

Thai Migrant Workers in Southeast and East Asia: The Prospects of Thailand's Migration Policy in Light of the Regional Economic Recession

Conditions in Destination Countries

**Asian Research Center for Migration (ARCM)
Institute of Asian Studies
Chulalongkorn University**



Supported by

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Japan Foundation, Asia Center
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Supang Chantavanich
Director
Asian Research Center for Migration (ARCM)
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Executive Summary

Labor Migration Flows

Migration flows have continued to increase with a shift to the Asia-Pacific region as a destination over the past decade. In 1994, 56,165 workers migrated to this region and by 1999, this was 163,986. Taiwan and Singapore are the major labor markets, employing Thai workers in construction and manufacturing industries. Projections would suggest that the expansion will continue for at least the next few years.

The labor market in Japan has an acute need in the services sector but foreign trainees are confined to other sectors and are predominantly found in the manufacturing sector. Annually, 6,000 Thai workers are accepted as trainees by Japan, and the remainder are employed illegally.

For Malaysia, the flows are spontaneous with predominantly Thai Muslim workers from the south of Thailand to labor markets mostly in the northern states of Malaysia. The ongoing scale of the largely undocumented flow of labor and the potential for absorbing more labor from Thailand is not acknowledged. Some intervention from the Thai government is needed in order to provide workers with their rightful legal status.

The main reasons for Thai workers going abroad are economic - primarily they are seeking better job opportunities and higher wages. Local unemployment (especially fishermen from the South), and social networks that facilitate their leaving, are also given as reasons for moving. Future trends of migration will see more women moving for work in the services sector. This will have an impact on the family and relationships with their spouses, making gender a significant issue in labor migration.

Recruitment System

The current system is totally market driven, with minimal input from the government bodies in regulating private recruitment agencies. Most job seekers comply with agency demands and are willing to pay high fees to get jobs. Many agencies are run by, or backed up by, politicians who use their influence to abuse the system, sometimes resulting in job seekers being cheated. There is an urgent need for the Thai government to intervene, otherwise only the recruiting agencies, and informal moneylenders who help to raise the fees for the workers, will gain any benefit from labor migration.

Between 1996-1998, more than 15,000 workers were cheated by unlicensed employment recruiting agencies and illegal brokers. This resulted in losses of \$463 million, of which the Department of Labor Promotion can only draw an indemnity of \$200 million to pay back to workers. The most common deceitful practice is to charge workers a fee but never find them a job.

Informal social networks also play a significant role in assisting workers to find jobs abroad. The services of such networks can be either money-oriented or gratis. Trafficking syndicates use such networks to cheat female workers. For Japan and Malaysia, networks of friends and relatives are more common than for Taiwan and Singapore. Networks in destination countries provide accommodation and meals to new arrivals and help them find jobs. In the case of trafficking networks, illegal agencies in Thailand work with illegal agencies, brokers or employers in destination countries. State-run employment recruitment services are perhaps the safest, but they are scarce and limited in their reach, unable to facilitate provincial job seekers adequately. Thus, workers are forced to depend on the private agencies.

Laws and Regulations on Migration for Employment

The Immigration Law B.E. 2522, and the Law of Employment Recruitment and the Protection of Job Seekers B.E. 2528 (amended B.E. 2537), are the two major legal instruments on the Thai side. These instruments do not prevent migration, and cannot protect job seekers when they do migrate. There are no regulations to stop travelers who are well-equipped with travel documents to emigrate. Labor control check-points may be able to stop those intending to migrate but when they are disguised as

travelers or tourists, as many are, they cannot stop them. Penalties meted out for swindling job seekers or illegal recruitment are not severe, and thus offer little protection for job seekers.

Laws and regulations in Japan, Singapore and Taiwan are more specific; they attempt to curb the number of migrant workers. They have placed various state organizations working on labor migration under one single unit to facilitate policy and administrative processes, and more efficient coordination. As for Japan, the government does not accept non-skilled migrant workers but allows trainees who receive lower wages and inadequate welfare. The government strictly controls the hiring of trainees. Most Thai workers who are currently employed in Japan are illegal, and are regularly apprehended and deported back to Thailand. The number of deportees was 1,465 in 1996, 1,457 in 1997, and 1,181 in 1998. Yet, official figures suggest that there are still 37,000 Thais who work illegally in Japan, mainly long stayers. Many have the tendency to settle there, especially those who have Japanese partners. The major problem for this group is the legal status of their children born in Japan.

Taiwan has the highest number of overseas Thai workers. The law allows migrant workers to do domestic work, work for the rehabilitation of Taiwan's economic and social development, and do other types of work which Taiwanese do not want to do. Since 1996, Taiwan has adopted a policy to hire migrant workers only for large businesses with huge investments, and to reduce the wage of workers in order to discourage new comers. It also introduced government-to-government negotiation procedures for recruitment processes. Although the law provides welfare to workers, 54% of Thai construction laborers in Taiwan suffer from deteriorating health through undertaking extended hours of work. A policy of deducting partial wages from workers, ostensibly to help them save, is another issue with workers complaining of not receiving those deductions before their departure.

Singapore has the strictest law on migrant workers. The state has a policy of upgrading the national labor force to the skilled level, including foreign workers. Consequently, they set a high levy for the use of unskilled labor and encourage employers to take the workers for skill tests, in order to upgrade their status and wage. Since 75% of Thai workers in Singapore are in the construction industry, skill upgrades and tests prior to departure would benefit the workers. In terms of protection, Singapore is beginning to be aware of a healthier working environment for workers. However, health problems including nocturnal sudden-death syndrome, and deteriorating health among Thai construction workers prevail, probably due to bad nutrition and occupational health.

Malaysia has no law for foreign workers but instigated cabinet decisions and ministerial decrees to administer workers and employers. Nonetheless, most Thai workers are undocumented. The recruitment needs to be regulated through bilateral negotiations. Despite their illegal status, due to religious, language and cultural similarities, the working environment in Malaysia is the friendliest for Thais.

Impact of Labor Migration for Thailand

Positive impacts

Economically, labor migration reduces local unemployment and yields a huge amount of remittances, estimated at more than \$35 billion per year. Remittances are a source of income to rural populations and thereby alleviating rural poverty. For workers, higher wages means that they can have some savings after paying off debts caused by the high recruitment fees. If they manage their savings efficiently, they can have a small business and improve their living conditions. However, most workers do not have income mobility and occupational mobility after their return, and end up wanting to emigrate again.

Socially, returnees are more acknowledged by their neighbors, although only 10% of them become more active in local/community affairs, or local politics. Generally, the skills acquired while working abroad are not used when they return home, and thus there is no transference of new technologies or skills to local villagers, who are predominantly agricultural workers. Female returnees, it was found, often became more self confident and independent, sometimes leading to difficulties with their husbands.

Negative impact

The high costs associated with recruitment fees was found to be a major disadvantage to workers, with most having to work 8-12 months to break even. Some costs are paid to brokers in destination countries to obtain positions. In addition, since most Thais are unskilled workers, they receive low wages and are not welcome in some labor markets, especially Singapore and Japan. An indirect impact of this is that more workers with good skills will migrate while those with low skills will be left in local employment, resulting in lower productivity.

The social costs of migration are not always apparent, especially in the short term. Many workers experience loneliness and homesickness as a consequence of long stays abroad. Deteriorating physical and mental health (especially for undocumented female workers) is common. In regard to family life, extramarital relationships, polygamy and divorce were found to occur, especially among those who returned from Taiwan.

Thai workers are not considered to be adaptable to new working and living conditions, no doubt a result of inadequate pre-departure orientation.

Regarding comparative costs and benefits of migration, the empirical result showed that only Thai workers in Japan and Malaysia are better off since their net return becomes positive. In contrast, their counterparts in Taiwan and Singapore appear vulnerable with cost exceeding benefits. However, for benefit and cost streams analysis under some assumptions, those in Japan and Taiwan turn to receive higher economic status while the rest are unlikely to gain from their emigration.

When considering positive and negative impacts on their lives, almost half of the sample thought there were more positive impacts, thus over half perceived more negative consequences. However, this is only a short-term assessment in that most had only returned for one year.

Employment Opportunities After the Economic Crisis

Opportunities vary between the four destination countries. For Japan, semi-skilled jobs in the service sector are available, but need to be negotiated. Unskilled work should be discouraged, due to the fact that workers cannot have legal status doing such jobs. The trainee channel should be broadened to cover services work if the trainees are provided with appropriate salary and social welfare.

In Malaysia, the manufacturing and service sectors still have jobs for workers, especially in the northern states of the country. Seasonal agricultural work is also available. It is possible that more workers can commute between Thailand and Malaysia, and the common Muslim culture and language shared by Thai workers and Malay employers can allow for a safety net and ample job opportunities.

Construction work in Taiwan may decline within 3-4 years and workers only hired by large manufacturing companies. The biggest labor market for Thais may be shrinking soon if there is no immediate and appropriate intervention from the Thai side. Negotiations to maintain the quota of Thai workers in Taiwan, and the possibility of workers obtaining jobs through government-to-government mediation without broker's fees are required immediately. Also, an alternative to encouraging more labor exports might be to promote greater foreign direct investment in Thailand, given the comparative advantages that Thailand has in this region. In addition, the Thai Ministry of Labor must intervene in the recruitment system to reduce the high costs of recruitment so that Taiwan can remain an attractive destination for Thai workers. More direct recruiting services, provided by the Ministry itself, without involving charges, will also assist in keeping the market viable.

Recommendations

The negative consequences of migration should deter Thailand from adopting a high priority policy on the export of labor. At the same time, those who do migrate need to be supported with protective mechanisms from the government. Simultaneously, alternatives for local employment with good wages must be provided. The following recommendations are proposed:

To the Ministry of Labor

1. Investigate the over all labor market for Thai workers in order to develop a more concrete policy, covering types of employment, level of skills, and locations of destination areas to be promoted
2. Cooperate with the Ministry of Foreign Affairs to initiate government to government dialogues with destination countries in regard to the inclusion of the service sector and the trainee channel to employ workers, increase job quotas and attempts to regulate irregular migration.
3. Intervene in the present recruitment system by urgently providing, from the ministry itself, more services to job seekers; and brainstorm ideas for the establishment of an independent organization to administer labor recruitment, and if possible, collect tax from recruitment fees and allocate it to provinces/areas from where most workers originate.
4. Increase workers' skills and provide nation-wide skill tests and training so that most job seekers will be recruited as semi-skilled workers.
5. Provide reasonable accommodation in Bangkok for provincial workers who need to come for skill tests, and training or orientation, and other preparations before departure. All services should be in one-stop centers
6. Improve the pre-departure orientation program to cover language skills, legal knowledge and cultural practices in destination countries. A manual for specific major destinations should be prepared and distributed to workers. The program should last one week instead of 2-3 hours.
7. Revise the mandate of overseas labor offices to provide protection to both regular and irregular migrant workers. Add more staff and more branches for Taiwan, establish an office in Malaysia, and activate the one in Japan. All offices should focus on protecting workers' rights and occupational health
8. Revise the Law of Labor Recruitment to emphasize more on the mandate of protection. Special articles on female workers and trafficked persons should be added. Penalties for crime syndicates, traffickers and swindlers should be more severe.
9. Cooperate with the Ministry of Health to form a joint medical team to offer medical services to overseas Thai workers in major destinations
10. Earmark an amount from the Assistance Fund for Job Seekers to offer low-interest-loans to workers for their recruitment fee. Also use such loans for skills promotion training.
11. Develop a database on Thai migrant workers in all destinations, including information on swindling, and blacklist all illegal recruiting agencies. disseminate such names widely.
12. Promote local labor markets as an alternative for job seekers. Mobilize Foreign Direct Investment (FDI) for more local job opportunities
13. Develop and operate plans to re-integrate returnees into local socio-economic systems. Channeling workers into situations where they use their acquired skills, and transfer those skills to local low-skilled workers. Encourage the use of returnee's savings for investments to help ensure a

sustainable livelihood that might prevent remigration. Explore the means to restore family life.

14. Campaign for a more productive use of remittances: using remittances for agricultural production and processing of agricultural products, and for investments with tax exemption incentives, with training for Small Median Enterprises (SMEs).

To the Immigration Office

1. Cooperate with the Ministry of Labor to improve labor control check points at the immigration control to prevent irregular migration for employment.
2. Consult with NGOs and embassies to develop active measures to combat female trafficking, and to screen female travelers using tourist visas, or those departing for marriage to certain destinations like Japan, Germany, the Netherlands and Australia.

To the Ministry of Foreign Affairs

1. Instruct embassies to provide protection and assistance to both regular and irregular Thai workers and their family members. A database on overseas Thais who request assistance should be compiled for coordination and monitoring purposes at each embassy.
2. Cooperate with commercial banks to offer services to Thai workers in sending remittances or transferring savings to Thailand.
3. Cooperate with the Ministry of Labor to initiate bilateral agreements with major destination countries with regard to protecting workers' rights and expanding labor markets. Negotiate for an orderly return of deported workers so that they can pursue necessary measures before departure and that the Thai government can have enough time to prepare for sustainable reintegration
4. Cooperate with NGOs to disseminate news about Thailand to overseas workers. Offer regular recreational services, such as, print and visual media (VDO, cassettes, magazines), communal activities, sports, non-formal education, legal advice, and cultural events.
5. Seek new labor markets for semi-skilled work and work in the service sector, excluding entertainment businesses.
6. Mobilize FDI from industrial countries, especially from countries with policies to reduce labor migration, emphasizing the strategic location of Thailand with good access to markets in the Middle east, Europe and Africa, plus reasonable wages and political stability in comparison to other countries within the region.

