Thais and migrant workers (Archavanitkul and Kanchanachitra-Saisoonthon, 2005). International labour migration is currently viewed mostly as an economic issue (Thailand needs low-wage workers, and workers in the surrounding countries want to migrate for employment), but can be expected also to lead to a long-term social and cultural debate within Thai society and with its neighbours. Incorporating migration issues into formal education curricula at all levels in Thailand would help to promote an informed debate on the subject. In this context, it should be mentioned that Chantavanich (2001b) has prepared a detailed plan for incorporating migration education into the secondary school social science curriculum.

IV

Irregular Migration

THAI NATIONALS IN AN IRREGULAR STATUS OVERSEAS

International migration and employment that does not comply with the laws of the countries of origin and destination are often referred to as illegal, undocumented or unauthorized. Because of conceptual difficulties with each of these terms, **"irregular migration" has come to be the preferred term.** The IOM *Glossary on Migration* defines irregular migration as follows:

> Migration that takes place outside the regulatory norms of the sending, transit and receiving countries. There is no clear or universally accepted definition of irregular migration. From the perspective of destination countries it is illegal entry, stay or work in a country, meaning that the migrant does not have the necessary authorization or documents required under immigration regulations to enter, reside or work in a given country. From the perspective of the sending country, the irregularity is, for example, seen in cases in which a person crosses an international boundary without a valid passport or travel document or does not fulfill the administrative requirements for leaving the country. There is, however, a tendency to restrict the use of the term "illegal migration" to cases of smuggling of migrants and trafficking in persons (IOM, 2004b: 34-35).

ILO (2004a:11) adds: "Irregularities in migration can arise at various points – departure, transit, entry and return – and *they may be committed against the migrant or by the migrant"* (emphasis added).

Irregular migration may be caused by (a) restrictive immigration policies in receiving countries, (b) acute poverty and unemployment problems in countries of origin, (c) political suppression and armed conflict, (d) malpractice of private recruitment agencies, (e) high legal migration costs and (f) activities of criminal gangs and traffickers (Wickramasekera, 2002). Thus, irregular migration cannot be divorced from policies regarding regular migration (ILO, 2003).

The concepts of irregular migration presented above are useful in examining the situation of Thai nationals in an irregular status overseas. For migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar in Thailand, the situation is more ambiguous, as will be discussed in the following section.

The great majority of Thai nationals overseas have departed legally and entered the country of destination legally. Their situation becomes irregular only if they overstay their visa or engage in employment not permitted by their visa. There is no comprehensive estimate of the number of Thai nationals in an irregular status overseas although it is understood from individual reports that the total of such persons in European countries, the United States, Canada, Australia and New Zealand would equal tens of thousands.

More information is available concerning Thai nationals involved in irregular migration in countries in Asia. Chantavanich (2001a) has pointed out that, owing to the ease with which Thai nationals may cross

the land border into Malaysia, it is impossible to estimate the number of Thais residing and working in that country or the percentage of them that are in an irregular status. Many of the Thais entering Malaysia do so with temporary passes and work passes but others enter without documents. Many of the Thai nationals working in Malaysia are Muslims and speak Malay so the international border is not a great barrier to migration, trade, commerce and tourism between southern Thailand and northern Malaysia.

Chantavanich (2001a:13-15) estimates that between 1988 and 1995 approximately 40,000-60,000 Thai nationals per year moved to Japan for employment and that the majority of them had resided or worked in Japan illegally. In a survey of Thai migrant workers in Japan conducted in mid-1999, it was found that, among those who were not trainees, only 38 per cent were working legally. The others had entered the country legally but were staying and working without permission. Many of the migrants required the services of recruitment agencies to obtain visas, but most travelled by themselves or with friends and found employment through friendship networks. About 42 per cent of the sample of Thais working in Japan (including those in both regular and irregular situations) had used a recruitment agency or broker to obtain a visa and 56 per cent had entered on tourist visas. About one third of the migrants had their travel to Japan arranged either by recruitment agencies or employers in Japan. Twenty-nine per cent arranged the travel with friends or relatives and 28 per cent made arrangements themselves. Among the Thai migrants in Japan (again, including both regular and irregular migrants), 36 per cent worked in the service sector (frequently in hotels or restaurants), 23 per cent (mostly women) worked in entertainment, 29 per cent worked in factories and 8 per cent worked in construction (Chantavanich, 2001a:14-15).

Chantavanich (2001a:25) has estimated that there were about 10,000 Thai nationals staying and working illegally in Singapore in 1999. Most entered on tourist visas and then stayed beyond the period allowed by their visa. Perhaps as many as 30,000 were in Singapore legally on valid visas but were working without authorization. Such employment is facilitated by recruitment agencies that are subcontracted by construction or manufacturing companies to provide workers. They, in turn, sell quotas to Thai brokers. In some cases, the migrant workers are defrauded by being given false work permits and having the brokers disappear with their passports. Some migrants work for nearly three months, then report to the Office of Labour Affairs that they were lured to Singapore. The penalty for staying in Singapore illegally for less than three months is a fine, but for staying longer than three months the penalty is caning plus a fine. In a few cases, migrants had sold their passports but reported them stolen.

The majority of Thai workers in Taiwan Province of China are in a regular status concerning immigration and employment. The number in an irregular status is not known. Some have entered legally but are working without permission. Others entered as contract workers but either moved to other employers or stayed on to work beyond the period of their contract. Between 1992 and 1997 the local authorities arrested 3,681 Thai nationals (2,910 men and 771 women) for illegal entry. Of the 457 foreign women arrested as sex workers between 1995 and 1998, 377 were Thai nationals (Chantavanich, 2001a:30-31). Chantavanich argues that Thai sex workers in Taiwan Province of China are trafficked into the destination by syndicates.

Sobieszczyk (2000) presents an excellent description of the channels and procedures available to Thais for both authorized and unauthorized migration abroad. She notes that, in spite of the higher fees involved, many migrants choose an unauthorized "tunnel" into another country rather than the authorized "bridge" because the procedure is less time-consuming, employment qualifications are fewer and resultant wages often higher. She argues that foreign employers can offer higher wages to unauthorized migrants because they bypass the government procedures to recruit and employ migrant workers and do not pay for such benefits as health insurance, paid leave or return air fare. Most unauthorized migrants pay a recruiter or agent in advance all the fees necessary to travel to and be admitted into the destination country, often without knowing the exact location or nature of employment at the destination. **Some potential migrants who cannot afford the initial fees and travel costs required agree to enter debt bondage in order to find overseas employment.** In this case, the employer pays a recruiter to bring in a migrant worker, and then recovers the investment by deducting the initial cost (along with a high rate of interest) from the earnings of the worker. The only persons identified by Sobieszczyk to have migrated through debt bondage were women. In each case, they were aware in advance of the location and nature of their work.

MIGRATION TO THAILAND

According to the IOM definition of irregular migration presented at the beginning of this chapter, well under 1 per cent of the migrants from Cambodia, the Lao People's Democratic Republic and Myanmar in Thailand would be considered in a regular status. Fewer than 6,300 persons from Myanmar were registered as professional workers in 2004 (table 2). Virtually all of the 1,280,000 persons from Cambodia, the Lao People's Democratic Republic and Myanmar who registered with MOI in July 2004 could be considered to be in an irregular status because they entered the country clandestinely or with day passes issued at border checkpoints. Because they have since registered with MOI and received permission to remain in Thailand until 30 June 2005 (and then were allowed to extend for another year), for the purposes of this report they are treated as regular migrants and their situation has been covered in chapter III. Migrants in an irregular status, in this chapter, are considered as those who do not have valid visas or passes and who are not registered with MOI. It should be recognized that most of the migrants in an irregular status have entered the country and are employed with at least tacit approval of the authorities.

As noted in chapter I, in many respects the distinction between regular and irregular status is not especially important. In fact, both labels would apply to many of the migrants, depending on the time reference. Most of the 1,280,000 migrants who became regularized by registering with MOI would have been irregular migrants prior to July 2004. The migrants from Cambodia, the Lao People's Democratic Republic and Myanmar engage in much the same types of work and are concentrated in the same geographical areas irrespective of whether or not they registered with MOI. In certain respects, such as the opportunity for the education of their children or their own vulnerability to HIV/AIDS, there may be little difference between regular and irregular (or registered and unregistered) migrants.

In other respects, however, the distinction is crucial. Registered migrants are permitted to reside in Thailand until mid-2005 so, in principle, they are likely to face less harassment including the threat of deportation by the authorities. The 814,000 migrants who have obtained work permits are covered by most of the same labour regulations as Thai nationals. Approximately 817,000 of the registered migrants have enrolled in the migrant health insurance scheme; thus, they would be much less vulnerable to problems of illness and injury than unregistered migrants. Nearly all persons who have been trafficked into Thailand may be considered irregular migrants, whereas only a small percentage of the registered migrants have been trafficked.

Because migrants in an irregular status are not registered, there exists no reliable estimate of their numbers. As shown in table 1, MOL estimates that there are 502,680 persons in Thailand who are overstaying the period of their visa but little is known about the method of making this estimate. Migrants from Cambodia, the Lao People's Democratic Republic and Myanmar who are not registered constitute the other main component of the category of migrants in an irregular status. Even officials involved in the MOI and MOL registration processes are not able to make confident estimates of the completeness of that registration. Migrants from Myanmar make up most of that category but their number is unknown. IOM (2004b) states that "estimates suggest" there may be 80,000 persons each from Cambodia and the Lao People's Democratic Republic who are not registered.

Data provided to the authors on the number of persons detained by the Kanchanaburi Immigration Bureau imply that the registration of migrants carried out by MOI in July 2004 was relatively effective in reducing the number of irregular migrants. The Immigration Bureau had detained 583 persons in May and 576 persons in June. Immigration Police were instructed not to detain migrants between July and about October in order to permit the registration system to work effectively. The number of detentions averaged only 120 per month during that four-month period, then recovered to only 195 in November and 99 in December. The Kanchanaburi Immigration Bureau detained 3,567 persons in 2004, of whom 91 per cent were from Myanmar, 5 per cent were from Cambodia and 3 per cent were from the Lao People's Democratic Republic.