Abstracts of Country Reports

Social Scientific papers

Japan

Overview of Thai Migrant Workers in Japan Recruitment and Problems of Thai Trainees in Japan

The paper consists of two major parts: "Overview of Thai Migrant Workers in Japan" and "Recruitment and Problems of Thai Trainees in Japan". The first part attempted to explore general trends and various issues in Thai labor migration to Japan. The important issues covered in the research include migration flows including documentation and analysis of statistical data with regard to the major tendencies of migratory movements, the present size, potential, numbers, and geographical distribution, the actual situation of the Thai-Japan migration, the problems and challenges that they face in Japan, and political and social structures that impact on Thai migrant workers in Japan. Our findings reveal that the typical Thai migrant workers in Japan are undocumented, worked in either manufacturing or service industries, had a relatively high educational level, paid high recruitment fees, had friends or relatives already in Japan, remitted a large portion of their income, and migrated to Japan not only for better income but also for wider experience and improved social status, though economic motivation was strong. Most evaluated their migration as positive although the study confirmed that there are severe problems and conflicts that Thai migrant workers, mostly female, face in Japan. The second part focused on Thai trainees in Japan in order to understand the recent trends of the trainees, and to examine the most important question "Are Thai trainees workers?", through careful assessment of each training recruitment process. The emphasis was on illustrating the cases of swindling and the conclusion points out the structural problems and flaws of the trainee channels which the Japanese government provide as a so-called "back-door policy" for migrant labor.

Taiwan

Working and Living Conditions of Thai Contract Workers in Taiwan

Based on data set from the 1999 Survey of Thai Migrant Workers in Taiwan, this paper describes the general characteristics of Thai contract workers and explores their working and living situations, including income expectation and adaptation issues. The findings are summarized as follows. The reason for migration is very straightforward: the pursuit of higher pay in Taiwan. The migration cost is very high (about 140,000 Baht), probably due to the burden of interest charged. In terms of personal characteristics, Thai workers were concentrated in northern Taiwan and were young males with limited education. Most Thai workers realized their migration expectations, as they enjoyed good pay in Taiwan. The median monthly income is close to NT\$ 25,000. Thai workers in the construction industry have a much higher income level than their manufacturing counterparts. In terms of job-expectation, however, the former are mostly dissatisfied while the latter mostly satisfied. In terms of satisfaction with income, construction workers tend to feel that they are paid fairly for their work. A higher proportion of manufacturing workers are either dissatisfied or highly satisfied. Most Thai workers do not fully understand their work contract and they tend to work overtime. About a half of them have some problems in the workplace and in health. In comparison to their manufacturing counterparts, construction workers seem to have more problems with their job, workplace, and health. The survey also indicates that there is not much difficulty in dealing with the Taiwanese. The psychic cost of Thai workers might be very high, as nearly all of them often feel very lonely.

Undocumented Thai Migrant Workers in Taiwan

Although the number of undocumented Thai workers in Taiwan is relatively small in comparison to the total Thai labor force in the country, recent statistics shows that more than a few thousands Thai workers, mostly male, are detained by Taiwanese authorities because of their illegal status. In this paper, interviews with undocumented Thai workers, both female and male, are illustrated in case studies. Some

of these workers have been deceived by recruitment agencies and brokers. This paper reveals the means to enter or re-enter the country illegally with regard to visas and passports, and the problems and difficulties the undocumented Thai workers face in Taiwan. The paper also describes the types of the assistance for the undocumented workers from various GOs, NGOs, and temples.

Malaysia

Thai migrant workers in Malaysia

The sample group was composed of 62% male laborers and 38% female laborers and the majority were 21-30 years old (52.7%). 37% were under 20 years old and some were older than 30 years old. 56.4% graduated from primary school, 26.4% graduated from secondary school. Families had an average income of less than 5,000 baht (48%); the rest had an income of around 5,000-20,000 baht (44%). 22.7% of the migrant workers were previously farmers, 15% were unemployed, 9% were businessmen, 11% were fishermen. Even though most of them were not farmers, they had 1-20 rai of family land to work on. Regarding the travel procedures and work in Malaysia, 40% of Thai migrant workers said that the reason that they came to work in Malaysia was because they could not find jobs in Thailand; 47% were not satisfied with their low income in Thailand. Most of the migrant workers entered Malaysia by using border passes and temporary working passes or were without any documents, for it was usual for Thai-Muslims to pass through the Thai – Malaysian border. Malaysians and Thais who lived near the border shared similar language and culture and had kinship ties for a long time. The main reason that Thais went to work in Malaysia was economic; 30% wanted to have working experience; 16.4% wanted to find better working opportunities, some followed their relatives or spouses, some went because it was nearby, some went because they used the same language, and some went because employers persuaded them to go. As for type of work and conditions, 42% of Thai migrant workers worked in restaurants, 16.4% worked in the agricultural sector, 10% worked as factory workers, 7.3% did fishery jobs. In terms of gender, women did not do jobs such as fishing, barbering, as coolies, as vendors and as masseuses. There is a cultural similarity between Thailand and Malaysia. In fact, 75.5% of Thai workers were able to understand the Malaysian language. 56% had new spouses in Malaysia. This is important data because their marital status had an influence on their staying in Malaysia. It was found that 73% of Thai migrant workers were not sure whether they would return back to Thailand or not. Only 21% answered that they would return to Thailand when their contracts ended and only 3.6% would return in 1-2 years. This shows the trend of Thai workers towards remaining in Malaysia for a long time or maybe permanently. The impact of the migration on Thailand and Malaysia can be drawn from the data that 74.5% of Thai migrant workers in Malaysia sent money home, 25.5% did not send any. The reason that there were less workers who sent money back home than workers who went to work elsewhere was because workers could go back and forth between Malaysia and Thailand as Malaysia bordered on Thailand. Workers who used a border pass that was valid for 14 days had to return back to Thailand and then went to Malaysia again; these workers could bring money back by themselves without sending back money through any system. The frequency of sending money back home was not the issue.

Singapore

The Regional Economic Crisis and the Migration of Thai Workers to Singapore

This paper reviews the general situation of Thai workers in Singapore, including the numbers, recruitment and employment, discusses the ongoing debates on immigration issues in Singapore, which also examine the labor market and illegal immigration in Singapore, explore the state of the art in migration research in Singapore, describe the political structure that impacts on migration issues in Singapore. The role of the Singapore government in directing the pattern of immigration will also be discussed to give fuller insight into the issues. Singapore's policy on migrant workers stress higher value added occupations and not labor intensive but capital driven manufacturing and knowledge-based industries. Therefore, they allow labor intensive migrant workers to come to work in only a 1: 5 ratio to the Singaporean work force. All migrant workers, no matter what their nationality, have to follow the law, especially the Immigration Law

and regulations as to duration of stay. In addition, the Singaporean government favors the hiring of skilled rather than unskilled laborers. All of migrant workers have to pass a Skills Evaluation Test (SET). The test is conducted both in the countries of origin and in Singapore by Singaporean officials. During the time of economic downturn, Singapore had a policy to reduce the impact of the economic recession by supporting big construction projects such as housing projects, schools and subways. This would enable migrant workers to continue working and the government would benefit from cheaper than usual construction costs. Finally, even though the Singapore government accepted the need to use migrant workers, they tried to reduce this dependency by improving their domestic industries to be more technologically oriented with improved standards of work. This improvement would encourage Singaporeans to work in such jobs and reduce the number of migrant workers.

Legal papers

Japan

Immigration Law and Foreign Workers in Japan

The Japanese Immigration Office is under the Ministry of Justice and has responsibility to supervise the immigration of 8 regional offices, 5 city offices, and 89 small city offices, including 3 alien detention centers. Japan used the immigration and naturalization law as their prototype. However, they do not have the policy of naturalizing alien workers to become citizens as in America. Japan had a policy of accepting alien workers who are professionals but is strict as to accepting unskilled laborers. Besides that, Japan allows aliens to stay only temporarily. The government follows a policy of bringing in trainees to solve the problem of the shortage of unskilled workers. Persons who have visas usually can stay in Japan for 90 days but could not work. Persons who want to come to work must follow the procedures of requesting permission at the Japanese embassies in the countries of origin. The Japanese embassy would issue a Certificate of Eligibility visa for 23 types of occupations such as diplomats, civil servants, university professors, artists, religious missionaries, newspapermen, investors, legal profession/ accountants, medical practitioners, researchers, teachers, engineers, humanitarian and international workers, employees in the companies who were transferred to work in other positions, entertainers, skilled workers, cultural affairs personnel, persons who come to visit temporarily, university and school students, trainees, persons who come to join their family etc. Persons who receive the first 16 types of visas are able to work while persons cannot work if they have the last 7 types of visas. Persons who overstay their visas would be sentenced to imprisonment of no more than 3 years or a fine of no more than 300,000 yen or both. (section 70 of the Immigration Law). The deportees have no right to return back to Japan within a 1 year period. The Ministry of Justice is preparing to amend this regulation to be extended for a period of 5 years. Workers who worked legally have the right to receive social security welfare benefits no matter what their nationality. For the workers who work illegally, they would not be able to receive these benefits as employers do not want to register these workers with the Office of Social Security (only companies that had more than 5 workers would be registered). In case of accidents incurred by illegal migrant workers, workers would have great difficulty in receiving compensation. There was a trend towards steadily increasing crime among foreigners from 1991 onwards. This resulted in an increasing number of cases that needed interpreters or special care for the accused. The problem of cultural adaptation of foreigners to Japanese society was chronic. As for local politics, some of the local governments started considering proposing foreigners to have the right to vote. However, this proposal had not yet passed through the legislative process.

Taiwan

Labor Code on the Employment and Management of Foreign Nationals in Taiwan

The major law for supervising foreign workers in Taiwan is the Employment Service Act or Labor law. The Employment Service Act of Taiwan has various sections which specify the regulations for employing foreign workers and the roles of employers and foreign workers. Also, they clearly specify punishments for employers and employment recruitment companies which make persons responsible if they violate the law and cause the government to lose benefits. The law applies to all parties including the illegal foreign workers who will be sent back to their home countries. Nevertheless, in reality there are problems in

enforcing the law such as in the case of Thai workers who flee from their employers to work in other jobs. When they come to give themselves up through NGOs, they have to pay their own plane fares (approximately 4,000 Taiwan dollars) to go back to Thailand.

Malaysia

Foreign Labor in Malaysia

The major laws of Malaysia are the Immigration Act 1959 (Amended 1963), the Employment Act (Amended 1998) and the Occupational Safety and Health Act 1994. The Immigration Act specifies that persons who enter country to work must have an employment pass which is issued by the Controller of Immigration and must also have an entry permit. There are 2 agencies that supervise these matters; the Immigration Division which is under Ministry of Interior and the National Police Department. The Office of the Attorney General would only be responsible for criminal cases involving persons who enter the country illegally. Foreign workers in Malaysia was a problem that the legal profession did not pay much attention to. As for the benefits, lawyers would earn less income than in other criminal cases. Nevertheless, non government organizations were interested in these matters. There were 2 organizations that provided assistance to foreign workers, the Women's Aid Organization and Tenaganita. These two organizations were unable to do much as the government strictly supervised them by using the internal security law to keep them under watch. The Women's Aid Organization assisted foreign workers by providing a refuge for Indonesian women who worked in domestic work and were physically and sexually abused by their employers. As for women workers who did domestic work, there was a penalty for employers who treated the foreign workers improperly (such as beating, abuse, etc) which was the prohibition for such employers to ever again hire foreign workers to do domestic work. Besides that, employers had to inform women workers of the type of job that the workers would do before hiring them as there were some jobs that women workers could not do as they would violate the precepts of their religion. The problem of illegal foreign workers and the business of inducing foreign workers to enter illegally leads to the problem of other crimes. They include encroachment on public and private property by foreign workers who were mostly Indonesian. As for Thai workers, the problems that occurred were drinking, gambling, and illegal sexual behavior. As for the opportunity of being naturalized as Malaysians, part of constitution regarding nationality stipulated that to be naturalized as Malaysians is very difficult as the problem of nationality is a very sensitive one for a country which has many ethnic groups. In the past, there had been an uprising due to dissatisfaction of certain ethnic groups in 1969. There is only a slim chance that foreign workers can be naturalized as Malaysians.