Those three countries account for most of the persons detained nationwide for violating immigration regulations. As noted in chapter II, 228,062 persons were arrested in Thailand in 2003 for illegal entry/stay. Among those, 65 per cent were from Myanmar, 27 per cent were from Cambodia and 6 per cent were from the Lao People's Democratic Republic (UNHCR, 2004:9). Of the 61,623 persons detained at the Immigration Detention Centre in Bangkok in 2003, 40 per cent were from Myanmar, 38 per cent from

TABLE 17
NUMBER OF PERSONS DETAINED AND DEPORTED FROM THE IMMIGRATION DETENTION CENTRE IN BANGKOK, BY REGION AND COUNTRY, 1999-2002 AND 2003

Region and country	1999-2002		2003	
	Detained	Deported	Detained	Deported
Total	**178,909**	**176,777**	**61,623**	**61,930**
East and South-East Asia	**169,393**	**167,780**	**58,322**	**58,719**
Myanmar	86,246	86,599	24,511	24,910
Cambodia	59,307	57,948	23,531	23,547
Lao People's Democratic Republic	16,402	16,095	8,306	8,396
China	5,361	5,290	1,210	1,187
Others	2,077	1,848	764	679
South Asia	**5,428**	**5,149**	**2,344**	**2,224**
Sri Lanka	2,610	2,502	1,701	1,634
Pakistan	1,089	1,062	218	226
Others	1,729	1,585	425	364
Middle East	**831**	**789**	**212**	**224**
Europe	**1,835**	**1,719**	**307**	**310**
Africa	**1,123**	**1,080**	**391**	**408**
North America	**197**	**180**	**39**	**38**
Latin America	**24**	**15**	**8**	**7**
Australia/New Zealand	**78**	**65**	..	..

Source: Data provided by International Organization for Migration, obtained from the Immigration Detention Centre.

Cambodia and 13 per cent from the Lao People's Democratic Republic (table 17).

Thailand is used as a transit country for international migration, most of which is illegal and involves smuggling or trafficking of persons. A government official informed the authors that gangs operating in Thailand that include foreign members are involved in preparing or obtaining false or altered passports in order to smuggle persons into third countries. The migrants may enter Thailand on tourist visas but then are smuggled into other countries clandestinely or with false documents.

Children

Children of migrants or children who migrate on their own are of particular concern. The MOI registration of migrants in 2004 identified 93,082 persons under the age of 15. Although these children and youth are below the minimum age for employment in Thailand, they are permitted to remain because of their MOI registration. In most cases they are not enrolled in school and do not have health insurance. Of the total, 19,109 were aged 12-14 and it may be assumed that many of those are working, albeit without work permits. Many of those 12-14 years old may have migrated to Thailand specifically for employment but others may be working because they are unable to attend school. In a study prepared for UNICEF in Thailand, Bryant (2005) observes that some of the younger children of migrants spend much of their time at their parents' workplace, giving them little stimulation and exposing them to environmental hazards. As the parents are migrants, they are unlikely to have relatives present who could act as caregivers.

In addition to those who come for relatively long sojourns in Thailand, from a few months to several years, there are some workers in border towns who enter and work on day passes or for only a week or two. UNICEF supported ARCM to carry out a study of child labour of this nature along the border with Cambodia (Angsuthanasombat and others, 2003).

The study found that 500-700 children per day from Cambodia work in and around the Thai town of Aranyaprathet, opposite Poipet in Cambodia. They work in agriculture, in the market and shops, as sex workers, or providing such services as guarding vehicles. Approximately 50-200 children per day work in Chanthaburi Province in agriculture, shops or markets. Another 50-200 children per day work in Trat Province in agriculture, markets or seafood processing.

The study found that the children were driven into such work by the poverty of their families. In most cases, their families had migrated within Cambodia to a border town in order to seek employment. The children earn 50-70 baht per day working in agriculture, but only 30-50 baht per day working in services or the market. Many are able to attend school for half a day in Cambodia and work in Thailand for half a day, but those who work deeper inside Thailand do not have the opportunity to study. Recognizing that the children are compelled by poverty to work, Thai authorities generally permit them to do so, but attempt to arrest those who engage in such illicit activities as robbery or selling drugs.

Human trafficking

The United Nations Convention against Transnational Organized Crime was approved at Palermo, Italy in 2000. A supplement to the Convention, the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, provides definitions of trafficking and smuggling of persons in Article 3(a). That Article defines trafficking as follows:

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

The Article further states that the "consent" of the persons trafficked by any of the means indicated is considered irrelevant and that "The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered 'trafficking in persons' even if it does not involve any of the means set forth" in the Article (United Nations Inter-Agency Project Newsletter, first quarter, 2001:4).

The same Article of the Protocol defines smuggling of people as "The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident" (IOM, 2004b:60).

Thai government policy actively attempts to prevent trafficking, but estimates presented below indicate that greater efforts are required. Thailand signed the United Nations Convention against Transnational Organized Crime and the accompanying Protocols in 2001 but has not ratified them. It has ratified ILO Convention No. 182 on the Worst Forms of Child Labour. The Thai Government has initiated a subregional process to address issues of trafficking in persons, the previously mentioned Initiative against Trafficking called COMMIT. The Government organized the first intergovernmental meeting of COMMIT in May 2004, with UNIAP serving as the secretariat. Representatives of Cambodia, China, the Lao People's Democratic Republic, Myanmar and Viet Nam participated in the meeting. In October 2004, ministers representing the six members of COMMIT signed an MOU containing priority actions to address human trafficking. The actions include the creation of a network for repatriation of victims.

Thailand is an active participant in the Bali Process, which was initiated by the Regional Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, organized in Bali, Indonesia in February 2002. (See chapter I for more details.)

The Thai Government and the Government of Cambodia signed in May 2003 the Memorandum of Understanding on Bilateral Cooperation for Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking. The MOU adopts the international definitions of trafficking cited above. It states that the two Governments will undertake necessary legal reform to ensure that the legal frameworks in their respective countries conform to the major international conventions on human rights,

the rights of the child and discrimination against women. They will attempt to prevent trafficking in women and children through increases in social services provided to groups at risk of being trafficked, reform of educational and vocational training programmes, and enhancement of public awareness about trafficking.

The MOU with Cambodia states that trafficked children and women shall be considered victims, not violators or offenders of immigration law. That means that trafficked persons shall not be prosecuted for illegal entry into the country, they shall not be held at immigration detention centres but provided care at government shelters, and they shall be treated humanely throughout the process of protection, repatriation and judicial proceedings. Victims of trafficking are permitted to claim compensation from the offender. The law enforcement agencies in both countries, especially at the border, shall work in close cooperation to uncover domestic and cross-border trafficking of women and children. The Governments shall make all possible efforts towards the safe and effective reintegration of victims of trafficking into their families and communities (Morris, 2004). In July 2005, the Thai Government also signed similar MOU with the Government of the Lao People's Democratic Republic on Cooperation to Combat Trafficking in Persons, Expecially Women and Children.

Thailand has also revised its legislation to tackle trafficking more effectively and to provide greater protection to victims. The Prostitution Prevention and Suppression Act of 1996 establishes severe sanctions against intermediaries in the sex trade and protects those under 18 years of age from sexual exploitation, irrespective of their consent. The 1997 Act concerning Measures to Prevent and Suppress the Trafficking in Women and Children provides protection not only to girls under the age of 18 but also to boys who have been trafficked, for example, those in exploitative work situations. The Act permits NGOs to provide shelter for the victims of trafficking (Muntarbhorn, 2003:20).

The Thai Government announced in April 2005 that it had established a national committee to address trafficking in persons. The committee, which has a budget of 500 million baht, would crack down on trafficking gangs and assist victims. The rehabilitation scheme would include physical and mental assistance and occupational training (*Bangkok Post,* 2005d).

Derks (1999) provides a detailed discussion of the concepts and practices of trafficking in the context of trafficking women and children into Thailand. She points out that the international definition of trafficking refers to the process and means of recruitment as well as the final circumstances but that not all of the elements may be present in a given case. Trafficking is an emotionally charged issue because it is popularly perceived to be related to the recruitment of women into prostitution and of children for prostitution or exploitative work. The United Nations Protocol reinforces those perceptions by defining prostitution as exploitation and by considering any recruitment or transportation of children for exploitation to be trafficking even when it does not involve a threat, coercion, fraud or deception.

While trafficking of women and children for prostitution is one of the most pernicious forms of the crime, it should be clear that not all trafficking is for prostitution and not all prostitutes have been trafficked. The *International Herald Tribune* (2005) recently cited an area in south-western China from which women were kidnapped in the past for the sex trade but where the migration of women to Thailand to become sex workers has become largely voluntary.

Archavanitkul (as cited by Angsuthanasombat and others, 2003:7) has proposed to view migration on a continuum, from a situation where a victim is forced or kidnapped to a situation where the migrant moves with full knowledge of the type of work and has the ability to choose the place of work. The position on the continuum on which a particular instance of migration falls depends to a large extent on the degree of choice and the amount and accuracy of the information available to the migrant. Women are no doubt the main victims of trafficking that involves threats, coercion or force. A significant number of males may be included when trafficking involves an exploitative work situation.

Because of the criminal and clandestine nature of trafficking, it would not be expected that definitive statistics on the phenomenon exist. IOM (2004c) cites an estimate that between 200,000 and 450,000 persons a year are trafficked within the Greater Mekong Subregion, but notes that the figure generally refers to women and children. A recent study of migrants from Myanmar conducted by WVFT in collaboration with ARCM (no date) asked the migrants

TABLE 18
PERCENTAGE DISTRIBUTION OF A SAMPLE OF WORKERS FROM MYANMAR IN THAILAND, BY TYPE OF EXPLOITATION REPORTED, 2003

Type of exploitation	Mae Sai	Mae Sot	Ranong	Total
None	88.5	89.8	85.4	87.9
Forced into prostitution	10.3	1.8	3.6	5.3
Sexually assaulted	..	2.5	0.9	1.1
Forced labour/no pay	0.3	4.3	7.1	3.9
Worked like a slave	1.2	0.9	1.5	1.2
Imprisoned (and escaped)	..	0.9	1.2	0.7
Total[a]	100.0	100.0	100.0	100.0

Source: World Vision Foundation of Thailand in collaboration with Asian Research Center for Migration (no date). *Research Report on Migration and Deception of Migrant Workers in Thailand.*

[a] The percentages shown do not sum to 100 per cent owing to rounding.

about specific types of coercion or exploitation they had encountered. Among 1,187 respondents, 45 per cent of whom were women (the same proportion female as among persons who registered for work permits in 2004), 5.3 per cent reported that they had been forced into prostitution and another 5.8 per cent reported that they performed forced labour, worked like a slave or were imprisoned (table 18). Another 1.1 per cent had been sexually assaulted, which could qualify as trafficking because of sexual exploitation. Thus, 12.2 per cent of the sample could be defined as having been trafficked for work.

If the WVFT/ARCM sample is representative of the 1,280,000 migrants to Thailand who registered with MOI in July 2004, it would imply that about 157,000 of those migrants were trafficked, according to at least some element of the international definition. The survey results would also imply that 68,000 migrants had been forced into prostitution. (As the migrants who registered with MOI had been in Thailand for varying durations, the figures calculated here should not be interpreted as annual figures.) In contrast, Wille (2001:1) cites a figure of 16,423 foreign prostitutes in Thailand, 30 per cent of whom are under age 18, but this appears to be an underestimate.

The WVFT/ARCM survey could provide underestimates of the prevalence of trafficking because the migrants in the most exploitative work situations would have been difficult to identify and to interview for the survey. On the contrary, the figure for the percentage of respondents forced into prostitution could be an exaggeration because (a) many workplaces with sex workers, such as karaoke bars and massage rooms, would be easy to identify and thus subject to over-sampling and (b) many of the sex workers who chose that employment may have reported that they had been forced into it.

Even if it is accepted that the WVFT/ARCM survey yields only an approximate percentage of migrant workers who were trafficked, the implications are a cause for concern. Because of the large numbers of migrant workers in Thailand, even low percentages of trafficking victims imply that many tens of thousands of the migrants have been trafficked.

In her study of the trafficking of women and children from Cambodia to Thailand, Derks (1999) observes that recruitment of women into prostitution may be voluntary, bonded or involuntary. She notes that there is a long tradition in parts of South-East Asia of parents loaning or selling their children into employment and that bonded recruitment for sex work should be seen in that context. In virtually all cases of recruitment into prostitution, however, the poverty of the family was the main determinant. Derks also observes a pattern of recruitment of Cambodian women to work as beggars in Bangkok. Most have volunteered to migrate to Thailand for employment but are deceived about the type of employment they will receive and they are exploited by having most of their earnings confiscated by the persons controlling them. Derks notes that a few boys from Cambodia are recruited for criminal activities in Thailand and that many women and girls work as domestic servants, sometimes in an exploitative situation. In these cases, migration is voluntary but the exploitation involved in the work situation classifies the move as trafficking.

In a rapid assessment of trafficking of children in border areas in Thailand, Wille (2001:64) also concluded that the migration of children was usually voluntary and often organized by families or friends. It was only when the children were recruited for employment once in Thailand that they often fell into exploitative situations. Wille found that all of the minors studied possessed "an acute lack of awareness or naiveté about what they were letting themselves in for". Wille states that the children and teenagers who come to work in Thailand generally work in terrible conditions under highly exploitative arrangements. In spite of that, many of them choose to accept their situation as a better alternative to returning home. Among the various occupations of child migrants, respondents complained most about fishing and construction work.

D'Cunha (2002) argues that trafficking in women and children must be addressed within a framework of gender equality and human rights. She sees (a) gendered development processes, exacerbated in the recent context of globalization, that enhance gender inequalities and the feminization of poverty, (b) displacement by natural and human-created catastrophes and (c) gendered cultural practices as augmenting the supply of potential trafficking victims. Factors contributing to the demand for trafficking of women include the following: (a) the development of certain economic sectors with a woman-specific demand for labour, (b) discriminatory socio-cultural practices, (c) restrictive immigration and emigration policies and laws, (d) poor governance and (e) rights violations caused by increasing alienation and the impoverishment of human values.

As specific interventions to prevent trafficking and to protect the rights of its victims, D'Cunha recommends the following: (a) economic empowerment of women and girls, (b) education for sustainable livelihoods and resilience, (c) social security and protection of women and children in difficult circumstances, (d) legal strategies, (e) safe migration and citizenship rights for women and adolescent girls, (f) transforming male-centred perceptions, attitudes and practices related to men, women and sexuality. Corner (2002) argues that livelihood opportunities designed to prevent trafficking will be effective only if they are (a) competitive in terms of earnings and working conditions, (b) accompanied by social and community development programmes and (c) sustainable in terms of offering continuing access to decent employment.

In order to address issues of trafficking in a coordinated manner, the United Nations in 2000 established the United Nations Inter-Agency Project on Human Trafficking in the Greater Mekong Sub-region (UNIAP). Six Governments in the Mekong Subregion, 11 United Nations agencies and offices, IOM, eight international NGOs and many local partners participate in the Project. UNIAP has a regional office in Bangkok and country offices in each of the six participating countries.

After its first four years of operation, UNIAP (2004) identified a number of important lessons learned, which are summarized below.

- Research from many parts of the world has indicated that some community-level trafficking interventions that appear successful may simply lead to the problem appearing elsewhere. Rescue and repatriation programmes can also be subject to this problem, as without measures to stop those who had placed the victim in an exploitative situation, the rescued victim is likely to be replaced by another trafficked person.
- The causes of trafficking are wide-ranging. They include poverty, lack of education, lack of awareness and gender-based discrimination, but can also include civil conflict and consumerism.
- Because of wide disparities in income among the countries in the Mekong subregion, trafficking cannot be addressed on the supply side alone; efforts to reduce demand are also essential.
- Effective law enforcement requires better support for victims because they are essential as witnesses in criminal prosecutions.
- Trafficking is not only for prostitution but also for sweatshop labour, domestic work, fishing, plantation work, begging, forced marriage and adoption.
- Men are also trafficked for many of these purposes.
- Evidence has shown that tighter migration controls, rather than reducing trafficking, push migrants into more organized and dangerous forms of migration, placing them at greater risk.

- Enforcing labour standards reduces trafficking demand. Demand for trafficked labour is virtually absent in sectors where labour standards covering working hours, health, safety and wages are well established, monitored and enforced.
- Different responses are required for women and children. Combining women and children into one group in discussions, statistics and programmes tends to underestimate women's abilities to make major life choices, while overlooking the special needs of children.
- It is difficult to develop project impact indicators for trafficking because of variations in definitions; it is a clandestine activity, the mechanisms for data collection are absent; and impact may be measured too narrowly.

UNIAP is developing databases on trafficking and persons who have been trafficked. UNESCO Bangkok cooperates with UNIAP in carrying out the Social Sentinel Surveillance Programme. UNESCO uses a geographic information system to monitor and analyse migration patterns of minority people, especially girls and women, in northern Thailand. The project will train villagers, teachers, local NGOs and health workers to track the movement of people into and out of villages. That information and other key data are integrated in a mapping database. The resultant tables and maps are posted on the UNESCO Bangkok web site <http://www.unescobkk.org>.

Since 2002, UNESCO Bangkok has cooperated with Radio Thailand Chiang Mai to develop and broadcast radio programmes in minority languages to raise awareness about the issue of trafficking women and children. The programmes take the form of dramatic soap operas and are based on actual experiences. The project has now been extended to Yunnan Province of China and to the Lao People's Democratic Republic.

The International Programme on the Elimination of Child Labour (IPEC) at the ILO office in Bangkok is implementing the Mekong Sub-regional Project to Combat Trafficking in Women and Children. It has produced a set of training tools on interventions to prevent trafficking. Substantive interventions include the promotion of legal labour migration and labour markets, non-formal education, rural skills training, micro-finance projects and the promotion of gender equality. The tools also include such process-related interventions as project management, networking and coordination, participatory and action-oriented research, participatory project design, participatory monitoring and learning, and training of trainers and facilitation skills. For each intervention area, technical guidelines suggest what to do, and they include case studies, lessons learned, good practices and literature reviews.

The United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) has prepared the publication entitled *Combating Human Trafficking in Asia: A Resource Guide to International and Regional Legal Instruments, Political Commitments and Recommended Practices.* The resource guide calls for a multi-faceted response to trafficking, utilizing the complete range of legal and other instruments relevant to all dimensions of trafficking, including human rights, slavery and slavery-like practices, trafficking, migration, labour, gender and children.

IOM conducts counter-trafficking activities at the international, regional and national levels. In 2000 the Thailand mission initiated a project on "Return and reintegration of trafficked and other vulnerable women and children between selected countries in the Mekong region". The project focuses on capacity-building with government and NGO counterparts to establish systematic return and reintegration structures in countries in the Mekong subregion. IOM is conducting a project aimed at developing a bilateral agreement between Thailand and the Lao People's Democratic Republic on the return and reintegration of trafficking victims. The project will build upon the mechanisms developed to date by the Thai Government to address trafficking of persons from, through and to Thailand, including the bilateral MOU on trafficking with the Government of Cambodia.

An IOM pre-return psycho-social assistance project strengthens the institutional capacity of government care providers to foster life-skills development and provide psycho-social help to trafficking victims in shelters in Cambodia, the Lao People's Democratic Republic and Thailand. A second phase of the project will improve the care provided to victims of trafficking prior to their return to their respective home countries through (a) the provision of direct psycho-social assistance to women and children who are victims of trafficking and (b) the expansion and strengthening of the capacity of the Department of Social Development and Welfare in Thailand to provide such assistance. In so doing, the project will demonstrate that the provision of such assistance contributes

greatly to the process of reintegration and the psycho-social healing of victims of trafficking and abuse. IOM Thailand has produced a video entitled *Shattered Dreams* to raise awareness about trafficking, and has had it dubbed into several languages used in the region. It has distributed the video to government school systems and local communities in vulnerable provinces in Cambodia, the Lao People's Democratic Republic, Myanmar, Thailand and Viet Nam.

IOM, in partnership with the Thai National Committee to Combat Trafficking, supports training for police, immigration and other government officials, and NGOs, on Thai laws and policies related to trafficking. At the international level, IOM Thailand has provided support and technical assistance to meetings and consultations on migration and trafficking, including the Coordinated Mekong Ministerial Initiative against Trafficking.

HIV/AIDS

There is evidence worldwide to demonstrate a close association between increased vulnerability during mobility and the spread of HIV, and many people believe that migrants and mobile populations bring HIV with them when entering countries or communities. Evidence has established, however, that the opposite is more likely to be the case: rather than bringing diseases, migrants often become vulnerable to contracting HIV during transit and after they arrive at their destinations.

In South-East Asia, evidence suggests that HIV is spread from high-prevalence to low-prevalence locations through structural and social factors associated with improved highway networks, labour migration and the seafaring industry. While migrants in both regular and irregular status may be susceptible to HIV infection, there are many reasons to conclude that those in an irregular status are more vulnerable. Migrants who have been trafficked or are working in an exploitative situation may have less access to preventive and curative health care. Women and girls who have been trafficked for sex work may be less likely than those who have entered such work voluntarily to be provided with information on the prevention of HIV, to be able to insist on condom use in sexual encounters and to receive regular medical check-ups. (Conversely, it could be speculated that registered migrants are freer to leave their place of work and to engage in higher-risk behaviour. Further research on these issues would be valuable.)