Singapore

Legal Issues Relating to Thai Migrant Workers

Two laws of Singapore regarding foreign workers are the Immigration Law and the Labor Law and the Singapore Immigration and Registration Agency is the agency which enforces the Immigration Law under the Ministry of Interior. As for the ones who came to work, most of the regulations are related to the employment pass and work permit which is issued by the Ministry of Manpower. As there has been an increasing number of persons who entered Singapore illegally to work, the punishment for such persons is becoming increasingly severe. However, as a matter of fact, very few people are penalized under this section as the officials cannot find evidence to prove that persons who are arrested are actually brokers or the ones who lure aliens into the country. Therefore, they can only be charged as persons who assist aliens to enter the country illegally. Labor law is composed of major laws such as The Employment of Foreign Workers Act 1991 and other 6 related laws. The law specifies that foreigners who are eligible to receive an employment pass are professionals who have at least a bachelor degree. From May, 1999, The Ministry of Manpower issued a work permit I.D. card, this I.D. card is a work permit card, border pass, and permit to enter Singapore. There would be a photograph and the fingerprints of the foreign worker on this card. In the past, the authorities prevented foreign workers from fleeing by holding their passport and work permit. Thus, they only have copies of these documents. However, copies of these documents can be easily falsified. The authorities therefore issued a new card which foreign workers have to carry with them all the time in order for the authorities to be able to check whether the workers have legal status or not. Also, they can prevent workers from falsifying documents. The Immigration law

forces all foreign workers to have their fingerprints on their cards and this data is put into the computer main frame that could be logged on. Consequently, the control of foreign workers and crime is more efficient. In the case of losing or damaging ones card, workers have to notify the authorities within 14 days so as to obtain a new I.D. card. If the authorities decide to end or cancel the work permit of any foreign worker, the employer has to stop hiring such a worker within 7 days after he has been notified, and the work permit of such worker has to be returned to the authorities within 7 days after the hiring of such worker stops. As for collecting the levy, the Singapore government applies the policy of collecting a levy in order to control the number of foreign workers so that it will not be too large. Besides that, there is a setting of proportional quotas so as to require employers to hire local workers as well. Employers must pay a levy for each foreign worker on a monthly basis. The levy rate depends on the type of job and the qualifications of the workers. If employers do not pay the levy in 14 days after the end of the month, they will be charged 2 to 5% interest in Singapore dollars.

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Introduction

Andreas Germershausen

This research project, "Thai Migrant Workers in Southeast and East Asia: The Prospects of Thailand's Migration Policy in Light of the Regional Economic Recession", addresses the situation of Thai labor migrants in four East and Southeast Asian countries. Within the project, individual studies have been undertaken both in the sending and receiving countries, namely in Japan, Malaysia, Singapore, Taiwan and Thailand. The four foreign countries were selected because they have become the major destination countries for Thai workers in recent years. With regard to both the studies in Thailand and the destination regions, the focus of the research is laid for one, upon recruitment structures into foreign labor markets and secondly, on the social networks which bridge international borders and facilitate cross border migration of Thai citizens. At the same time, the project is not limited to legal migration phenomena, but also covers undocumented migration processes.

Furthermore, the research addresses the costs and benefits which arise for Thailand from sending workers abroad. In this context fall the analysis of the migrants' expected incomes, their expenses for job placement and living abroad, their remittances, generally speaking, the impact of labor exportation on the Thai economy. This appears to be especially urgent in the light of the present economic crisis, which bears a severe impact upon the costs and benefits of Thai migration. On the one hand, it has to be expected that migrants' economic prospects abroad are being diminished as the economy is slowing down. On the other hand, the Thai government is interested in sending more Thai workers abroad. A parallel growing interest of Thai workers can be expected as employment in Thailand is being reduced.

The research approach is comparative and interdisciplinary: comparative, due to the focus upon the four destination countries; interdisciplinary, as in the case studies, empirical research and analysis will be undertaken by social scientists and legal experts. The legal experts focused upon laws and regulations relevant to incorporating migrant labor into the respective societies, while the social scientists concentrated on the social networks and linkages between the home and destination regions and on the labor recruitment systems. The project's interdisciplinary approach enhances again the comparative potentials of the research, as it allows more specific comparisons on the political, social and the legal level between any of the named countries.

A research consortium has been formed, comprising teams in the individual countries and a research team at the applying institution: it conducted the study on Thailand and co-ordinate the work. The project has been designed in comprising a large set of cases and partners. The outlook for a successful realization of the work is positive, though the project can build up upon communal research experience with most of the teams from co-operation in a prior project.

The project thus can build up upon preliminary studies on out-migration of Thai workers, "Thai Migrant Workers in East and Southeast Asia 1996-1997" published by Asian Research Center for Migration, which had been done in preparation of a workshop held in 1996 (Chomchai/Gukun on Brunei, Hong/Lee on Hong Kong, Kang on South Korea, Nagayama on Japan, Tsay on Taiwan, Wong on Singapore, Chantavanich/Risser on migration theories and regional developments, all 1996). The conference papers provide in part a valuable basis for the present project as they allow a first insight into current tendencies of Thai migration. However, some limitations of the preparatory work have to be stated, as the discussion in 1996 was less focused than what is being planned for the future comparative analysis, and, due to lack of funds, not all of the earlier papers were based on empirical field studies. In the present project, these limitations have been reflected upon, and high emphasis is being laid upon a homogeneous methodological approach. While all accessible quantitative data have been evaluated in the project, the main empirical research have been done by both quantitative and qualitative field studies. A number of reasons can be given for this methodological decision, not the least important is that a major part of the present migration processes is undocumented, which can best be analyzed with a qualitative approach.

Although employment of Thai workers abroad has been an important issue for Thailand during

the last three decades, information is lacking both on the recruitment of Thai migration and on their situation in the destination countries. It is expected that the outcome of this research will have an impact on practitioners and decision makers in the political field.

The primary focus of the research in the destination country in this volume was upon recruitment structures into foreign labor markets, and secondly, on the social networks which bridge international borders and facilitate cross border migration of Thai citizens. The research approach, which was also used in studies on migrant returnees in Thailand, was comparative, due to the focus upon four countries; and interdisciplinary; as in the case studies empirical research and analysis have been undertaken by social scientists and legal experts.

The questionnaire was developed based on the ILO (International Labor Organization) Guideline (1997) with special reference to migration progress section. It was also modified to suit the case of destination countries. Information was collected from those who were at the time of research in the destination countries. This questionnaire includes the following sections: personal information, household situation before leaving, reasons for moving, living conditions abroad, attitudes towards migration, and remittances. Each section was assigned to yield details on migration experiences of the migrant workers. On the other hand, information was also obtained from in-depth interviews with key informants except for Malaysia. This was to collect more detailed information on particular issues from key informants, such as government officials and NGO workers, to support the quantitative information obtained in the survey.

ARCM partners in destination countries took main responsibilities for procedures of data collection and analysis. The experts, as described below, are from various disciplines in the case of social scientific studies. All interviews were conducted by the chief researchers in the destination countries with support from other experts and from ARCM.

Japan:

Social scientific scholar:

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Legal scholar:

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Malaysia:

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Legal scholar:

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Research assistant:

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Associate Professor Michael Ewing-Chow, Faculty of Law, National University of Singapore

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Professor Dr. Ching-lung Tsay, Academia Sinica

Research assistant: Mr. Smarn Laodumrongchai, ARCM, Institute of Asian Studies, Chulalongkorn University

Legal scholar:

Pi-yuan Tseng, Division Chief of Labor Utilization, Council for Economic Planning and Development, Taipei, Taiwan

The research in the destination countries was conducted in the following times. In Japan, the survey took place in spring 1999 and interviews with key informants in November 1998, and spring and summer 1999. In Taiwan, both the survey and the interviews with NGOs and in-depth interviews with female migrants who were detained in immigration facilities were conducted in April and May 1999. In Malaysia, the survey in the field was conducted in 1999 while key informant interviews were not carried out. In Singapore, the field work was conducted in June and August in 1999 and expert interviews in June and July 1999.

As for sampling techniques, some points need to be mentioned. In Japan, due to the difficulty of access to undocumented migrant workers, quasi-snow ball method was used in which the partner-researcher personally knew the migrant workers who cooperated with responses to the questionnaires and also introduced the researcher to other migrant workers.

The basic attributes of Thai migrant workers in destination countries' interviews can be summarized in the following table, country by country:

	Japan	Taiwan	Malaysia	Singapore
Sample Number	*97	183	110	145
Major Survey Locations	Tokyo, Shizuoka, Aichi, Mie, Chiba, Osaka, Kanagawa, Nagano, Yamanashi, etc	Taipei, Taoyuan, Taichung, Kaohsiung	Kuala Lumpur, Selangor, Kedah, Kelantan	Singapore
Gender Ratio	Male 57% Female 43%	Male 78.1% Female 21.9%	Male 61.8% Female 38.2%	Male 95.8 % Female 4.2 %
Major Occupation	Service 36% Factories 28.9% Entertainment 22.6 Construction 8.2%	Manufacturing 66.7% Construction 33.3%	Restaurant 42% Agriculture 16.4% Factory 10% Fishery 7.3%	Construction 75 % Industry 15 % Service and general office work 10%

* does not include trainees whose questionnaires were not used in quantitative analysis

Once the interviews were completed, a code book was constructed. This was to guide the coding of information from the questionnaires before entering them into the computer. This task was done at the ARCM. The computer experts were assigned to code questionnaires. With facilities provided at ARCM, all data were entered into microcomputers, using a data entry package which had been programmed with consistency and range checks. A range of descriptive statistics were used to analyze the data. These included frequency distributions and cross tabulations. The analysis was undertaken by using the Statistical Package for the Social Sciences (SPSS) Program.

Part I

Social Scientific Papers

Overview of Thai Migrant Workers in Japan

Chiaki Ito
Phanee Chunjitkaruna

Introduction

This Japanese social science case study, part of a larger research project "Thai Migrant Workers in Southeast and East Asia: The Prospects of Thailand's Migration Policy in Light of the Regional Economic Recession" was organized by Asian Research Center for Migration (ARCM) in 1998-2000. The main focus of this part is on the economic, political, and social aspects of Thai migration to Japan. The research tried to investigate 1) migration flows including documentation and analysis of statistical data with regard to the major tendencies of migratory movements, the present size, potential, number, and geographical distribution, 2) the actual situation of Thai-Japan migration, 3) the problems and challenges that they face in Japan, and 4) political and social structures that deal with Thai migrant workers in Japan.

This part will proceed in the following order. First of all, the overview of the current situation of Thai migration to Japan will be discussed, along with various sets of statistics obtained in this research, focusing on new entrants, stayers, unofficial entries, estimation of undocumented workers, and geographical distribution. In this section, the changes and trends of Thai migration to Japan will be analyzed. Secondly, the findings of the 97 questionnaires in the field research will be described and analyzed in detail. This will cover a large range of important issues relevant to Thai migrant workers in Japan such as demographics, background in Thailand, reasons of migration, process of entry, recruitment, situation in Japan, (duration of stay, occupation, work condition, income, skills, expenditure, job turnover, and general life), remittance, problems, (problems at workplace and problems faced especially by female workers, sickness) and suggested solutions to problems. Although most of the issues will be discussed based on the data from the questionnaires, problems and suggested solutions to the problems, which the data from the questionnaires did not adequately provide, will be examined based on interviews with key informants. Thirdly, the political and social structures that impact on Thai migrant workers in Japan will be presented briefly as to how they are involved in and affect the Thai migration to Japan. The key institutions examined will include governmental institutions such as ministries, local governmental institutions, semi-governmental organizations such as training organizations, non-governmental organizations, and others such as medical clinics and volunteers. Lastly, conclusion will be drawn to argue for the importance of continuous interdisciplinary studies with emphasis on non-economic aspects of Thai migration to Japan.

Brief summary of research findings are as follows:

Key findings on the general migration trends from Thailand to Japan:

1. Almost all of Thai migrant workers to Japan have been undocumented and unskilled labor since the beginning.
2. Thai labor migration to Japan started to increase dramatically in the late 1980s and reached its peak in 1991 and 1992. However, it began to decline gradually in the mid 1990s and dropped to lowest level in 1998. This is the case in both flow and stock. This is assumed to be due to the revision of Japanese immigration regulations but also can be attributed to a combination of other complex, social and economic factors.
3. In 1998, the Japanese government estimated that at least 37,046 Thai nationals were over-stayers in Japan and they were involved in activities beyond what their visas specified. Almost all of them entered Japan with a short-term visa such as tourist visa, and the majority engaged in unskilled labor. Although the estimated number by the government is above, NGOs have estimated it to be around 40,000 to 50,000.
4. Although female migration predominated in the early phase of Thai labor migration to Japan, Thai

male workers have been rapidly catching up with female workers in number starting the mid 1990s.

5. Occupations of Thai female migrant workers in Japan became more diverse and shifted from working in the sex related industry to manufacturing and food processing industry.
6. Under the Japanese immigration law, all foreign residents in Japan are required to register themselves at the municipal office of the city, ward, town, or village in which they live. The number of Thai nationals in Japan who are registered with the Japanese local government, mostly with legal status, has risen recently to 23,562 in 1999. This is due to the increased marriage between Thai females and Japanese males, making many of them legal and long term residents in Japan.
7. Trainees are recently on the increase. Many of them are sent to Japan as de facto "legal unskilled laborers" through various channels and organizations. Many are "employed" in small and middle size businesses in the manufacturing and food processing industry. It is believed that they will be the major supply source for legal unskilled works in the future. Important findings on Thai trainees in Japan are reported in a paper prepared by Dr. Noriyuki Suzuki.
8. Despite such a large number of Thai migrant workers in Japan, there has been no comprehensive and interdisciplinary study on the topic prior to this research.