At the end of 2003, there were an estimated 2 million persons infected with HIV/AIDS in Cambodia, the Lao People's Democratic Republic, Myanmar, Thailand, Viet Nam and Yunnan Province of China. The highest adult (ages 15-49) HIV prevalence in the Greater Mekong Subregion is in Cambodia, at 2.6 per cent. Thailand follows with a prevalence of 1.8 per cent, but these figures indicate a decline in HIV prevalence in both countries following concerted public campaigns focusing on sex workers and their clients. The adult prevalence is between 1.1 and 2.2 per cent in the urban areas of Myanmar but is much lower in rural areas. While HIV prevalence in China remains low, the number of persons infected may exceed 1 million. Yunnan Province is considered the birthplace of HIV/AIDS in China and it is believed that about 32 per cent of all HIV-positive persons in China reside in Yunnan. The high rates of infection in Yunnan began among intravenous drug users along the Yunnan-Myanmar border, and has since spread to most parts of the province (United Nations Educational, Scientific and Cultural Organization (UNESCO), 2004). The high level of HIV prevalence in Yunnan is a concern for Thailand because of the number of women from that province who work in the sex trade in Thailand.

A major United Nations Development Programme (2004) report on HIV/AIDS in Thailand identified mobile populations and sex workers, along with injecting drug users, as particularly vulnerable groups that should be the focus of prevention efforts. The combined areas of cross-border migration, the sex trade and HIV/AIDS are the subject of an increasing amount of research. Recent examples are the books by Darwin, Wattie and Yuarsi (2003) entitled *Living on the Edges: Cross-border Mobility and Sexual Exploitation in the Greater Southeast Asia Sub-region,* and by Chantavanich and others (2000) entitled *Cross-border Migration and HIV Vulnerability in the Thai-Myanmar Border: Sangkhlaburi and Ranong.* Most of the research, including these two publications, focuses on the vulnerability of migrants to HIV infection but there are few instances in which actual HIV prevalence has been determined for migrant and non-migrant populations. Rather, the linkage between migration and HIV/AIDS is established by observing that geographical areas with high mobility also have higher HIV prevalence.

While probably a minority, a significant proportion of sex workers in Thailand have been trafficked into the trade. They are particularly vulnerable to sexually transmitted infections, including HIV. Increasingly,

minority groups in Thailand, Myanmar, the Lao People's Democratic Republic and Yunnan Province of China are the most affected by trafficking for prostitution. Women from minority groups working in the sex trade are especially vulnerable to HIV infection because of their lack of education, poverty, social breakdown in their home communities and the lack of information available in their own languages (UNESCO, 2004).

Jones (2004:23-24) notes that research has shown that the Akha, Yao and Shan minority groups in Thailand have developed higher HIV infection rates than the Karen and Hmong. He argues that the Karen and Hmong exercise strong family and community controls on sexual behaviour. He states that the Karen, in particular, actively discourage premarital and extra-marital sexual relationships, divorce, brothel recruitment, and illicit drug use and trading.

On the demand side of risk behaviour, the linkage between mobility and HIV/AIDS is related to the conditions and structure of the migration process, including poverty, exploitation, separation from families and partners, **and separation from the socio-cultural norms that guide behaviour in stable communities.** Some of the factors that make mobile populations more vulnerable to HIV infection are: (a) isolation resulting from stigma and discrimination, (b) separation from regular sexual partners, (c) lack of support and friendship, (d) a sense of anonymity and (e) lack of access to health and social services (IOM, 2004d).

A survey carried out by the IPSR that covered 2,590 male migrant workers in 24 locations in Thailand found that they had an average of four non-regular sex partners (many of whom were sex workers) in the past year and that only 5 per cent of the respondents ever used condoms. While the number of non-regular sex partners varied substantially by marital status and occupation, the average implies considerable risk of STDs among male migrant workers (Chamratrithirong, Boonchalaksi and Yampeka, 2004).

UNFPA funded a cross-border migration reproductive health study in Myanmar that investigated the linkages between cross-border migration and STDs, including HIV. The results of the study were used to plan the delivery of health services to prevent HIV on the Myanmar side of the border. UNFPA, through its programme of South-South Cooperation in Thailand, is implementing twin-city cross-border HIV-prevention projects in Narathiwat-Kelantan (Malaysia), Sa Kaeo-Banteay Meanchey (Cambodia) and Ubonratchathani-Champasak (the Lao People's Democratic Republic).

Ahmed (2001) has assessed HIV vulnerability among a sample of seafarers and seafood-processing workers from Myanmar in Samut Sakhon Province. He considered low knowledge of HIV/AIDS, having multiple sex partners, visiting risky entertainment venues, having sex without condoms and having a sexually transmitted infection as factors contributing to HIV vulnerability. He concluded that the workers in Samut Sakhon had a medium level of vulnerability overall, and that vulnerability differed significantly by key socio-economic characteristics. As might have been expected, he found that males, single persons and younger persons were significantly more vulnerable to HIV. Persons with only primary education, as opposed to secondary education and workers with higher incomes, were more likely to engage in such risky behaviour as having multiple sex partners. Ahmed found that duration of stay in Thailand was a significant factor in HIV vulnerability, with those persons residing for at least two years demonstrating reduced vulnerability, probably because of greater exposure to information about HIV/AIDS.

Seafarers, primarily those on fishing boats operating from Thai ports, have been identified in a number of studies as a group particularly vulnerable to HIV. The contributing factors that affect all migrants are usually exacerbated for seafarers, who not only are migrants but are also highly mobile and away from their home port most of the time. Thai-owned fishing boats roam the coastal areas from Indonesia and Viet Nam to India, calling at various ports where the services of sex workers are readily available.

A group of international organizations and NGOs, including UNICEF and UNODC, formed the Thailand Seafarers Research Team in order to carry out an in-depth study on the fishing industry and the vulnerability of its workers in Ranong to HIV and drug use. The Research Team identified numerous factors influencing the risk behaviour of seafarers and their families. They include the following: (a) married seafarers want to satisfy their sexual desires when their wives are away from the port, (b) the wives of the seafarers also want to satisfy their sexual desires when their husbands are at sea for long periods of time, (c) poverty influences some housewives to use sexual relationships for support, (d) single seafarers have no place to deposit their money, so they often spend it

on drinking and sex, (e) some foremen encourage fishermen to take their earnings from particularly valuable catches in the form of liquor and sex, (f) seafarers often develop relationships with service girls in port and neither partner wants to use a condom, (g) men feel that using a condom reduces the pleasure of sex and (h) some seafarers use methods of penis enlargement that make them prone to sexually transmitted infections, including HIV (Thailand Seafarers Research Team, no date).

The Research Team, in seeking effective interventions to reduce vulnerability to HIV and drug use among seafarers and their families, observed that, to date, Thai government agencies had not undertaken such measures. Although the Thailand Business Coalition on AIDS was a member of the Research Team, the Team concluded that the current model of private industry involvement in HIV prevention would not be effective generally for the Ranong provincial fishing industry. It recommended, instead, working directly with cooperative pier and boat owners, and identifying clear and specific organizational networks between Myanmar and Thailand for implementing such interventions. Some recruitment agencies are willing to cooperate in providing HIV-prevention information to seafarers. Video players and radios on boats could also be used as a means to disseminate information.

Cross-border programme interventions may be especially successful in tackling the prevention of HIV and the promotion of developmental activities among migrant populations. The Program for Appropriate Technology in Health (PATH), with the support of NGOs, WHO and the Global Fund to Fight AIDS, Tuberculosis and Malaria, initiated a project called "Promdan" in 2000. PATH had found that many of the migrants in Rayong Province on the eastern coast of Thailand came from Prey Veng Province in Cambodia. The project links origin communities with the migrant communities in Thailand. The first phase of the project (2001-2002) consisted of interventions aimed at increasing individual knowledge and skills in the prevention of sexually transmitted infections, including HIV/AIDS, and assessment of the risks of migration. The second phase (2003) focused on livelihood and social well-being improvements at five levels: the individual, the family, communities in both countries, organizations in both countries and regional networks. In the third phase (2004-2007), the project intends to integrate the project's strategies into various phases of migration (pre-departure, sojourn, return and re-integration) while promoting savings and useful investment in the origin community (Kantayaporn, 2005).

UNESCO Bangkok has developed radio soap opera programmes in minority languages, intended to reduce trafficking in humans, HIV/AIDS and drug abuse. The pilot programme was produced and broadcast in northern Thailand for both home listeners and cross-border minority peoples in northern Lao People's Democratic Republic, northern Myanmar and south-western China. Since 2003, UNESCO Bangkok has expanded the radio soap opera activities to production and broadcast in the Lao People's Democratic Republic and Yunnan Province of China.

UNESCO has also established the Clearing House on Preventive HIV/AIDS Education for the Greater Mekong Subregion. UNESCO Bangkok has also used the geographic information system which was initially established to monitor human trafficking in highland villages in northern Thailand (described in the above section on trafficking) in order to monitor trends in HIV infection in Thailand at the district level (UNESCO, 2004).

In January 2005 the ILO/IPEC office in Bangkok announced that its Mekong Sub-regional Project to Combat Trafficking in Children and Women had launched a series of partner-driven programmes to fight human trafficking in the provinces of Chiang Rai, Chiang Mai and Phayao (ILO press release, 17 January 2005). Although aimed largely at preventing trafficking of women and children from those provinces, the Project should also assist in reducing international trafficking by measures to address the demand for trafficked individuals.

At the global level, IOM has signed a cooperation framework with UNAIDS. The organizations cooperate in the areas of advocacy, capacity-building, mainstreaming of HIV/AIDS and dissemination of research and information (IOM, 2004d).

Nationality issues

Strictly speaking, there is no requirement to include a discussion of the issue of nationality of the highland population in Thailand in a report on international migration because most of the population are not international migrants. This section is incorporated, however, because there are parallels in the way that

the Thai Government and laws have perceived the highland population and various migrant groups. A review of the situation of the highland population and proposed approaches for regularizing it is instructive for considering the evolution of the status of migrant groups in the country.

In Thailand the highland population is referred to as "hilltribes". The six largest groups in Thailand represent about 90 per cent of the highland population, with the Karen constituting 46.3 per cent; Hmong, 17.9 per cent; Lahu, 10.5 per cent; Akha, 6.9 per cent; Yao, 5.8 per cent and H'tin, 4.7 per cent in 1995 (Aguettant, 1996:52). Communities within those groups have been in Thailand for decades and others have arrived more recently. Although the hilltribes classify themselves as an "indigenous population", the notion of indigenous people is unclear in Thai law and policy. The hilltribes are most often viewed by the Thai Government as minority groups (Muntarbhorn, 2003:27).