Key findings from the questionnaire survey:

1. 58 percent came to Japan between 1990 and 1993, which confirms the government statistics for the peak years of Thai migration to Japan and our research as representative.
2. 38 percent had new partners in Japan and 19 percent married in Japan. This has been an increasingly important issue, as more and more Thai workers, mostly undocumented, get married among Thais or to Japanese in Japan, and give birth, creating a variety of problems because of their legal status.
3. 64 percent finished high school or higher, while only 28 percent finished secondary school or lower. This confirms the literature reported previously that Thai migrants to Japan are not necessarily poorly educated individuals.
4. The mean amount of monthly income in Thailand was 18,000 baht. 25 percent earned as much as 20,000 baht or more a month in Thailand. In general, most respondents were earning above the national average in Thailand.
5. Prior to migration to Japan, 21 percent worked in Thailand in the service entertainment industry, including: restaurants, cafes, night clubs, bartenders, beauty salons, dancers and singers, laundry service, hotels; 14 percent as farmer; 14 percent as helper in a family or company, and 13 percent in services and sales, other than the entertainment sector.
6. 76 percent did not have any experience working abroad before coming to Japan. This is a fresh finding because it is usually believed that many of the Thai migrant workers to Japan are repeaters.
7. In a multiple reply question, the majority of the respondents attributed their migration to economic reasons, such as unsatisfactory earnings in Thailand. However, there were also some respondents who replied that the reason why they came to Japan was for adventure and for better social status. Also, some responded that they were motivated by others.
8. About one third of the respondents perceived themselves "little worse than the average" or "a lot worse than the average" when comparing themselves to other households where they came from in Thailand. Yet, actually, their incomes were not as low as they thought; some of these respondents earned over 20,000 Baht a month, belonging to the highest income group of the respondents. On the contrary, those who perceived themselves "litter better than the average" got lower incomes than

the others. Thus, how much they actually earned in Thailand has less effect on the migration motivation than how they perceived their economic situation.

9. 86 percent obtained their information on migration to Japan through their relatives and friends in Thailand or Japan as the primary source. This is a change from the past when most information came through recruitment agents and brokers.
10. Prior to migration, 76 percent expected to work in Japan for a short period of time, less than a year, but most ended up with working much longer. In fact, about 70 percent have stayed in Japan for over 5 years and 10 percent for over 10 years. This indicates that many migrants, without prior planning, are becoming settlers in Japan.
11. Approximately half the respondents arranged migration to Japan without or with little help from brokers or recruitment agencies. Reportedly, there has been an increasing number of Thai migrant workers to Japan of this sort in recent years. Those who depended on brokers and recruitment agencies paid an average of 180,000 baht for recruitment fees and 8 percent paid over 400,000 baht.
12. 55 percent entered Japan with a tourist visa. Despite the ever stricken immigration control by the Japanese immigration, 89 percent reported that they did not have any problem at the border control.
13. 35 percent worked in service sector, 30 percent in industry and manufacturing, and 23 percent in entertainment. In this survey, there were only few farmers and construction workers, which does not represent the true occupational distribution in Thailand.
14. The average amount of monthly income in Japan was 63,360 baht. Over half earned over 65,000 baht a month, including 10 percent over 80,000 baht and 4 percent over 100,000. 61 percent of the respondents who earned over 80,000 baht a month in Japan were undocumented workers. All respondents earned higher incomes than they earned in Thailand.
15. The average remittance amount was 120,000 baht per sending. 72 percent remitted at least once in 2 months. With the remitted money, many bought or remodeled their houses or bought land.
16. Despite the fact that many respondents engaged in unskilled labor and many criticize that skill transfer had not taken place in Thai-Japan labor migration, 88 percent in our research study admitted that they have acquired new skills in Japan.
17. Due to the overall positive perception of their migration experiences, 67 percent answered that they would encourage their friends to go to Japan.

Key findings from interviews with Japanese key informants:

1. A number of severe problems often occur among Thai migrant workers in Japan. For instance, 4,089 cases in 1993 alone were reported to the Thai Embassy in Japan. Several other government offices and NGOs received complaints from Thai workers in Japan.
2. Types of problems that Thai male migrant workers and female migrant workers face are different. Male workers tend to encounter problems regarding labor issues such as levy, dismissal, labor insurance, and unpaid wages. On the contrary, female workers tend to face troubles and issues that are more rooted in personal and social aspects of their life, such as man-woman relationship, marriage, divorce, parenting children, legalization of infants, and domestic violence. Nevertheless, abuses of human rights and violation of labor laws by employers such as fraud, unfair treatment, unreasonable dismissal exist regardless of gender.
3. Many Japanese NGOs and doctors warn about the current situation of HIV/AIDS prevalence among Thai migrant workers in Japan and urge that the problem could possibly develop into a major crisis in years to come. According to studies by the Japanese Ministry of Welfare, HIV/AIDS infection rate among random sample of Thai nationals at a obstetrics and gynecology clinic outside Tokyo

was 5.0 percent in 1993 and the number rose between 1989 and 1993.

4. According to NGOs and government officials, Thai migrants in Japan, in comparison to other migrants in Japan, tend to isolate themselves from the Japanese public and try to keep as low a profile as possible. Although this is natural for any nationality with undocumented status, Thai migrant workers, both male and female workers, show a strong tendency for such behavior.

Thai migrant workers in Japan in our research evaluated their overall migration experiences and outcomes quite positively. In short, the primary goal of many Thai migrant workers, earning better income, is met; most migrant workers are content with the fact that they migrated. This is mainly due to the fact that these respondents paid relatively low fees to the brokers, earned a high amount of income, succeeded in remitting large amounts, and built or renovated their houses on returned to Thailand. Such economic benefits would have occurred if they had stayed and worked in Thailand.

Although the economic benefits are indeed enormous, so are the problems and challenges that the Thai migrants face in Japan. This is the view expressed by many NGOs and should not be understated. As found in the research, concealed, but severe hardship persisted among many Thai migrants in Japan, ranging from failed marriages, to domestic violence, legalization of migrant's children, injuries and death resulting from accidents, housing, improper medical care, and serious illness including mental disorder and HIV/AIDS. As more and more Thai nationals, who were once migrant workers, started settling down in Japan, it will be crucial that the laws and welfare will be inclusive to all, not only the migrant workers.

Similarly, academicians in Japan point out that very few social science academic studies covered and paid adequate attention to the non-economic concerns of the Thai migrant workers in Japan. This research, therefore, can serve as a model of integrated interdisciplinary studies on Thai migrants in Japan. With adjustment to the changes of the current situation of the Thai workers, further in-depth research should be conducted to investigate specific issues; informal social network, language barrier and personal relationship, settlement of Thai women married to Japanese men, children of Thai migrant workers, family reunification, and accommodation of the Thai citizens to Japanese society. These problems are serious and complex, yet almost no serious studies have touched on them.

Data Collection, Implementation of Analysis, and Terminology

In the first phase of this research, the literature and other relevant sources on Thai migrant workers in Japan have been reviewed to be utilized as secondary data. It was found that in spite of a considerable number of Thai citizens migrating, working, and settling in Japan, both Thai and Japanese academic literature on the topic had been neglected until the late 1980s and early 1990s. The best available reports and data in the 1980s were mostly from non-academic writers, such as journalists and so-called concerned NGO activists. This is attributed to the fact that the majority of Thai migrants are undocumented and are difficult to access for formal academic research.

Today, although there is an increase in the academic literature, studies on Thai-Japan migration are not yet given serious attention or priority among the migration scholars. There have been few research studies published in books, but rather mostly in short articles, papers, and reports, in which Thai-Japan migration is often treated as a part of broader studies on in-migration to Japan. In addition, most of the publications were written, not by migration specialists, but by economists and sociologists whose interests are centered not around migration systems, but rather on specific issues such as females, labor, and medical

In the latter phase, primary data has been collected by using questionnaires in the field research in Japan. Andreas Germershausen and the research team at ARCM developed the questionnaires. Phannee Chunjitkaruna, with occasional participation by Dr. Noriyuki Suzuki and Dr. Supang Chantavanich who provided support, the undertook questionnaire interviews in the field in Japan. Because of the fact that most Thai workers in Japan are undocumented workers, it was not an easy task to reach them at all. However, with the great effort of Phannee Chunjitkaruna and good cooperation from the Thai workers, as many as 97 questionnaires were collected. The detail of the fieldwork is described in

the following parts.

As for data entries, Samarn Laodumrongchai and several assistants under his supervision at ARCM keyed the initial surveyed information of the questionnaires collected into SPSS. Chiaki Ito, with assistance from Akaphop Yanawimud who is knowledgeable in statistics and data analysis, was in charge of main frequencies, cross-tabulation, analysis, and composition of the texts.

In addition to the data from 97 questionnaires collected in the field, Chiaki Ito conducted interviews with a number of key informants and experts in November 1998 and in the spring and summer of 1999. All interviews were conducted in the Kanto area of Japan (See the first and second map) where the majority of our questionnaire respondents came from and where the majority of Thai migrant workers reside and work, according to information available. Interviews were carried out either face-to-face or over the telephone in the Japanese language, in dialogue approaches most of the times, though some core sets of questions were in the hands of the interviewer. The detail of information of those interviewed people and organizations are listed at Appendix.

The purpose of the expert interviews was to back up the data collected from the questionnaires to enhance the analysis, to obtain statistical information for a comprehensive overview of migration flow and stock, and to reveal the issues which are hard to obtain from the workers themselves. More specifically, it is conducted in order to investigate and explore the specific research objectives targeted in the project: namely, migration flows with regard to present scale, estimation on irregular migrants and its trend, and prospects in times of economic crisis in Thailand; the functioning of the recruitment of Thai citizens for labor markets and labor segments in Japan in both official and informal recruitment systems; and the prospects of Thai workers in the labor markets as the consequence of economic recession in the Southeast Asian region. In addition, information about other relevant concerns regarding Thai migrant workers in Japan brought up by the key informants was also obtained.

As mentioned above, due to the lack of serious academic literature on the topic, Japanese NGOs are considered the most knowledge institutions on the present situations on Thai migrants. Thus, their comments and views from the interviews were extensively cited. Also, it should be noted that there is a lot of valuable information obtained from Seminar on Thai Women in Japan, organized by the Royal Embassy of Thailand in Japan in October 1999 where about 120 participants from various NGOs discussed the problems of Thai female migrants in Japan.¹

There may need some explanations for terminologies used in this paper. For those who violate the Japanese immigration laws, Immigration Control and Refugee Recognition Law or ICRRL, the phrase, "irregular migrant" or "undocumented migrant", instead of "illegal migrants", is used throughout the paper. This has been proposed by Prof. Hiroshi Komai, an eminent Japanese migration scholar, and is widely used in Japanese migration literature from the human rights perspective (Komai, 1997), in order to avoid the negative connotation which the word "illegal" carries with.

If a particular aspect of a migrant is highlighted, for instance, the labor aspect of a migrant, the individual is referred to as "migrant worker" or "migrant laborer", as "migrant worker" or "migrant laborer" is one type of "migrant". The term "migrant worker" or "migrant laborer" is, therefore, defined as "a person who is to be engaged, is engaged or has been engaged in remunerated activities in a State of which he or she is not a national" (Glossary of Refugee and Migration Terms, 1999: 35). Similarly, the phrase "labor trainee" is used in the discussion of training programs in particular. This refers to trainees who are working as *de facto* labor during the on-the-job-training period, often in the Technical Intern Training Program (TITP).

In another case, there are migrants whose initial and main intention was to come to Japan for work. Nevertheless, these migrants are no longer temporary visitors because they have been settled on Japanese soil for a considerable time. In this paper such people are described as "migrant residents" or

¹ The Seminar on Thai Women in Japan was held "to promote the cooperation and understanding among the Thai and Japanese government staff, NGOs and mass media on problems of Thai women in Japan, and to find solution to problems and creating a network for cooperation."

“migrant settlers”. This term particularly reflects Japanese migration situation where, for instance, Thai female migrants in Japan have migrated in the late 1980s and early 1990s, in order to work in the sex related business, later settled down as residents. This is often attributed to their marriage to Japanese husbands, Japanese born infants and children, or other reasons that motivated them to stay in Japan much longer than the length of the other average migrants who migrated just to work on a temporary basis. This type of Thai women may or may not have proper legal status, but they certainly participate more in various aspects of the Japanese society than that of other Thai migrants in Japan. Considering the particular nature of these people, they should not be labeled simply as female “migrant workers”.

Lastly, the term, *Gai Koku Jin*, which literally means “an outside person” in the Japanese language, is often translated into “foreigner” or “alien”. This word has been widely used by the general Japanese public and even appears in some English translations of Japanese literature. However, in this paper, foreigners who fit into the definition of migrant are referred to as “migrant”, because this study highlights the situation of persons who have migrated. According to that rule, when an interviewee spoke the word, *Gai Koku Jin* in Japanese in the key informant interviews, it was translated into “migrant”, instead of “foreigner” or “alien”.

Relevant Literature

As stated above, in spite of a considerable number of Thai citizens who had migrated, worked, and settled in Japan, both Thai and Japanese serious academic literature on the topic was neglected until the late 1980s and early 1990s. The best available reports and data in the 1980s were mostly from non-academic writers, such as journalists and so-called concerned NGOs activists. This is attributed to the fact that the majority of Thai migrants are undocumented and are difficult to access for formal academic research, but still the literature on this topic has to touch on the undocumented migrant workers.

Even today, though there has been an academic literature, studies on Thai-Japan migration are not yet given serious attention or priority among the migration scholars. There have been few research studies published in books, but rather mostly in short articles, papers, and reports, in which the topic is often treated as a part of a broader studies on in-migration to Japan. In addition, most of publications were written not by migration specialists but by economists and sociologists whose interests are centered not around migration systems but rather on specific issues such as females, labor, and medical health.

In response to the growing number of Thai female migrant workers in Japan in the late 1980s, a series of meetings by a group of concerned scholars and NGO activists were organized. Out of those discussions, “Migrant Workers and Their Human Rights”, edited by Takashi Ebashi, was published in 1990. It was a collection of articles on variety of issues including the Japanese immigration laws, trainees, discrimination against migrants, judicial cases, and NGOs supporting migrants. The emphasis was placed on the Thai commercial sex workers in Japan. Contributors included Ebashi Takashi, editor, Surichai Wun’Gaeo, Yuriko Saito, and several others who later became leading figures in the research on Thai migrant workers in Japan. Following publication of the book, a report on Thai migration system to Japan was published by Yauchibara and Yamagata in 1992. It offered an overview of the subject within the scope of international labor migration in Asia. It mainly examined the economic push and pull factors of Thai emigration in the early period and its shift of destination from the Middle East to Asia. In the following year, the first extensive Thai-Japan collaborative academic study was carried out by Yoshimura in Japan, in research partnership with Phongthada Woodikarn in Thailand. The article focused on only undocumented female migration to Japan, because so much attention at the time was still on trafficking and violation of human rights of Thai commercial sex workers in Japan. However, it gave an excellent overview of the topic, especially its migration process in the early Thai-Japan emigration phase. It also put the topic in a contemporary historical context and provide insight on the causes of migration from a sociological point of view. Interviews with key informants with a variety of Japanese officials and NGO activists were particularly valuable in understanding their usually unspoken points of view towards Thai migrant workers in Japan. In 1994, Noriyuki Suzuki and Hiroshi Komai also wrote a short overview, briefly examining key issues such as causes of migration in rural areas, recruitment structure, migration process, problems and difficulties, and repatriation. The piece was based on the case study of a male migrant worker from a village in Udon Thani province, who had experience in going to both the Middle East as well as Japan. They pointed out that penetration of commercialism in the rural areas of Thailand

was a background cause of Thai migration to Japan. In 1996, Toshikazu Nagayama similarly examined the topic in his workshop paper. Although no case study was presented, a number of statistics on migration flows and stock for Thai migrants to Japan in the late 80s to the early 90s, obtained from the Japanese Immigration Bureau, is a useful academic resource.

Tokyo Metropolitan Labor Research Institute has also produced a series of extensive reports for a research project on migrant workers' communication and their personnel relationships in Japan in 1997 and 1999. In their second report, two chapters written by Takaaki Ogata were devoted to Thai migrant workers in Japan. His in-depth examination of several case studies on Thai workers in Japan revealed not only a typical profile of Thai migrant workers, but also that of those whose occupation in Thailand was of a relatively higher status, such as an university professorship, than conventionally believed. This suggests that there may also be Thai migrant workers in Japan who do not fit in the types which other studies categorize. In fact, he identified five types of Thai migrants to Japan, in terms of their social and economic background prior to emigration, two of which are not found in any other studies, departing from conventional studies focusing only on commercial sex workers. Another merit of the study is the examination of the impact of remittances on the local communities in the Udon Thani province, not from the macro economy level point of view, but from the household level, which is an approach not found in other studies on migration to Japan, but is becoming more and more popular in general migration studies. The Institute also published the third report in 1999 which contains a case study of Thai female workers in Tokyo, examined in a comparative approach among female workers in Tokyo from four different countries.

In an often-referred encyclopedia on migrants in Japan edited by Komai, Suzuki wrote a short informative article examining Thai migration from an international relations point of view in a macro context in 1997. The scholar starts with the 70s as the origin of Thai overseas migration, describes the causes of migration in the 70s, 80s, and 90s, and discusses the much heated social reactions over time to the Thai migration to Japan. The author emphasizes the important idea that the labor emigration from Thailand to Japan should be understood not only from the destination point of view, but also from the origin of migration country's view point by positioning the phenomenon in a broader international and regional migration picture.

In 1997, Phannee Chunjitukaruna conducted a comprehensive research study and produced a quality report on the topic for her master thesis. Her both qualitative and quantitative research through the fieldwork and in-depth case studies throughout Japan are a valuable guide to understand the situation of Thai migrant workers in the early and mid 1990s. The thesis has covered a wide range of crucial migration issues, including causes and reasons for migration, problems encountered, and formation of Thai ethnic minority. In particular, the strengths of her study lie in its examination and analysis on irregular migrants from her extensive underground and informal observation who are considered extremely difficult to access for investigation. It also provided rich statistical information on flows, remittance, and Japanese born-infants.

In the most recent study in 2000, the International Organization for Migration (IOM) published a report on Thai female migration to Japan, based on participatory action research with 55 female returnees from Japan in the Chaing Rai and Phayao province by Therese Caouette and Yuriko Saito. The report touches on issues of an international trafficking network, working and living conditions, and returning, with the last chapter on advice for women who are thinking of going to Japan. In addition to its excellent in-depth research and discourses on the issue, examination of reintegration needs of Thai women in returned communities is of particular interest with regard to Thai scholars.

There have been also some reports and articles which place their emphasis on particular issues within Thai-Japanese migration. As mentioned, in 1993 Yoshimura wrote an extensive article on female migration and analysed issues in the mechanism of recruitment structure, such as trafficking routes, by drawing from two cases studies in Shinjyuku and Ibaraki. From the Thai side, Pasuk Pongpchaichit wrote on Thai female workers in Japan in 1996. Kamala Kempadoo and Jo Doezema (ed) also examined female migration in the sex industry in 1998. Phra Paisan Visalo examined the psychological problems of Thai migrant workers in Japan in 1996 and Nikun Jintai reviewed the recruiting mechanism of undocumented workers emphasizing the role of brokers in 1997. He illustrated some patterns of

recruitment and irregular entry for both male and female migrant workers to Japan and mentioned the amount of fees and commission that they paid to brokers. His article also gives a typical profile of undocumented workers in Japan of both genders. Sriwattananukulkij Sakesin also contributed a report on the work life of Thai laborers in Japan. Because Thai migrant workers in Japan face exploitative treatment, human rights issues are often one of the popular topics, as in Komai's study in 1995 which examined the migrant worker's human rights in Japan and examined the situation of Thai migrant workers. There are also some reports from the studies on the prevalence of AIDS/HIV among the Thai migrant workers. Munakata discussed AIDS/HIV and prostitution. Other articles on the AIDS issues were written by Kihara in 1995, published in the Japanese Journal of Public Health, based on the AIDS/HIV surveillance studies of 1989-1993 and 1991-1992, conducted by the Japanese Ministry of Welfare. Two reports of Kihara pointed out that Thai female migrants which he surveyed had a high infection rate of AIDS/HIVS and Sexually Transmitted Disease (STD) and warned that the number is on the rise.

As briefly mentioned above, it has been said that trainees are likely to be the major actors in Thai migration to Japan in the next decades because on the Japanese side many of them are *de facto* laborers to meet the labor shortage in Japan and on the Thai side, the Thai government seems interested in sending as legal migrant workers. Some of the reviews on trainees were conducted by Komai. He conducted research on six Japanese-Thai venture companies in the country of origin, Thailand, which send Thai trainees to Japan. The findings were based on his interviews with the executives or the representatives of the trainees sending companies. As the articles says, this study was conducted because the reality of the trainees in Japan has been very unclear. In 1992, Keomanotham Malee also reported on the trainees in her article, but it was a limited study in that the interviews were conducted with the trainees and in the country of destination, Japan. The report provides an overview of the training system and points out the problems which Thai trainees face in Japan. Case studies of the trainees at a heavy industry company reveal the reality of the Thai trainees in Japan, especially the friction in personnel relationships between Thai trainees and Japanese workers.

There have been also some useful research materials and references relevant to Thai-Japanese migration. Japan Immigration Association, administrative organization for the Immigration Bureau, annually publishes two types of governmental statistics reports on all foreigners entering Japan. One is migration flow to Japan, including unofficial entry of undocumented migrant workers, and another is on stock data, such as geographical distribution of legal residents. There is also an annual report on immigration entry procedures describing the Japanese immigration's complex regulations and procedures which are often revised. The Thai Ministry of Labor also releases statistical information, mainly the number of Thai migrant workers to Japan, by mode of help, such as recruitment agencies, labor office, and so forth. However, in general their flow number of Thai migrant workers to Japan is unreliable and does not reflect the reality because it does not clearly distinguish between regular and irregular migrants and does not cover the undocumented workers. HELP in 1998, an NGO assisting Thai female migrants in Japan, published a handbook for Thai workers in Japan. It is written in both Thai and Japanese language and is widely distributed to the undocumented Thai workers throughout Japan. The handbook is also useful for scholars and researchers who would need, for instance, the list of governmental and non-governmental organizations which are relevant to Thai migrant workers.

Background of Migration Flows from Thailand to Japan

Overseas labor migration became an outstanding national phenomenon for Thailand in the 1970s. At first, female migration to Europe, especially Germany, started to show an increase. Beginning in around 1975, male labor migration to oil rich countries in the Middle East began to emerge rapidly and soon replaced the female migration as the dominant emigration pattern of Thailand. At the same time, as Thailand was becoming more integrated into the global economy, the consumption patterns of people especially in rural areas began to change dramatically. Due to the strong penetration of commercialism in every part of the country, more and more villagers dreamed of earning a large sum of cash to purchase more expensive and luxurious items such as houses, automobiles, motorcycles, and so forth. Combined with a high unemployment rate in the Northeast region and the migration promotion policy by the Thai government, it is believed that more than 100,000 Thai nationals went to work in the Middle East annually from 1980 to 1985.

However, when the world's oil price dropped in 1985 and thus the jobs in the Middle East became less attractive for Thai workers, Thai workers began to return and shifted their favored destination to Asian countries such as Japan, Singapore, Hong Kong, and Taiwan. This change was further accelerated of the incident by a murder of Saudi Arabia diplomat in Bangkok and the Iraq's invasion of Kuwait. As a result, from the late 1980s to the mid 90s, Japan, with its strong currency, emerged as one of the largest destination countries for Thai migrant workers, matched also by the demands of Japanese economy and its severe labor shortage for unskilled workers in small and mid-size businesses because of the increasing unpopularity of so-called 3D (dirty, dangerous, and difficult) jobs.

Nevertheless, the Japanese government kept its tight immigration policy not to accept any unskilled migrant labor. This made most of the Thai migrant workers enter Japan with tourist visas, while some had student and pre-college visas. In any case many aimed to seek employment in Japan. Most were female workers in sex related industry, especially in the 1980s, but, later in the 1990s, the male labor population also increased. This trend changed around 1992. In 1991, immigration laws were revised, and strict controls became effective. Also, trafficking and exploitation of female migrants by brokers were well publicized. Employment opportunities for unskilled labor due to the collapse of the Japanese bubble economy decreased, while the legal channels open for unskilled Thai workers in Taiwan became more attractive.

Present Scale of Thai Migrants to and in Japan

New Entrants

According to the Japanese Immigration Bureau², Japan has received approximately between 2.5 and 3.6 million foreign nationals per year during last decade. Of those, roughly 2 millions are from Asian countries as of 1998. As shown below, these numbers are increasing, but are relatively steady for a period of time.

In contrast, the number of Thai new entrants has been very marked. While, in 1991 Thai new entrants exceeded over 100,000, the number sharply shrank by less than half in only 7 years. Such dramatic change in number is not observed in other nationalities (Statistics on Immigration Control, 1998: 14).

The Number of Thai, Asian, and All New Entrants to Japan

Year	Thai	Asian	% of Thai/ Asian	All New Entrants	% of Thai/ All
1988	41,994	1,387,050	3.02	2,414,447	1.73
1989	49,117	1,791,652	2.74	2,985,764	1.64
1990	69,477	2,164,373	3.21	3,504,470	1.98
1991	105,666	2,477,006	4.26	3,855,952	2.74
1992	89,080	2,012,551	4.42	3,251,753	2.73
1993	63,432	1,865,223	3.40	3,040,719	2.08
1994	53,830	1,905,173	2.82	3,091,581	1.74
1995	46,252	1,751,182	2.64	2,934,428	1.57
1996	56,505	2,062,783	2.73	3,410,026	1.65
1997	53,778	2,243,421	2.39	3,809,679	1.41
1998	40,174	1,966,720	2.04	3,667,813	1.09
1999	48,384	2,284,729	2.11	3,959,621	1.22
2000	56,011	2,481,660	2.25	4,256,403	1.13

Source: Statistics on Immigration Control, http://www.moj.go.jp/TOUKEI/t_n03.html

² Due to the accuracy of the statistics on Thai-Japanese migration activities, the figures are mostly from the Japanese government.

A large portion of the Thai new entrants into Japan has consisted of undocumented migrant workers. Looking at the breakdowns more carefully, we can identify the major reason for the declining number of Thai entrants, that is the declining number of short term purpose entries. In particular, the number of those who entered with sightseeing visas has sharply declined, compared to that of several years ago, leading to the overall decline in the number of Thai migrants.

What is the cause for this decline? Both Japanese migration experts and key informants interviewed in the research point out that this decline has to do with the changes in Japanese immigration policy in the early 90s. Responding to the massive flow of irregular migrant workers, the Japanese government imposed a strict policy on suspected migrant workers. Indeed, it is observed that fewer visas have been granted at the Japanese Embassy in Thailand and that the Japanese immigration control on the entry points became tightened.

On the other hand, the number of the Thai trainees is growing. As will be discussed in more detail in Dr. Suzuki's paper, the reason for this is the widened back-door channels for trainees, so-called "legal" but "de facto" unskilled migrant workers, encouraged through various measures taken by the Japanese government.