The highland population has only gradually been recognized and registered to provide legal status. Registration is important at three levels in Thailand: village, household and individual. Unless a village is officially registered by MOI, it does not qualify for such government services as a school or roads. Household registration demonstrates residence and individual registration confers many rights. When the Thai Government began issuing household registration certificates to families in the late 1950s, the highland population was not included because it had not been included in the population census (Lertcharoenchok, 2001). Even when the highland population was included in household registration, coloured cards were issued for highland residents and white cards for Thai citizens. Surveys conducted between 1985 and 1988 found that only 42 per cent of highland villages were recognized as official (Aguettant, 1996:58).

The first census of the highland population was conducted in 1969 and 1970 and covered 120,000 persons in 16 provinces. Based on that census, MOI decided to begin registering the citizenship of the highland people. Between 1975 and 1992 a total of 182,065 highland people were registered as Thai nationals. The second national census of the highland population took place between 1985 and 1988, and covered 20 provinces. Following that, MOI issued 250,000 persons a highland identity card, commonly known as a "blue card", granting residence but not citizenship. Between 1992 and 1996, MOI registered a further 46,555 highland people as Thai citizens (Lertcharoenchok, 2001).

In the recent past, the Thai Government (primarily MOI) has dealt with the migration of distinct groups into Thailand by issuing them "coloured cards" for identification. These cards permit the group and its members to reside in Thailand but they carry a number of restrictions and do not imply a right to Thai nationality. Perhaps the most severe restriction is that the holder is not permitted to travel (or work) outside the province without first obtaining permission from the head of the district.

Over time, different coloured cards have been issued to different specific groups. These include the hilltribes but also the remnants and descendants of the Nationalist Chinese Army who were permitted to settle in Chiang Rai Province, a group of several thousand Vietnamese who fled the warfare between the French and the Viet Minh nationalists after the Second World War and various communities that have crossed the border from Myanmar more recently. There are two distinct communities of Cambodian nationals in Trat Province holding coloured cards (Angsuthanasombat and others, 2003:34). The coloured card system has proliferated until there are currently 16 categories of highland and other minority groups (Jongponphol and Kokriettrrakul, 2004).

The current administration decided in 2001 to grant citizenship to children of aliens with permanent residence and to extend the period of residence for those groups. In 2000, MOI estimated that there were about 1 million hilltribe and minority people in Thailand, half of whom had obtained Thai nationality. Of the remaining half million, 100,000 are adults qualified for Thai citizenship, 120,000 are children entitled to citizenship, 90,000 are entitled to permanent residence and 190,000 are permitted to stay temporarily while the Government decides how to deal with them (Lertcharoenchok, 2001).

Following the decision in 2001 to grant citizenship, highland people needed to register for it; UNESCO Bangkok has aided that process. It set up the Highland Citizenship Registration Project. It conducted training courses in Chiang Mai and Chiang Rai for NGOs representing highland groups. The Project was also requested by the former Ministry of Labour and Social Welfare to organize four training workshops for highland villagers in Tak and Kanchanaburi provinces (Lertcharoenchok, 2001).

The process has moved slowly, however, so that few have yet been granted citizenship. The current administration plans to establish a task force to expedite issuing citizenship and permanent residence cards to those who have applied. The task force would first target 200,000 students who were born in Thailand but are considered stateless. It is expected that after 24 August 2005, the authority to issue citizenship documents will be decentralized from MOI to the provincial level (*Bangkok Post*, 2004d). For those highland people not eligible for citizenship, the coloured card system will be consolidated to only one category.

Citizenship status is clearly very important for individual and community development. Without citizenship, students in Thailand cannot receive an official certificate after completing school. Adults cannot vote, own land or travel outside their province. UNESCO Bangkok argues that lack of citizenship is a major risk factor in the trafficking of highland women and girls. Without educational credentials and the right to work outside their province, they are more easily lured into underground channels to find employment.

There are clear parallels in the situation of the highland population without citizenship and many of the children of migrants in Thailand. In fact, those children are likely to be marginalized to a greater degree. Most of the highland population and holders of coloured cards possess permanent residence status, whereas the children of migrants do not have even that degree of security. At most, those migrants who have been registered with MOI are permitted to remain in the country until 30 June 2006. Although those migrants who are registered are entitled in principle to attend Thai schools, apparently only about 20 per cent do so and, if they do, they may not be granted a certificate. None of the children of migrants are allowed to work legally.

The difficulty for migrants to register births in Thailand has been discussed in the previous chapters. Even when the birth can be registered, it does not confer a right to residence or citizenship. It is likely that authorities from some neighbouring countries are reluctant to accept a Thai birth certificate for purposes of official registration in those countries. A fact sheet issued by UNESCO Bangkok notes that, according to Article 24 of the International Covenant on Civil and Political Rights, children have the right to be registered immediately after birth and have a name and the right to acquire a nationality. The Convention on the Rights of the Child also states that children have the right to be protected against all forms of discrimination or punishment on the basis of (among other things) the status of the children's parents.

The reluctance of the authorities to recognize the rights of much of the highland population in Thailand has led to the disenfranchisement and marginalization of hundreds of thousands of people who were born in Thailand or have resided in the country for long durations. In a similar manner, the reluctance to approach migration issues in a broader context of social and economic development is leading to the marginalization of tens of thousands of children of migrants and of unregistered migrants. It may be expected that some proportion of the children of migrants in Thailand will reside in the country for extended periods. **Without receiving education or credit for education and without the right to legal employment, it is likely that large numbers of migrants' children will be trapped in exploitative situations or turn to antisocial behaviour.**

Human rights issues

The previous section raised a number of human rights issues in connection with the registration and citizenship of minority groups in Thailand and concerning birth registration. This section will note only some issues of labour protection under Thai law and highlight some of the human rights issues regarding migrant workers that arose following the tsunami that struck several southern provinces in Thailand on 26 December 2004.

Muntarbhorn (2003:17) argues that the Labour Protection Act of 1998 applies to all migrant workers, irrespective of whether or not their status has been regularized. The Act provides the most comprehensive coverage of workers in Thailand and is, to a large extent, consistent with international standards. The Act guarantees, among others, humane working conditions, with rest periods; work not exceeding the number of hours stipulated by law (8 hours a day); and prohibition of dangerous work unless permitted by law. The Act also prohibits sexual harassment against employees who are women or children. The Act protects women from hazardous work and sets the minimum age for employment at 15 years, or 18 years for more dangerous work. It is likely that most migrant workers and the NGOs that assist them would claim that there is essentially no enforcement of these provisions of the Act for migrant workers.

Muntarbhorn observes that the 1998 ILO Declaration on Fundamental Principles and Rights at Work and Its Follow-up by ILO Members safeguards workers' rights even in countries (such as Thailand) that have not signed the ILO Conventions and provides for some monitoring of international labour standards. Thailand is a party to many ILO Conventions, including No. 105 on the Abolition of Forced Labour and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Thailand has not signed several key ILO Conventions that would guarantee protection of migrant workers, including No. 97 on Migration for Employment (Revised), 1949; No. 143 on Migrant Workers (Supplementary Provisions), 1975; and No. 169 on Indigenous and Tribal Peoples. Also, Thailand has not signed the 1990 United Nations International Convention on the Protection of the Rights of All Migrant Workers and Their Families, which entered into force on 1 July 2003 (Muntarbhorn, 2003:23-25).

The treatment of migrant workers by Thai authorities was highlighted in the aftermath of the previously mentioned tsunami. Over 5,000 people in Thailand were killed, including Thai nationals, foreign tourists and migrant workers. A few thousand more were reported as missing. Many hotels, restaurants and shops, mostly catering to tourists, were severely damaged, as were many local fishing boats.

Following reports that some workers from Myanmar, who had been rendered unemployed because of the damage to their employers' businesses, were apprehended for looting damaged shops, the Thai Government moved to detain and repatriate migrant workers.

Prior to the tsunami, there had been 30,158 foreign migrants with work permits in Ranong, 27,300 in Phuket, 22,480 in Phangnga and 2,586 in Krabi. A total of 120,971 migrants in those four provinces had registered with MOI in July 2004, including 38,447 who had not subsequently applied for a work permit. According to the Grassroots Human Rights, Education and Development Association in Kanchanaburi, between 2,500 and 3,000 people from Myanmar may have been killed and 5,000 to 7,000 were estimated to be missing (*Bangkok Post,* 2005e). It is difficult to evaluate these figures but they would appear to be high estimates as they would equal about half of all reported deaths and virtually all of the number of persons reported missing by Thai authorities.

A United Nations and IOM joint migrant assistance mission was carried out in the provinces of Krabi, Phangnga, Phuket and Ranong from 20 to 25 January 2005. The mission estimated that at least 7,000 migrants in those four provinces had been directly affected by the tsunami. "Affected" was taken to mean: deceased, injured, lost housing, lost employment, returned home or relocated to other provinces. It was not possible to estimate the numbers in each category because so many migrants had been displaced (IOM and others, 2005).

Within one month of the tsunami, 675 workers from Myanmar had been repatriated and another 556 had registered for a change of employer (*Bangkok Post,* 2005f).

The task of assessing the impact of the tsunami and its aftermath on migrant workers was greatly complicated by the Government's attempt to deport many of them. Many of those not apprehended went into hiding or moved to other provinces in order to avoid arrest. According to the Action Network for Migrants, 60 per cent of workers from Myanmar registered in Phangnga lost their identification papers in the tsunami (*Nation,* 2005). This figure also appears to be inflated, as the only areas directly affected were within 100 or 200 metres of the coastline.

Nevertheless, because of the fear of arrest, apparently many migrants did not come forward to report family members or acquaintances as missing or to try to identify bodies that had been recovered. The tsunami victim identification centre in Phangnga Province reported that hundreds of bodies had not been identified and it was suspected that many of those were of migrant workers and their family members. Employers were also apprehensive about identifying the bodies of their workers lest they be charged with employing unregistered workers (*Bangkok Post,* 2005g).

The United Nations and IOM joint mission to the affected provinces made several recommendations concerning the migrants there. The mission urged that measures be taken to allow the migrants to access basic humanitarian assistance without fear of arrest and deportation. It recommended that the migrants should immediately be provided access to good quality physical and mental health care. The mission recommended that registered migrants who had lost their documents should be assisted to have the

documents re-issued. It also recommended that registered and unregistered migrants have the opportunity to identify and claim the bodies of deceased family members through DNA-testing. The families of registered migrants who died during the tsunami should be informed of their right to claim compensation and be assisted to file claims (IOM and others, 2005).

The Thai people and Government received much well-deserved praise from overseas and within the country for the generous manner in which they responded to the disaster, but not as much is known about the way in which migrant workers were treated in the aftermath. In contrast, many national and international organizations and NGOs have responded rapidly and actively to assist all victims of the tsunami, including migrant workers. Because dozens of such organizations have been working on the ground in the affected areas, it would be unfair to single out individual ones.