Stayers

What kind of people are the Thai migrants who are already in Japan? According to a Japanese police report, it is assumed that 96 percent of the Thai citizens who entered the country with tourist visas later become undocumented over-stayers, mostly unskilled workers (White Paper of Police, 1998: 265). Therefore, it is not a coincidence that a decline in the number of entries for Thai nationals who hold tourist visas matches the decline in the number of undocumented Thai migrants. From this, it can be said that the immigration statistics on the number of Thai nationals with tourist visas is a highly reliable source indicating the annual flow of Thai undocumented workers into Japan.

In 2000, the Japanese Immigration Bureau estimates 23,503 irregular Thai migrants in Japan, the lowest figure in nine years. Nevertheless, Thais are still among the top ethnic groups which tend to be undocumented migrants in Japan. As of July 1st, 1999, Thai irregular migrants have been ranked in 4th place, after Korean, Filipinos, and Chinese, among 268,421 irregular migrants in Japan (*Asahi Shimbun*, Sept. 26, 1999). In addition, migration experts point out that there are many overstaying irregular migrants, including Thai migrants, who are not found and, thus, do not appear in the statistics. It should be noted that the government statistics do not include people who entered Japan unlawfully or entered disguised as other nationalities. In fact, the key informants interviewed point out that unlawful entry and disguised entry are on an increase and one is alerted to the situation because those who entered, for example, with false passports, will have a difficulty to obtain legal identification such as passports and a CI (Certificate of Identification) to return finally to Thailand.

The Number of Overstayed Irregular Thai Migrants in Japan, by Gender, between 1990 and 2000

Year	The Number of Overstayed Irregular Thai Migrants in Japan		
	Male	Female	Total
1990 (July 12)	4,062	7,461	11,523
1991 (November)	13,780	18,971	32,751
1992 (November)	24,463	28,756	55,219
1993 (November)	24,759	29,086	53,845
1994 (November)	21,059	25,905	46,964
1995 (November)	19,866	24,928	43,014
1996 (May)	17,811	23,469	41,280
1997 (January)	16,839	22,674	39,513
1998 (January)	15,542	21,504	37,049
1999 (January)	13,522	16,513	30,035
2000 (January)	11,082	12,421	23,503

Source: Japanese Ministry of Justice, <http://www.moj.go.jp>

The Number of Reported Cases of Thai Irregular Workers, by Gender, and the Percentage of Reported Irregular Thai Migrant Workers in the Total Number of Overstaying Irregular Thai Migrants, between 1988 and 1998

Year	Male	Female	Total	The Percentage of Reported Irregular Thai Migrant Workers in the Total Number of Estimated Overstaying Irregular Thai Migrants
1988	369	1,019	1,388	N/A
1989	369	748	1,144	N/A
1990	661	789	1,450	7.94
1991	926	2,287	3,249	10.08
1992	2,408	5,111	7,519	7.34
1993	5,169	7,483	12,654	4.25
1994	N/A	N/A	N/A	N/A
1995	N/A	N/A	N/A	N/A
1996	2,568	2,993	5,561	7.42
1997	1,936	2,547	4,483	8.79
1998	1,579	2,025	3,604	10.28

Source: Yoshimura, 1993: 183, Murashita, 1994: 88, and Statistics on Immigration Control, page 51, Japan Immigration Association, 1998.

Under Japanese immigration law, migrants who stay in Japan for over 90 days must register with the local government authorities. Undocumented migrant workers could also register. However, very few do and the majority are those who hold valid visa and have legal status. As of 1998, there were 23,567 registered Thai migrants in Japan, consisting of 6,841 males and 16,721 females. A large portion of them are confirmed to reside in Kanto and Osaka area (Statistics on Foreigners in Japan, 1998). The number has jumped over the last 2 decades due to the increasing number of international marriages of Thai females commercial sex workers marrying Japanese males. 1994 statistics shows 9.6 percent among all international marriages are marriage of Thai and Japanese nationals; the marriages are between Thai females and Japanese males in most of the cases (Komai, 1997).

The Number of Registered Thai Migrants in Japan, in Selected Years.

Year	The Number of Registered Thai Migrants in Japan
1960	266
1970	721
1980	1,276
1985	2,642
1990	5,542
1999	23,562

Source: Japan Statistical Yearbook 1990, page 45, Management and Coordination Agency, Statistics Bureau, 1990, and Statistics on Foreigners in Japan, page 32, Japan Immigration Association 1998.

Estimates of Undocumented Migrants

Although Japanese governmental data is accurate to some extent, scholars and NGO workers point out that it often underestimates the number of irregular Thai migrant workers. They independently estimate the number of Thai irregular migrants in 1998 and 1999 as between 40,000 and 50,000. The estimates has dropped considerably from roughly 100,000 in 1995 according to a Thai scholar, (Singhanetra-Renard 1996: 51), but it is still higher than the Japanese government's calculation. It is fair to say that the non-governmental figures could be a little more accurate and reliable because non-governmental agencies are more familiar with the situation of unlawful as well as disguised entry. However, it should also be footnoted that because their estimate relies heavily on their personal observation but not on scientific research, the combination of governmental hard data and non-governmental experts' observations could give the best picture of undocumented migrants.

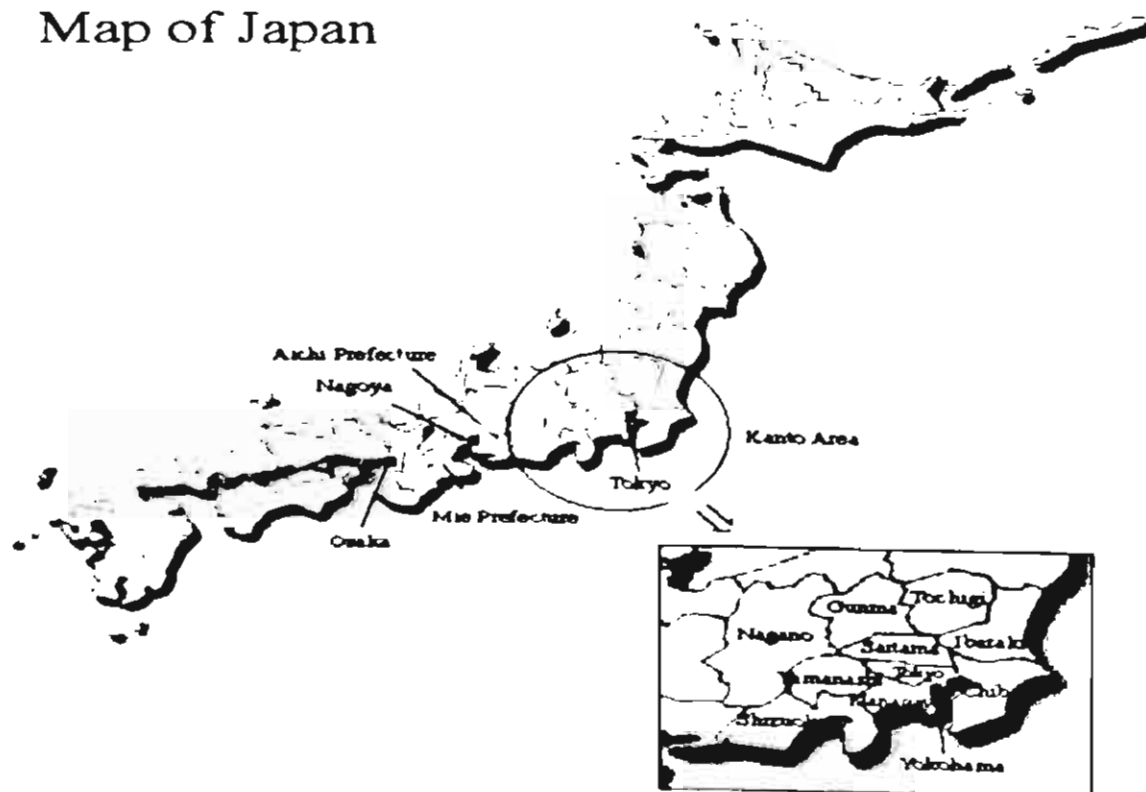
Geographical Distribution

Where do the Thai migrants reside and work? Undocumented Thai migrant workers are extremely difficult to locate in terms of their geographical distribution. In fact, there has been no official information on the distribution of a particular nationality group for irregular migrants. One of the reasons for this is the strict immigration control. It made the migrants hide and keep a low profile in a relatively small groups. For instance, before and during the time when Tokyo hosted the G7 Summit in 1993, the Japanese Ministry of Justice increased their pressure on undocumented migrants workers nationwide. As a result, many Thai migrant workers spread out into smaller groups in different cities and towns, fearing that they could be found and arrested easily if they stayed in large groups. Some NGO workers refer to this situation and in claiming that Thai migrants are becoming "invisible" in Japanese society. Needless to say, this situation made an already difficult situation for research more difficult.

Key informants stated that many Thai migrant workers, mostly undocumented, resided and worked in Nagano, Chiba, and Ibaraki prefectures. The number seems to have declined in comparison to the peak year, however, because of less job opportunities resulting from the worsening economic situation. Also, it is assumed that cities such as Numazu, Mishima, and Nagaoka in Shizuoka prefecture take in a great number of Thai irregular migrants. It is reported that there are a considerable number of Thai workers in fish processing factories in Choshi city in Chiba prefecture which is located near the Pacific Ocean and one of the largest commercial fishing ports in the Kanto area.

In short, the number of Thai migrant workers newly entering Japan has declined dramatically over the last years, but national statistics shows that it is not declining as fast as it should be if compared to other nationalities. Other sources indicate that there is still a quite number of their staying without legal status for a long period of time, particularly in Kanto area, as will be discussed later. Most enter with tourist visas and manage to work in unskilled jobs making them undocumented.

Map of Japan



Demographics: Data of the Respondents in the Survey

Who are the Thai migrant workers in our study? The following information will provide a basic description of our respondents who answered the questionnaires.

To start with, out of 97 valid questionnaires, it was found that 62 percent identified themselves as undocumented workers in Japan, while 38 percent claimed to be legal migrants. However, cross-tabulating the present legal status with the type of visa, as will be discussed later, when they entered Japan, 7 out of 37 respondents who claimed that they are legal at present (at the time of the interview) entered with tourist visas, which may be presumed to have expired at the time of this research. Thus, this leads to the assumption that 62 percent plus some percent, up to around 7 percent, of the respondents had unofficial status in Japan at the time of interview.

Legal Status in Japan

Status	Percent	Frequency
Undocumented	61.86	60
Documented	38.14	37
Total	100.00	97

N=97

23 percent of the interviews took place in Tokyo, including Shinjyuku and Fussa cities, followed by the prefecture of Shizuoka (20 percent), Aichi (15 percent), Mie (13 percent), and Chiba (9 percent). (See Maps)

Place of Interview

Prefecture in Japan	Percent	Frequency
Tokyo	22.68	22
Shizuoka	19.59	19
Aichi	15.46	15
Mie	13.40	13
Chiba	9.28	9
Osaka	7.22	7
Kanagawa	5.15	5
Nagano	3.09	3
Yamanashi	2.06	2
Ibaragi	1.03	1
Unknown	1.03	1
Total	100.00	97

N=97

Statistically this does not necessarily reflect the true geographical distribution of the Thai workers, because of the small size of sample in comparison to the entire population of Thai citizens in Japan. In fact, because of the undocumented status of some respondents, the survey has had to use a quasi-snowball sampling technique in the sampling method. In addition, summary of interviews with the key informants indicate that there are many more Thai migrants in Nagano and Chiba areas than the data shows. However, researchers were aware of the geographical distribution of Thai workers and had covered major sites in the Kanto area.

For gender distribution, 57 percent of the respondents are male and 43 percent are female.

Gender

Gender	Percent	Frequency
Male	56.70	55
Female	43.30	42
Total	100.00	97

N=97

Again, statistically speaking this ratio does not represent the reality of the gender ratio among Thai workers in Japan because of the small sample. However, it is worth mentioning here that the trend of the gender ratio of Thai workers in Japan has shifted from more females to fewer females and few males to not-so-few male. This is against our expectation because female migration is increasingly popular in East and Southeast Asia. According to the key informants, female migration has dominated Thai-Japanese migration in the past decades, while male workers and non-commercial sex female workers has increased in number in the late 1990s. This sampling tries to cover both genders in order to give more balanced information of both.

What is the age distribution of the respondents? At the time of interviews in 1998, the mean age of the respondents was 34 years old. The youngest respondent was 24 years old and the oldest was 50. 45 percent of the respondents were in their 30s, followed by 28 percent in their 20s and 24 percent in their 40s.

Age (at the time of interview)

Age	Percent	Frequency
20 – 29	27.84	27
30 – 39	45.36	44
40 – 49	23.71	23
50 and older	2.06	2
Did not reply	1.03	1
Total	100.00	97

N=97

The cross-tabulation of the age group with the duration of the stay of the respondents proved that at least 55 percent of the respondents went to Japan in their 20s. This is consistent with common knowledge that migrant workers in Japan are economically active and young.

The year of the arrival of Thai migrants generally corresponds with the Japanese immigration statistics shown earlier. Shown in the table, more than half came to Japan in 1990 and 1993. This means that many respondents came to Japan during or right after the bursting of Japanese economy. Despite that, our sample indicates most respondents could find a job relatively easily in Japan and did not suffer initially finding employment driving the depression in Japan. The impact of the economic crisis in Thailand is hard to measure due to the lag period and very few respondents who were in Thailand before the crisis in 1997.