As for Myanmar, when the Foreign Minister was asked about his Government's assistance to workers from Myanmar who wished to return, he was quoted by the *Bangkok Post* (2005h) as saying: "I don't have this information. These people came to Thailand illegally so we cannot identify who is Burmese and who is Thai".

CONCLUSION

Most of the Thai nationals working in an irregular status overseas departed Thailand and entered the destination country legally. Their status became irregular only if they overstayed their visa or took employment not permitted by their visa. Some have entered the destination with a valid employment visa but changed jobs without authorization. Because of the irregular nature of such employment, no reliable data exist from which to estimate the number of Thai nationals working overseas or even to determine the trend in the number. Most of those in an irregular status chose to follow an unofficial route to overseas employment because it was faster and required less documentation. Wages for irregular employment are often higher than for regular employment. A small number of persons, mostly women, migrate in debt bondage because they lack the resources to pay for their own transport and placement costs.

Because the Thai Government regularized much of the labour migration to Thailand during 2004 through registration of migrants by MOI and the issuance of work permits by MOL, an ironic result has been that less is now known about unregistered workers than was the case before. The fact that the number of detentions of unregistered migrants declined substantially following the registration process implies that a high percentage of migrants in the country had registered. Reliable estimates of the number of unregistered migrants in the country are not available. The estimates offered are no more than speculation without a scientific basis.

All such estimates are a multiple of 100,000, however, which means that even the low estimates imply a cause for concern for many reasons. As the registration carried out by MOI was at no cost to the migrant, an understanding of why some migrants did not register would be useful. The unregistered migrants are in a vulnerable position from many perspectives. They are illegal immigrants, subject to arrest and deportation. They do not have health insurance or access to health care except that for which they can pay out of pocket. The children of irregular migrants do not have access to government schools, and it is believed that very few of them are receiving any form of education.

Many of the older migrant children are no doubt working. If they are under age 15, their employment is illegal. While Muntarbhorn (2003:17) argues that all workers are covered by the Labour Protection Law of 1998, irrespective of whether or not they are registered, in practice, the authorities will not enforce labour standards for unregistered workers. Any attempt to file a complaint would most likely meet with arrest.

Another group among the irregular migrants that is in a vulnerable situation consists of domestic workers (mostly housemaids). Thai labour law makes no provision for labour standards for domestic workers, Thai or foreign, but foreign workers are especially vulnerable. In a study of domestic workers from Myanmar, Panam and others (2004) reported that such workers feared arrest and harassment from local authorities. Eighty per cent of them worked at least 12 hours a day, 85 per cent earned under 3,000 baht per month and only 30 per cent had a private room for their accommodation. Most had poor access to health services because their employers were reluctant to allow them to leave the house and most employers required the workers to pay for their own medical care.

The migrant workers who are most vulnerable are those who have been trafficked for employment. Studies appear to indicate that only low percentages of those trafficked have been subjected to threats or coercion while being recruited in their home country or during transport to Thailand. In most cases the coercion and exploitation occur at the time of recruitment or employment in Thailand. One study that made a systematic attempt to measure coercion and deception (WVFT/ARCM, no date) among migrant workers in Thailand found that 5.3 per cent reported being forced into prostitution and another 5.8 per cent reported doing forced labour, working like a slave, or being sexually exploited. When these percentages are applied to the 1,280,000 registered migrants alone, they imply at least that tens of thousands of the migrant workers in Thailand have been trafficked, including being forced into prostitution.

Because, for most of the migrants who have been trafficked for employment, the coercion that defines such migration as trafficking occurs in the workplace, better enforcement of labour standards would be expected to reduce the demand for trafficked workers. Stricter immigration controls are likely to push migrants into more organized and dangerous forms of migration. It is essential that strategies to prevent trafficking in humans take into account the gender aspects of the practice. In order for livelihood interventions to prevent trafficking to be effective, they must, at a minimum, offer opportunities that are competitive in terms of earnings and working conditions, and be sustainable.

Research has demonstrated that migrant workers are often particularly vulnerable to HIV infection, although studies on the actual prevalence of HIV among migrants are few. Strategies to prevent HIV infection among migrants and to provide protection to those with HIV must be tailored to specific work environments. Such strategies should involve employers and NGOs, and use a variety of channels for communication that is culturally specific.

While the issue of nationality for residents in Thailand, including the system of coloured cards for permanent residents, is, strictly speaking, not a migration issue, it does emphasize some of the outcomes that are to be expected when migration is not placed in a comprehensive policy framework and managed accordingly. An examination of the nationality issue suggests many parallels with international migration and highlights warning signals.

It is likely that significant numbers of the more than 1.3 million migrants in Thailand will want to remain in the country indefinitely, given the lack of economic opportunities and civil rights in their own countries. Current policies and practices do not accord full rights to migrants, including such basic rights as education, movement and free association. The lack of rights for migrant workers often leads to abuse, exploitation and trafficking. In addition, some of these tensions were exhibited in the treatment of migrant workers in the aftermath of the tsunami that affected several southern provinces in December 2004.



Knowledge Gaps and Challenges

REFUGEES, ASYLUM SEEKERS AND DISPLACED PERSONS

The main challenge facing those persons, organizations and agencies concerned with refugees, asylum seekers and displaced persons in Thailand is the lack of a comprehensive legal framework for these categories of migrants. Thailand has not signed the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol. The international community will continue to recommend that Thailand do so. Until such time as the country does, however, much could be accomplished within the national legal framework to rationalize the treatment of asylum seekers. Thai law makes no provision for the status of "refugee". Because of that void, **asylum seekers are often dealt with in an ad hoc manner and with administrative decisions full of ambiguity.**

All of the camp population along the border with Myanmar is officially "fleeing fighting", although the camps have been in operation for several years. Because the Thai Government has decided that there should be no new entrants to the camps, the functions of the Provincial Admissions Boards have been suspended. In spite of that, it is estimated that at least 19,000 people have moved into the camps. This flexibility on the part of the authorities may be commended because it has provided refuge to the newcomers, but in many ways it is simply postponing problems to a later date.

That lack of a legal framework for addressing asylum seeker issues also means that groups are often treated as homogenous. Either everyone in a group entering Thailand is permitted to stay or no one is. Current regulations provide little scope for assessing individual claims for asylum. Although UNHCR registers asylum seekers and investigates their claims, refugee status determination procedures for persons from Myanmar have been frozen by the Thai Government since the end of 2003 and UNHCR is not able to pursue cases filed after that date.

With the functions of the Provincial Admissions Boards and the refugee status determination procedures currently suspended for Myanmar nationals, the asylum machinery in Thailand is at a standstill for those persons. Displaced persons and persons seeking asylum from Myanmar cannot effectively pursue their claims. Likewise, no solution is being proposed for those displaced persons, asylum seekers and refugees who are in Thailand.

UNHCR considers that repatriation, integration in the community of asylum and resettlement are durable solutions for refugees, with repatriation being the preferred solution. Currently, none of these solutions is being pursued for the majority of Myanmar nationals who are refugees, asylum seekers and displaced persons in Thailand, except for the individual cases that had been submitted prior to the end of 2003. There is a danger that the 135,000 persons in the camps along the Myanmar border are being "warehoused" there. They have food, shelter and basic health care, but are not permitted employment and have access only to limited education and training. Up to 90,000 of them have resided in the camps for nine years, yet few preparations are being made for their return. There is a clear need for the Thai Government, concerned international organizations, the Government of Myanmar, NGOs

and representatives of the displaced persons to pursue consultations designed to arrive at durable solutions for the asylum seekers in Thailand.

REGULAR MIGRATION

While the Thai Government has steadily regularized the situation of large numbers of migrants in the country and taken significant steps to combat the trafficking and smuggling of migrants, it has not adequately attempted to align international migration policies with its longer-term goals of economic and social development. Such policy coherence would imply that the country pursue policies that support, and do not undermine, the attempts that it is making to sustain the development process. Policy coherence is essential to maximize the positive impact and to minimize the negative impact of migration on development (IOM, 2005).

Steps that the Government could take to incorporate migration into its development objectives include the following: (a) identification of actions to achieve more thorough adherence to international labour and migration standards, (b) capacity-building of the agencies dealing with migration, (c) strengthening social dialogue about migration and (d) improving information and knowledge about international migration as it affects the country (ILO, 2004b). **Migration out of and into Thailand should be explicitly incorporated into five-year national economic and social development plans, population projections and labour-force projections.**

Initiating and strengthening a social dialogue concerning international migration is of particular importance because different groups in society are affected differently by migration – some may benefit from it but others may be adversely affected. It would be useful for the Government to issue a policy document on international migration that would consider such issues as the number and the occupations of migrants anticipated to arrive over the next 5-10 years, measures to reduce irregular migration and combat trafficking in persons, steps to protect the rights of migrants and measures to ensure that the children of migrants in the country receive adequate education.

The current policy approach lacks long-term objectives and may undermine other development goals by encouraging the development of a significant portion of the labour force that has low skills and low wages, with little social protection. The employment of large numbers of migrant workers in such conditions may adversely affect the development of Thai workers.

A first step towards an informed social dialogue would be the collection and dissemination of more statistics and information about international migration to and from Thailand. Little is known about the number of Thai nationals departing for long-term or permanent residence in other countries, or their demographic, social and economic characteristics. This information would need to be compiled from sources in each of the destination countries such as censuses, surveys, immigration statistics and social research. No systematic attempt has been made to compile or analyse such information. Similarly, there has been no comprehensive effort to collect information concerning the number and characteristics of Thai nationals who go abroad for study.

As in the case for refugees, legislation in Thailand contains many omissions and ambiguities concerning migrant workers. Thailand has not signed the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It has, however, signed many international conventions relating to labour issues, including ILO Conventions No. 105 on the Abolition of Forced Labour and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Even without becoming a party to an international convention, Thailand can enact legislation to guarantee adherence to international standards of treatment of migrants and workers. The Labour Protection Act of 1998 provides for many such standards. At the time of its passage, however, it applied only to workplaces with at least 10 employees. Because the Act applies to workers in Thailand, it does not discriminate against international migrants. While it does not exclude migrant workers from its provisions, it also does not specifically include them. Domestic servants are not covered by labour laws and prostitution is officially illegal, so no legal protection is afforded to two of the major occupational categories for female migrants. Again, this is not an example of discrimination, because Thai nationals who are sex workers or domestic servants are also not protected by labour laws.

The previous two chapters in this report have made it clear that there are large gaps in our knowledge

about basic information such as the number of foreigners who are living and working in Thailand. While some statistics are collected and compiled by the Immigration Bureau, they are not in the public domain and, therefore, are not being used for policy dialogues and the formulation of appropriate policies and programmes. In preparing this report, it was not possible to obtain statistics on (a) the number of dependants of registered professional workers, (b) the number of international staff members of the diplomatic community, international organizations and NGOs, and their dependants, (c) the number of persons residing in Thailand on retiree visas and (d) an estimate of the number of persons who have stayed in Thailand longer than one year by repeatedly renewing three-month visas.

In addition to learning the number of persons in each of the categories above, it would be valuable to have information on such social characteristics as sex, age and country of origin. It would be very important to know which of the foreigners residing in Thailand are also working in the country.

While MOL has provided detailed tabulations of the number of persons who were issued work permits during the second half of 2004, by country of origin, by province and by type of business, the statistics are not disaggregated by five-year age groups.

The migrant registration carried out by MOI in July 2004 and the subsequent issuance of work permits by MOL treated the migrants as individuals. Thus, no information is available concerning their family status. It is not known how many of the migrants are living with immediate family members while in Thailand. It would be especially valuable to obtain this information for migrants who are children and youths.

It is known that 93,000 persons under age 15 registered with MOI in 2004 and were deemed ineligible to apply for work permits. Essentially nothing is known about that group, however, except that the proportion under age 11 years is higher among migrants from Myanmar than among migrants from the other two neighbouring countries and that there are slightly more females than males in the age group 12-14. In order to formulate appropriate policies and to provide needed social services, it would be essential to know more about the situation of these children. It would be necessary to know the numbers of those children who are studying in either formal or informal schooling. It would be necessary to know how many of the children are working, albeit illegally, by type of employment.

There are no data on the compliance with labour regulations by employers of migrant workers because MOL inspects a workplace only if a complaint has been filed. **As foreign workers are not permitted to form labour unions, there is no mechanism to assess and seek redress for violations of contracts or labour regulations.**

There is no systematic information concerning remittances sent or carried by migrants in Thailand to their home countries. It would be valuable to know the volume of such remittances, the procedures and channels used for sending them, and the costs involved in sending them. It would also be useful to learn who receives the remittances and how they are used at the destination.

MoPH is cooperating with WHO, Provincial Health Offices, local hospitals and NGOs to develop a migrant health information system. Such a system will be invaluable for formulating health policies and programmes, especially in border provinces. When the system is operational, MoPH should be encouraged to post summaries of monthly statistics on its web site, as is now done for health statistics from camps for displaced persons.

IRREGULAR MIGRATION

As was the case for refugees and regular migrants, it may be argued that Thailand lacks comprehensive legislation to define and protect the rights of migrants in an irregular status. In the Thailand context, the migrants in an irregular status that are of most concern are (a) the unregistered migrants from Cambodia, the Lao People's Democratic Republic and Myanmar, (b) visa overstayers (because their total number may exceed 500,000), (c) victims of trafficking and (d) children in an exploitative work situation. Those in the latter two categories are the most vulnerable. Migrants in an irregular situation have no guarantee of access to health services. The children of such migrants have no entitlement to education. Victims of trafficking may be arrested as illegal migrants and deported. **While maintaining the right to deport persons who are not legally residing in the country, the Government should enact a legal guarantee of the rights of such persons while in Thailand.**

In spite of official policy concerns and the attention given by international organizations to some of the aspects of irregular migration, there remain large gaps in our knowledge about several key issues.

There has been no systematic effort to estimate the number of Thai nationals overseas in irregular situations. Considerable information is available concerning Thai nationals working in other countries in East and South-East Asia owing to academic and policy interest in labour migration in the region. Little effort has been made, however, to compile statistics on Thai nationals in an irregular status in European countries, North America, Australia or New Zealand. It would be valuable to be able to estimate their numbers by sex and broad age group and to have some information about their labour force participation.

The greatest gap in knowledge about migration to Thailand is the lack of any reliable estimate of the number of persons in Thailand in an irregular status. It is not clear if the Immigration Bureau is able to adjust its estimates of persons overstaying their visas for the number of those who depart. The larger lacuna, however, concerns the numbers of migrants from Cambodia, the Lao People's Democratic Republic and Myanmar who are in Thailand but who did not register with MOI in July 2004. The numbers of these migrants that have been suggested are not based on any evidence but are simply speculation. Given the importance of such an estimate to understanding the situation of international migration in Thailand and for formulating appropriate policies, studies designed specifically to generate a reliable estimate would be valuable.

Because of the clandestine and illegal nature of trafficking, it cannot be expected that complete and accurate data on this crime could be compiled. Although that is understood, it remains true that inadequate efforts have been made to assess the scope and nature of trafficking in persons within, into and from Thailand. Innovative research techniques are required in order to make approximate estimates of such basic indicators of trafficking as the numbers of males and females involved, and how many of them are adults or children. In order to develop effective programmes to counter trafficking, it is necessary to be able to estimate rough trends in the volume by place of origin, place of destination and types of work. As trafficking can involve coercion or deception at the origin, in transit or in the workplace at the destination, it would be useful to know which elements predominate in trafficking in Thailand. The policy responses may be vastly different for the various types of trafficking.

Numerous studies, including some cited in detail in this report, have documented the vulnerability of groups of migrants to HIV infection. To date, adequate studies of the actual health situation of migrants in Thailand are lacking. Research is needed that would provide information on the health status of migrants, including reproductive health, sexually transmitted infections and HIV/AIDS. As medical examinations were administered to over 817,000 migrants in 2004 (although the migrants were not tested for HIV), it would be valuable if researchers could analyse the results by sex, age, occupation, place of origin etc., in order to identify patterns calling for programme responses. It is not recommended that migrants be routinely tested for HIV unless such testing adheres to international standards for confidentiality, anonymity and follow-up counselling.

VI

Recommended Actions

Many of the reports cited in this study contain valuable sets of recommendations that should be taken into consideration. The recommended actions suggested in this chapter will overlap many of the earlier recommendations. **The focus of the recommendations in this chapter is on policies and programmes of government, international organizations and NGOs concerned with international migration in Thailand.** They are meant to supplement and reinforce the more-specific recommendations made in other reports concerning particular groups of migrants.

A few broad recommendations that cover all types of migration are proposed below, followed by those concerning the specific types highlighted in this report.

1. The initiative of the Thai Government to support regional efforts to reach agreements on international migration and regional efforts to promote a comprehensive migration management system covering all aspects of migration, including assisted voluntary return, are commended and should continue. It is recommended that a regional migration management system include, at the minimum, provisions for legal migration for employment, minimum labour standards, health services for migrants, efficient savings and remittance mechanisms for migrants, the prevention of trafficking in persons, protection of the victims of trafficking, and respect for the rights of migrants in all categories, including during their repatriation.

2. It is recommended that international migration policies be aligned with other economic and social development policies. As an initial step, the Thai Government should consider producing a policy document on international migration which is based on a thorough review of migration trends in the country and an analysis of their economic and social impacts. For policy coherence, it is recommended that international migration be incorporated as part of the five-year national economic and social development plans, population projections and labour force projections. It is essential that a gender perspective be incorporated in all migration policies and programmes.

3. Because of the broad range of migration issues that Thailand is facing, the Kingdom would benefit from a national comprehensive migration management system, with an appropriate coordination mechanism, that would deal with all types of migration (asylum seekers, regular migrants and irregular migrants) in an integrated manner. Important principles in this regard are that voluntary return, deportation of migrants and voluntary repatriation of displaced persons and asylum seekers registered with UNHCR should be carried out in a manner that is safe, sustainable, dignified and fully respects their human rights. Migration management should involve all stakeholders, including employers and Thai workers who are directly affected, civil society and migrants themselves.

4. Efforts to disseminate information on migration issues widely in Thailand should continue. New channels should be regularly sought for even wider dissemination in order to promote an informed public dialogue on migration. Understanding and awareness about the rights and responsibilities of migrants, government agencies and employers should be promoted. Mass media play a significant role in this regard. In addition, formal education curricula at all levels should address migration issues.

REFUGEES, ASYLUM SEEKERS AND DISPLACED PERSONS

1. It is recommended that the Thai Government re-establish a border-screening mechanism such as the Provincial Admissions Boards in order to provide a means to determine which persons crossing the border from Myanmar are legitimate asylum seekers and deserve the protection of the border camps or the protection afforded for those fleeing political persecution. Boards should also be established for screening asylum seekers from Cambodia and the Lao People's Democratic Republic.

2. The Government should legislate the concept of offering protection to those with a well-founded fear of being persecuted in their home country, in accordance with the 1951 Convention Relating to the Status of Refugees.

3. The Thai Government should continue to ensure that camp residents receive protection and security, as well as shelter, medical care and education, and that the administration of justice in camps meets Thai and international standards to which Thailand has subscribed.

4. The Thai Government should work to prevent the "warehousing" of refugees in the camps and seek permanent solutions for the camp populations including: repatriation, local reintegration and resettlement to third countries. The Thai Government should consider allowing displaced persons in the camps to work outside the camps in a regulated environment. This would enable them to gain work experience and income in order to sustain their well-being and that of their families, prevent trafficking and prepare the persons for repatriation.

5. The Thai Government is encouraged to continue its efforts to regularize employment for migrant workers and international organizations are urged to support those efforts. The opportunity for asylum seekers and others to register and obtain work permits in Thailand provides them a measure of security.

6. The Thai Government should work towards ensuring that all children born in Thailand receive birth certificates and that the births are officially registered. Also, it is strongly encouraged that children born in Thailand to nationals of neighbouring countries are recognized as nationals by those countries. The Thai Government is encouraged to initiate cooperation with neighbouring Governments in this regard, including signing of memoranda of understanding.

REGULAR MIGRATION

Migration of Thai nationals abroad

Chantavanich (2001b:73-76), in summarizing the series of ARCM studies on *Thai Migrant Workers in East and Southeast Asia,* has made many valuable recommendations addressed to different offices of the Government. In addition to those, the following interlinked recommendations could be considered components of a single overseas labour migration strategy aimed at targeting a higher-level market niche for Thai workers.

1. The Thai Government is encouraged to strengthen efforts to enforce the provisions of the Recruitment and Job Seekers Protection Act, B.E. 2528, as amended nine years later (in 1994) in order to enhance the protection of migrant workers against various forms of exploitative treatment, such as overcharging of recruitment fees, breach of labour contract, and exploitive working conditions, both in Thailand and in the place of destination, as appropriate.