Year of Arrival in Japan

Year	Percent	Frequency
1989 and before	15.46	15
1990- 1993	57.73	56
1994- 1996	22.68	22
1997- 1998	3.09	3
Did not reply	1.03	1
Total	100.00	97

N=97

Where have these migrants come from in Thailand? In terms of their birthplace and origin in Thailand, it is found that Thai workers in Japan come from a variety of areas in Thailand. In the regional distribution table, the data indicates that the Northern provinces are the primary birthplace of migrant workers to Japan.

Place of Birth and Origin in Thailand (by Province)

Province	Percent	Frequency
Central	43.30	42
Bangkok Metropolitan	16.49	16
Chonburi	5.15	5
Nonthaburi	4.12	4
Buriram	3.09	3
Nakhonnayok	3.09	3
Nakhonsawan	2.06	2
Samutprakarn	2.06	2
Saraburi	2.06	2
Singhburi	2.06	2
Rayong	1.03	1
Other	7.22	7
Northeast	22.68	22
Khon Khaen	7.22	7
Nakhonrachasima	4.12	4
Udonthani	4.12	4
Sakhonakhon	1.03	1
Sisaket	1.03	1
Mahasarakham	1.03	1
Roi Et	1.03	1
North	29.90	29
Chieng Rai	12.37	12
Chieng Mai	4.12	4
Lampang	3.09	3
Phayao	2.06	2
Phrae	2.06	2
Other	4.12	4
South	4.12	4
Trang	1.03	1
Pattalung	1.03	1
Songkhla	1.03	1
Nakhonsrithammarat	1.03	1
Total	100.00	97

N=97

The most popular point of origin of the respondents were Bangkok Metropolis (16 percent), followed by Chieng Rai (12 percent), Khon Kaen (7 percent), followed by Chonburi (5 percent), Udon Thani (4 percent), Nonthaburi (4 percent), and Chieng Mai (4 percent).

When the respondents were asked where they resided in Thailand prior to migration to Japan,

over a half answered in Central region.

Place of Residence in Thailand (by Region)

Region	Percent	Frequency
Central	57.73	56
North	24.74	24
Northeast	15.46	15
South	2.06	2
Total	100.00	97

N=97

In the breakdown, 44 percent answered the Bangkok Metropolitan area, followed by Chaing Rai (12 percent) and Khonkhen (4 percent) and Udon Thani (4 percent).

Place of residence in Thailand (by Province)

Province	Percent	Frequency
Bangkok Metropolitan	44.33	43
Chieng Rai	12.37	12
Khonkhen	5.15	5
Udon Thani	4.12	4
Samutprakhan	4.12	4
Nakhonrachasima	3.09	3
Lampang	3.09	3
Phayao	2.06	2
Nonthaburi	2.06	2
Saraburi	2.06	2
Phrae	2.06	2
Chieng Mai	2.06	2
Singhburi	2.06	2
Nakhonnayok	1.03	1
Sakonnakhon	1.03	1
Trang	1.03	1
Pisanulok	1.03	1
Burirum	1.03	1
Mahasarakham	1.03	1
Kampangpet	1.03	1
Songkhla	1.03	1
Lamphon	1.03	1
Nakhonprathom	1.03	1
Chainat	1.03	1
Total	100.00	97

N=97

The Central provinces, especially Bangkok Metropolitan, was the main residence of the Thai migrant workers to Japan.

It is quite interesting to look more carefully at the relationship between the data of birth origin and that of residence. Although only 14 percent of the respondents claimed that their birthplace was Bangkok, as many as 44 percent claimed that their residence prior to migration to Japan was Bangkok.

Relationship between Birth Place and Residence in Thailand

Birthplace	Residence				Total
	Central	North	Northeast	South	
Central	42 (75.00)	-	-	-	42 (43.30)
North	5 (8.93)	24 (100.00)	-	-	29 (29.90)
Northeast	7 (12.50)	-	15 (100.00)	-	22 (22.68)
South	2 (3.57)	-	-	2 (100.00)	4 (4.12)
Total	56 (100.00)	24 (100.00)	15 (100.00)	2 (100.00)	97 (100.00)

N=97

()=Percentage

From the above, we learn that some migrant workers to Japan moved to Bangkok from their birthplace, worked there for a period of time, and then migrated to Japan. In fact, migration experts argue that the domestic population mobility is a good indicator of dynamics of international migration. If this is the case, social and economic condition and network of the prospective migrant workers in Bangkok are also important factors affecting decision of workers to migrate.

Some questions asked in the questionnaire reveal the family situation of the respondents. About half of the respondents (51 percent) are married, a little over two thirds (68 percent) have children, and 39 percent claimed that they are the head of the household in the family. The mean number of the family members in the household of the respondents was 4.4 persons. Amazingly, 19 percent claimed that they got married in Japan and 26 percent live with their spouse there.

Marital Status

Status	Percent	Frequency
Married	50.52	49
Never married	30.93	30
Divorced	7.22	7
Separated	5.15	5
Cohabitation	4.12	4
Widow/ widower	1.03	1
Did not reply	1.03	1
Total	100.00	97

N=97

Number of Children

Number	Percent	Frequency
No child	17.91	12
1	34.32	23
2	25.37	17
3	10.29	7
4	10.29	7
5	1.49	1
Total	100.00	67

N=67 (Those who have a child or children)

Head of Household

Person	Percent	Frequency
Myself	39.18	38
My father	34.02	33
My mother	20.62	20
Husband	3.09	3
Father in law	1.03	1
Sister/brother	1.03	1
Spouse	1.03	1
Total	100.00	97

N=97

Marriage in Japan

Marriage	Percent	Frequency
Yes	18.56	18
No	46.39	45
Did not apply	35.05	34
Total	100.00	97

N=97

Residence with Spouse in Thailand

Residence with spouse in Japan	Percent	Frequency
Yes	25.77	25
No	40.21	39
Did not apply	34.02	33
Total	100.00	97

N=97

These findings support the statements made by informants interviewed that the settlement of once temporary Thai migrant workers is occurring in Japan. This will be discussed later.

What is the educational level of the respondents? Amazingly, 34 percent finished high school, followed by 21 percent college, 17 percent secondary school, 10 percent primary school, and 7 percent graduate level. People who have the lowest education received 4 years of education and those who have the highest 22 years. The mean year of education was 15 years.

Education

Education	Percent	Frequency
Primary school	10.31	10
Secondary school	17.53	17
High school	35.05	34
Undergraduate	21.65	21
Graduate and above	7.22	7
Did not reply	5.15	5
Did not specify	3.09	3
Total	100.00	97

N=97

Once again, it is surprising that close to 80 percent of the sample have more than 9 years of education in Thailand and 29 percent of the respondents have university level education. In fact, this is the contrary to the conventional belief and also the findings of Thai field research on migrant returnees.

Cross-tabulation of the educational level with the legal status, supports, though not strongly, a tendency that the higher the respondents' education is, the more likely it is that the respondents are legal workers. In fact, all respondents who had more than 18 years of education are legal workers. On the other hand, 75 percent of the respondents who had education below 9 years are irregular workers.

To explain the high educational level, it may be useful to refer to the previous study by Tokyo Metropolitan Labor Research Institute, as introduced in the literature review. Indeed, the study reports that some highly educated Thai citizens such as university professors abandoned their skilled jobs in Thailand and went to Japan to work as an unskilled laborer, though our research does not have such cases, it will be quite common.

Background in Thailand

What was the main occupation while the respondents were still in Thailand? Our data shows that 14 percent were working as farmers, followed by working in the service sector in restaurant, cafés, or night clubs (11 percent), in service sector but as salespersons, transport, or messengers (9 percent), industrial and manufacturing (8 percent), as company servant (7 percent) and as dancers and singers (6 percent).

Occupation in Thailand before Migration

Main occupation	Percent	Frequency
Service entertainment (Restaurant, Cafe, Night club, Bartender, Beauty Salon, Dancer and Singer, Laundry service, Hotel)	20.61	20
Farming	14.43	14
Helper in a family/ Company	14.42	14
Services and Sales (Sales, Tour Agency/guide, Taxi Driver, Deliver Goods, Interior Designer, Jeweler, and Customer Service)	13.39	13
Industry/ Manufacturing (Dressmaker, Plastic Maker, Boat Builder, Spare Parts, and Factory)	9.27	9
Government servant (Teacher, State enterprise, Bank)	7.21	7
Business	6.18	6
Other (Motorcycle Repairperson, Electrician, Boxing Teacher)	6.18	6
Did not apply or did not have experience in working in Thailand	4.12	4
Construction sector	2.06	2
Did not specify	2.06	2
Total	100.00	97

N=97

A relatively few respondents (14 percent) were engaged in farming in Thailand, contrary to the belief that most of the overseas Thai migrant workers were farmers in Thailand. Yet, in another question asking "Did you do farming?", 31 percent answered that they had farmed either on land owned by the respondents' family or on someone else's land. Thus, it can be concluded that some of the respondents had been farmers in their hometown, before they moved to Bangkok or other provincial cities, engaged in non-agricultural occupations, and then migrated to Japan.

Questions on the monthly income of the respondents in Thailand reveal the following income groups, indicated in the table. The lowest monthly income was 1,000 and the highest 100,000. The mean was around 18,000 baht.

Monthly Income in Thailand

Monthly income	Percent	Frequency
5,001 and less	11.3	11
5,001 – 10,000	17.5	17
10,001 – 15,000	18.6	18
15,001 – 20,000	14.4	14
20,000 and more	24.7	24
Did not answer	10.3	10
Did not have income	3.1	3
Total	100.00	97

N=97

This high level of the income confirms that the migrant workers who went to Japan were not necessarily economically poor.

How about their previous experience in working abroad? 78 percent of the respondents have not been abroad previously, while only 22 percent have.

Previous Experience in Working Abroad

Previous experience	Percent	Frequency
Yes	21.65	21
No	78.35	76
Total	100.00	97

N=97

For those who have been overseas, their destination countries were Saudi Arabia, Hong Kong, and Singapore. Only one person had been to Japan. This data do not support what has been conventionally believed that most of recent migrants to Japan tend to be migration repeaters. Conversely, it implies that newly members are recruited and incorporated into the Thai-Japanese migration system.

Determinants of Migration

What are the primary motivations to migrate to Japan? 64 out of 97 respondents responded in the multiple choice question that the main reason to go to Japan was economic, unsatisfactory earnings and hope for better earnings; 37 responded it was unsatisfactory work conditions; and 30 responded repaying debt. Interestingly, 28 respondents went to Japan because they wanted to go abroad as adventure; 17 did so because of better family status; and 11 because of a desire to get married abroad.

Reasons to Leave Thailand

Reasons	Frequency
Economic reason	
Unsatisfactory earnings	62
Unsatisfactory work conditions	37
Repay debt	30
Difficult employment	16
Social reason	
Adventure	28
Experience for better family status	17
Desire to marry abroad	11
Problems with personal relationship	10
Accompany or join other relative	10
Personal problem with employer or others at work	8
Divorce	6
Motivated by others	
Accompany or join relative	10
Prospective spouse waiting abroad	7
Solicited by agency	7
Accompany or join friend	4
Accompany or join spouse	2
Accompany or join employer	1
Other	
No more farm/ a drought	1
Desire to get away from big problems in around life	1
Finished study and desire to work	1
Multiple Answers	

This data indicates that despite strong and persistent economic motivation, non-economic motivations do exist among many migrant workers. This issue will also be analyzed later.

How did they perceive themselves in economic terms while they were in Thailand? In terms of self-description of their household, 35 out of 84 respondents ranked themselves a little below or a lot worse off than others when they were still in Thailand.

Cross Tabulation on Monthly Income in Thailand and Perceived Household Status in Comparison to Others

Monthly Income in Thailand	Perceived Status of Household to Others				Total
	Little better than average	Average	Little worse than average	A lot worse off than average	
5,001 and less	4 (50.00)	6 (14.63)	1 (3.03)	-	11
5,001 - 10,000	3 (37.50)	9 (21.95)	5 (15.15)	-	17
10,001 - 15,000	1 (12.50)	10 (24.39)	7 (21.21)	-	18
15,001 - 20,000	-	8 (19.51)	5 (15.15)	1 (50.00)	14
20,001 and more	-	8 (19.51)	15 (45.45)	1 (50.00)	24
Total	8	41	33	2	84

Those who answered the question with amount

Drawing from the above cross-tabulation, it was found that approximately 30 percent of the respondents who earned over 10,000 baht a month in Thailand claimed that they were a little worse or a lot worse in comparison to other households in the village.

In a remarkable case, one respondent whose monthly income was 50,000 baht claimed that the person's household was a lot worse off than other households. This implies that perception of oneself does not necessarily match the reality and this may be especially the case for the Thai workers going to Japan. This could suggest that the psychological feeling of relative deprivation, combined with the often exaggerated optimistic perception conveyed through the migration network by friends and relatives, is a significant factor which amplified motivation of migrants to go to Japan.

Where did the migrants receive information about Japan and employment? Did they have some idea about working in Japan prior to the migration? A substantial portion of our sampling (84 percent) mentioned that their relatives and friends either in Thailand or Japan mainly provided information about Japan and employment. 94 percent had some kind of idea about working in Japan.

Main Source of Information about Japan and Employment

Main information source	Percent	Frequency
Relatives/friends living in Thailand	49.48	48
Relatives/friends living in Japan	36.08	35
Newspapers or magazines	5.15	5
Labor recruiter or contractor	4.12	4
Employer	2.06	2
Television	1.03	1
Organization in Thailand that helps people who want to move	1.03	1
No information source	1.03	1
Total	100.00	97

N=97

Information about Work in Japan

Information about work	Percent	Frequency
Very good	3.09	3
Good	30.93	30
Had some idea	26.80	26
Okay	32.99	32
Hardly knew anything	6.19	6
Total	100.00	97

N=97

This data indicate that relatives and friends of the migrant workers provided information and, whether or not the information was accurate, the information they provided was an important factor influencing the expectation and decision making of prospective migrant workers.