2. Thailand would benefit from developing and implementing a strategy that would give Thai overseas workers a higher level of comparative

advantage by targeting more technical occupations. It is recommended that the Thai Government should create an inter-ministerial committee, including at least the Ministries of Foreign Affairs, Labour, Education and Commerce, in order to develop such a strategy and to hold consultations with destination countries to promote market niches.

3. The Thai Government is encouraged to strengthen its management of overseas labour migration in order to enhance the benefits to migrant workers by adhering to international norms and instruments, negotiating bilateral agreements with destination countries, strengthening consular services for migrants overseas, and combating fraud and exploitation in the recruitment process.

Migration to Thailand

The studies commissioned by IOM and ILO on improving the management of foreign workers in Thailand provide many valuable recommendations (ARCM, IPSR and TDRI, 2004:63-71 and Martin, 2004:50-51) and should be taken into account in formulating migration policies and programmes.

1. The memoranda of understanding (MOUs) on cooperation on the employment of migrant workers signed with three neighbouring countries provide crucial steps towards regularizing existing migration flows. The Thai Government and the Governments of the neighbouring countries are strongly encouraged to continue cooperating in the implementation of the MOUs, including establishing a regular channel of migration, monitoring recruitment agencies, protecting migrant workers, and ensuring the safe return of workers to the country of origin.

2. The process of registering for a work permit could be simplified and made less expensive. Because of the many steps involved, some requiring trips to the provincial capital, and the relatively high cost, the process is now largely carried out by employers rather than the workers themselves, increasing migrant vulnerability.

3. There is a need for the Thai Government to articulate the rights and obligations of migrant workers and their dependents in line with government policies and programmes. For example, while migrants with work permits in principle may re-register with another employer, few are aware of that right. This situation gives great control over workers to employers and leaves the migrants vulnerable to exploitation and abuse. Sanctions should also be applied to employers and others who withhold original registration documents or work permits from migrants. It is recommended that the Thai Government enact legislation to allow for periodic registration of migrant workers coupled with adequate publicity campaigns.

4. The Ministry of Labour is encouraged to carry out a programme of pro-active random inspection of workplaces to ensure that they are complying with labour regulations and standards, including the timely payment of mandated wages. The Ministry is encouraged to cooperate with employers' groups, trade unions, the Law Society of Thailand and NGOs in monitoring and ensuring adherence to labour regulations.

5. It is recommended that labour legislation in Thailand explicitly state that it applies to all labour, including migrant workers. In this regard the Thai Government's current efforts to amend legislation so that it covers workers in informal and agricultural sectors are noted. Such efforts should continue so that the legislation reflects the realities of the labour market. It should also state that marriage and pregnancy are not permitted grounds for termination of employment, or for forcible return of migrants.

6. The Thai Government is encouraged to sign ILO Convention No. 87 on the Freedom of Association and Protection of the Right to Organise, 1948, and ILO Convention No. 98 on the Right to Organise and Collective Bargaining, 1949, which would ensure the right of migrant workers to organize.

7. The migrant health information system could be further developed to be able to produce

periodic statistical summaries of the incidence of diseases among Thais and migrants.

8. The Ministry of Education, in cooperation with local school districts and relevant NGOs, should ensure that its policy of universal access to education of all children is enacted and that all migrant children and children of migrants residing in Thailand are receiving an appropriate quality of education.

9. More research should be conducted on the economic impact of migration to Thailand. Studies should analyse trends in foreign labour migration, and migration within Thailand to determine if international migrant workers act as substitutes for Thai workers or if they complement activities in which Thais are engaged. More research on wage trends by province is also required to determine if the presence of migrant workers depresses wage levels for Thai workers.

10. Research should also be conducted on the family status of migrants to Thailand, including a review of the education and employment of foreign children. Research should also examine the length of stay in Thailand, the extent of integration and the potential for permanent settlement of migrants in Thailand.

IRREGULAR MIGRATION

The Bangkok Declaration, adopted by several Governments in the Asian and Pacific region in April 1999, provides a valuable framework and strategies for addressing the complex issues involved in irregular migration.

The publications cited in the chapter on irregular migration provide many valuable recommendations. Those with especially useful recommendations include International Organization for Migration (1999), Muntarbhorn (2003), Panam and others (2004), Sweden, Ministry for Foreign Affairs and others (2002), United Nations Development Programme (2004), World Vision Foundation Thailand in collaboration with the Asian Research Center for Migration (no date) and Wille (2001). Implementation of the recommendations offered in the section above for regular migration could be expected to reduce the level of irregular migration and also offer some amount of protection for migrants in an irregular situation.

1. Provincial Labour Offices are encouraged to establish a mechanism for formal cooperation with trade unions, NGOs and other representatives of foreign workers. The National Human Rights Commission and the Law Society of Thailand could facilitate such cooperation.

2. Disease prevention and health-care programmes, including those on HIV/AIDS, should target and be accessible to such mobile and difficult-to-reach populations as migrant sex workers, seafarers and other migrant workers. Increased emphasis should be placed upon multi-sectoral collaboration and cross-border intervention programmes.

3. The Ministry of Labour and the police are encouraged to be more pro-active in investigating workplaces thought to be employing persons who were trafficked and places subjecting workers to abuse and exploitation. A more thorough enforcement of labour standards would likely reduce the demand for trafficked persons. In this regard, training of officials concerned, including local government organizations, about labour migration and trafficking issues should continue to be strengthened.

4. The issue of the cooperation of some local authorities in human trafficking and with employment involving abuse and exploitation should be dealt with in a systematic manner. Improved training of local authorities would be useful, and sanctions against unlawful practices should be strengthened.

5. When enforcing laws against trafficking, forced labour and slavery-like conditions, care should be taken to protect the victims of such practices by (a) ensuring their human rights, (b) providing assistance in making legal charges against traffickers and (c) providing adequate shelter, counselling and repatriation, if desired (IOM, 1999:45).

6. The review of the status of coloured card holders in Thailand, including the granting of

Thai citizenship, should be expedited in order to reduce trafficking in minority groups and migrants.

7. Surveys should be conducted in key border provinces of Thailand in order to estimate the completeness of the registration of migrants carried out by the Ministry of Interior in July 2004. The estimates should identify geographical areas and work sectors where registration was less complete. The surveys should also identify reasons for not registering.

8. More comprehensive research on trafficking of persons to Thailand is required. The research should identify the major areas of origin and destination, the routes used and the means of trafficking. It should distinguish between trafficking of adults and children and between males and females.

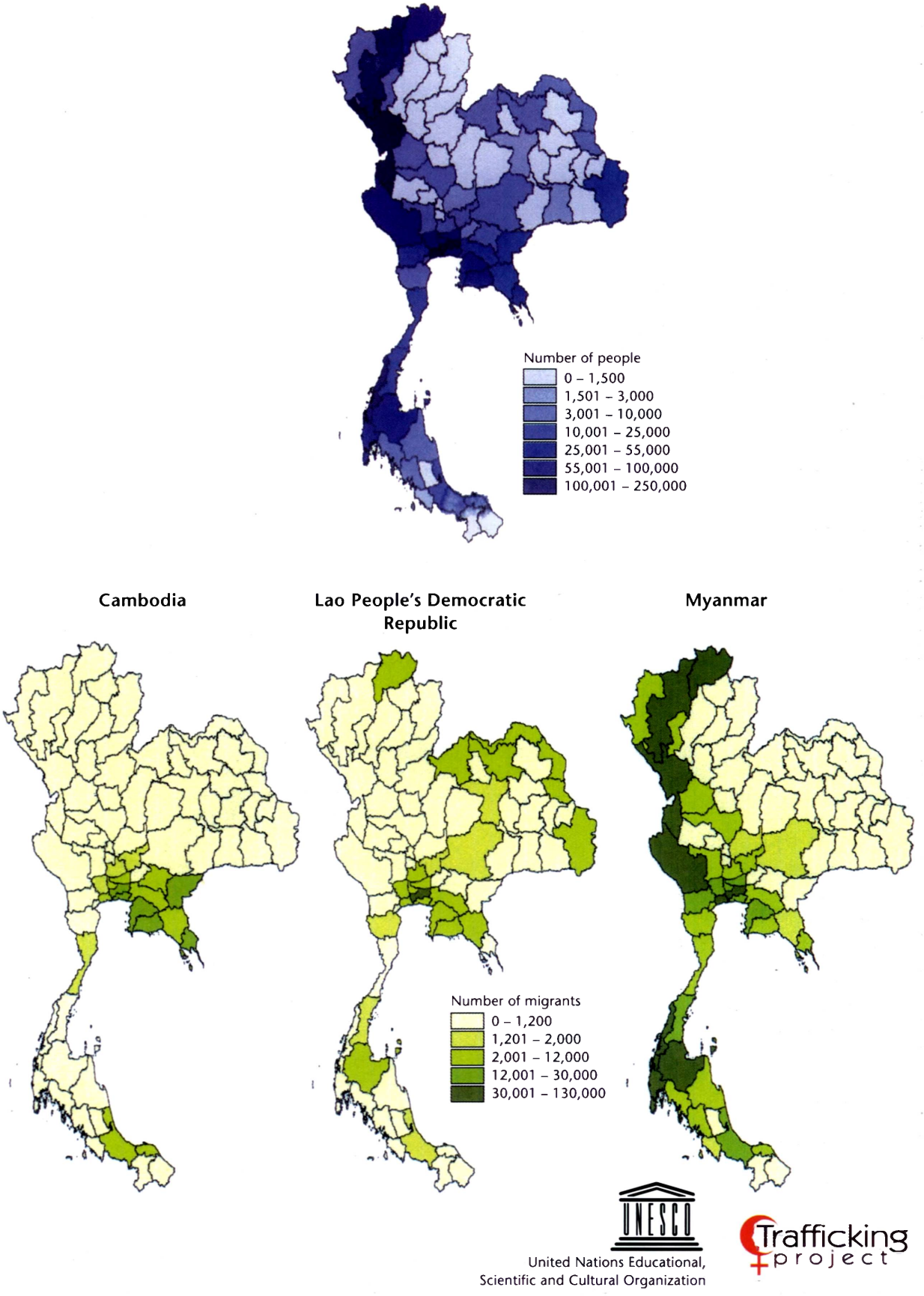
9. Research on HIV/AIDS and migrants should go beyond identifying vulnerability to measuring incidence and prevalence. Information on the most effective interventions would be valuable.

MAP 1
CAMPS ALONG THE MYANMAR-THAILAND BORDER (As at end March 2005)



MAP 2

NUMBER OF MIGRANTS FROM CAMBODIA, LAO PEOPLE'S DEMOCRATIC REPUBLIC AND MYANMAR WHO REGISTERED WITH THE MINISTRY OF INTERIOR (Figures as of July 2004)



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