When the respondents were in Thailand, over two thirds of them expected to work in Japan for a relatively short period of time, no more than one year. However, many of them actually ended up staying in Japan much longer than expected, according to the data on duration of stay.

Expected Length of Stay in Japan

Expected length of stay	Percent	Frequency
Longer than a year	22.68	22
At least half a year	24.74	24
Shorter than half a year	36.08	35
Very short, less than one month	15.46	15
Cannot say	1.03	1
Total	100.00	97

N=97

Was there any relationship between the economic crisis and the decision on migration? There were only 28 respondents who left Thailand before the economic crisis. Of those, 43 percent responded there was definitely an impact of the economic crisis on their decision to migrate.

Impact of Economic Crisis on Decision to Migrate

Impact of economic crisis	Percent	Frequency
Definitely yes	42.85	12
Yes	7.14	2
Not really	20.68	6
No	20.68	6
Cannot say/ no opinion	7.14	2
Total	100.00	28

N=97

In fact, as the data shows, 71 percent were not able to reply to the question because they left Thailand before the crisis took place. No key informants interviewed in Japan were able to provide detailed information regarding the relationship between the economic crisis in Thailand and migrant workers to Japan either, except that the economic crisis in Thailand had more of an effect on the Thai workers in Japan causing them to stay longer in the country than on the prospective workers in Thailand. As a matter of fact, the key Japanese informants pointed out the decreasing number of Thai migrant

workers entering to Japan in the last several years and concluded that the impact of the economic crisis in Thailand in 1997 was minimal or not yet evident at the time of research; all indicated that the economic depression in Japan was much larger factor affecting the Thai migration to Japan.

Process of Entry

Our data shows that there are more respondents (28 percent) who have arranged travel to Japan by themselves, than those (21 percent) who asked private recruitment agents and brokers to arrange such service.

Person Who Made Travel Arrangements to Japan

Person	Percent	Frequency
Myself	27.84	27
Private recruitment agent/ broker in Thailand	20.62	20
Relatives	13.40	13
Employer/ company in Japan	12.37	12
Friends	9.28	9
Broker (individual)	4.12	4
Spouse	3.09	3
Myself + relatives + friends	3.09	3
Employer/company in Thailand	2.06	2
Myself + private recruiter agent	2.06	2
Tour agency	1.03	1
Did not reply	1.03	1
Total	100.00	97

N=97

This data verifies the recent observation by the NGOs and migration scholars that so-called chain migration is rapidly emerging and, thus, independent self-arrangement is replacing the arrangement of brokers. In fact, many experts point out that the number of so-called "professional" brokers trafficking in Thai workers is diminishing. This may be because new migrants were well informed by relatives and friends who have worked in Japan and also because some of them themselves became brokers with the knowledge obtained from previous experience and lengthy stay in Japan.

However, obtaining visas tended to be mainly arranged by outsider brokers (44 percent) such as labor recruiters and contractors.

Person Helping to Obtain Visa

Person	Percent	Frequency
Labor recruiter or contractor in Thailand	42.27	41
Myself	12.37	12
Employer/company in Japan	11.34	11
Relatives	9.28	9
Friends	6.19	6
Government agency	5.15	5
My spouse(through marriage)	4.12	4
Employer/company in Thailand	3.09	3
Labor recruiter or contractor in Japan	2.06	2
Private company	2.06	2
Tour agency	1.03	1
Did not know	1.03	1
Total	100.00	97

N=97

This implies the division of specialization in migration arrangement; there is more than one person involved in different types of services for the migrants to go to Japan.

In getting to Japan, a majority (56 percent) had tourist visas. It is rather strange to see that 24 percent answered that they had no visa, yet were able to enter the country. In addition, 19 percent answered that they had temporary visas. It is not clear what they mean, and 9 percent said they had a border pass, which does not even exist. 9 percent entered with a marriage visa.

Kind of Visa at the Time of Entry into Japan

Kind of visa	Percent	Frequency
Tourist	55.67	54
Temporary residence	16.49	16
Student	10.31	10
Border pass	8.25	8
Resident (immigrant)	2.06	2
Business	2.06	2
Marriage	2.06	2
Trainee	2.06	2
Did not apply, because unofficially entered	1.03	1
Total	100.00	97

N=97

Although presumably immigration officials at entry points knew that some of the entries by tourist visa were disguised, 89 percent did not have any problem at entry points.

Problems Passing the Immigration Control

Problems passing the Immigration Control	Percent	Frequency
Yes	11.34	11
No	88.66	86
Total	100.00	97

N=97

According to the national statistics, in 1998, 358 Thai citizens were refused entry into Japan at the entry points, classified by the Immigration as refusal of landing. This number is considered very low because it is only less than 1 percent of the total number of Thai new entrants to Japan, 40,174, in the same year. Nevertheless, NGOs noted that there have been new types of methods and routes developed to sneak into Japan unlawfully. Consequently, the number of those who are not found by the Immigration has been increasing. Some of the recent popular unlawful routes are disguised entries from Malaysia and Shanghai, China, though details are not known. This is mainly because of the strict immigration control on conventional routes at the entry points and because of the fewer number of visas granted to Thai people. For instance, there have been some instances where Thai migrants obtained a visa from Latin American countries and applied for a transitional visa in Japan. Taking advantage such transitional visas, they were permitted to get out the airport for some days but never returned to the flights. In fact, such unlawful entry attempt by Thai citizens is increasing proportionally. In short, ways to enter Japan are becoming more varied and harder for Immigration to detect undocumented workers.

The Number of Persons Refused Landing, by Country, between 1992 and 1998

Country (Ranks Based on 1998)	Number of Persons						
	1998	1997	1996	1995	1994	1993	1992
South Korea	4,281	2,530	3,339	4,264	3,440	3,051	2,679
China	963	1,000	1,307	1,235	424	620	533
Sri Lanka	495	372	N/A	N/A	N/A	N/A	N/A
Malaysia	478	671	1,635	1,768	721	2,279	2,262
Philippines	474	867	1,029	1,155	984	1,564	896
Thailand	358	564	1,061	1,388	747	2,735	5,161
India	353	296	N/A	N/A	N/A	N/A	N/A
Peru	347	1,343	530	1,732	2,345	1,551	368
Pakistan	275	342	N/A	N/A	N/A	N/A	N/A
Columbia	266	560	641	777	645	382	145

Source: Statistics on Immigration Control

The Number of Reported Thai Unlawful Entrants into Japan, by Means of Transportation, between 1994 and 1998.

Year	By Air	By Sea
1994	2,865	88
1995	1,811	21
1996	1,465	23
1997	1,457	30
1998	1,181	25

Source: Statistics on Immigration Control, page 54 and 55, Japan Immigration Association, 1998.

Recruitment

How soon did the Thai migrant workers obtain their first employment? A high percentage (80 percent) of the respondents obtained their first employment within a month after they arrived Japan.

Period to Obtain a Job in Japan

Time	Percent	Frequency
Immediately, because the job was arranged from Thailand	22.68	22
Immediately, but without prior job arrangement	17.53	17
1 week	1.03	1
Less than a month	39.18	38
Within 3 months	12.37	12
About 6 months	3.09	3
1 year	3.09	3
Did not specify	1.03	1
Total	100.00	97

N=97

50 percent claimed that they found their jobs through the relatives and friends, while only 5 percent did so through brokers in Japan.

Person Helping to Find Jobs

Person	Percent	Frequency
Friends/my friend's sister	28.87	28
Brother in Thailand	19.59	19
Relatives	11.34	11
Employer in destination country/tour company	11.34	11
Elder sister/ elder brother/ parents	8.25	8
Brother in destination country	5.15	5
Broker and friend	5.15	5
Does not apply	4.12	4
Nobody, I found the job by myself	3.09	3
I got a job before coming here	2.06	2
Spouse	1.03	1
Total	100.00	97

N=97

Against the background that they have never been to Japan before, and are looking for a job in a stagnated economy, much of this success in prompt employment is certainly due to the migration network between Thailand and Japan.

In fact, 83 percent had relatives and friends who have lived in Japan. Besides employment, 78 percent of the respondents claimed that they did get some assistance during the transitional phase of settling in, such as for housing, from their relatives and friends, who were in Japan prior to their arrival.

Relatives and Friends Who Have Lived in Japan before

Relative/friend lived in Japan	Percent	Frequency
Yes	79.38	77
No	20.62	20
Total	100.00	97

N=97

Help from the Relatives and Friends

Help from relative/friend	Percent	Frequency
Yes	75.26	73
No	7.22	7
Did not apply because there were no relatives/friends living in Japan	17.53	17
Total	100.00	97

N=97

These findings confirm that the prior existence of relatives and friends is crucial in Thai-Japanese migration system and migration between two countries does not suddenly occur, but rather is continuously developed around kinship and friendship ties over a considerable period of time. In some cases the network functions more efficiently than brokers in some of the crucial aspects of migrants' life such as recruitment in Japan.

An interview with a Japanese volunteer in near Tokyo backs up this point. According to this informant, through their informal network, Thai migrants are well informed as to where to look for a job and even as to the slightest difference in wage between companies. Other NGO workers similarly stated that some of the migrants who come to the NGO in Japan got to know about the organization back in the villages in Thailand, from those who were in Japan previously and came back to Thailand. However, not many experts know the details of the networks such as how their work, because the networks seem closed to Japanese outsiders and are relatively loosely organized. If migrants are so dependent on their networks, it is very important to analyze the system of the network as to how it works.

Despite the help from relatives and families to go to Japan described above, recruitment fees still exist. The amount of the recruitment fee varies largely, running from 6,000 to 1 million baht. The mean fee of our sample is about 180,000 baht. About 40 percent paid more than 100,000 baht.

Recruitment Fee

Amount (Baht)	Percent	Frequency
10,000 and less	2.06	2
10,001 - 25,000	14.43	14
25,001 - 50,000	17.53	17
50,001 - 100,000	8.25	8
100,001 - 200,000	13.40	13
200,001 - 300,000	11.34	11
300,001 - 400,000	5.15	5
400,001 and more	8.25	8
Did not answer or reply	19.59	19
Total	100.00	97

N=97

Needless to say, this cost is significantly higher for those migrating from rural areas where the amount could be some times higher than their annual household income. However, the amount is not as high as other studies indicate.

Situation in Japan

Duration of Stay

As the data shows below, many have been staying in Japan for a long period of time. Most respondents in our sampling have been staying for over 5 years. Surprisingly, 10 percent have been

staying in Japan for over 10 years.

Duration of Stay and Year of Arrival

Duration of Year/Year of Arrival	Percent	Frequency
1 or less/ 1997 or 98	3.09	3
2/ 1996	4.12	4
3/ 1995	14.43	14
4/ 1994	4.12	4
5/ 1993	16.49	16
6/ 1992	19.59	19
7/ 1991	12.37	12
8/ 1990	9.28	9
9/ 1989	5.15	5
10 or more/ 1988 or before	10.31	10
Did not answer	1.03	1
Total	100.00	97

N=97

From this, we learn that most respondents came to Japan in the early 90s and some in the late 80s.

This finding supports what the Japanese experts pointed out. That is, the length of stay of Thai migrant workers who are already in Japan has become longer in recent years. In fact, more and more Thai migrants in Japan are choosing not to go back to Thailand, but to remain as long as possible. There are reasons for that. First, there is a belief among the Thai migrant workers in Japan that even if they return to Thailand, they are unlikely to obtain a good job because of the economic situation in Thailand. Secondly, the Thai migrants realize that once they leave Japan, it will be very difficult to go back again, whether it is an attempt to enter as a disguised tourist or with a false passport, because of the strict control at entry points and in issuing visas. Lastly and most importantly, many Thai migrants, especially female migrants, are choosing to settle down in Japan for variety of reasons, other than just to work. This is not only true for those of Thai nationality, but also for other nationalities in Japan. These are people who were once just economically oriented migrant workers in the late 80s and the early 90s, but later became settled migrant residents in the late 90s. In fact, it is told that many of the Thai females who are currently staying in Japan have been there since the early 90s and many now have families or partners in Japan, as the number of marriages between Thai females and Japanese males, and, interestingly enough also, between Thai female and Thai males increases. As a result, a great portion of those already in Japan have good reason to stay longer, and, as a result, the number of Thai migrants to Japan, especially Thai females, is unlikely decline sharply in the years to come, according to the expert informants interviewed.

Occupation

What is the occupational type that the Thai migrant workers work in Japan? Our sample shows that 34 percent work in the service sector in restaurants, cafés, and nightclubs, 29 percent in manufacturing industry, and only 7 percent in the construction industry. 6 percent identify their job as dancer but did not classify themselves in the service sector.

Occupation in Japan

Occupation	Percent	Frequency
Services (Teaching Thai boxing, Teaching Thai traditional acting, Teaching cooking food, Teaching Thai language, Media, Airline ticket sales, Thai food sales, Sales in Thai shops, Tour guide, Beauty saloon, Jewelry, Translator, Hotel, Restaurant, Food delivery)	36.05	35
Industry/manufacturing (Food processing, Iron, General labor, Computer, Plastic, Fishery, Bakery, Spare Parts of motorcycle, etc)	28.84	29
Entertainment (Restaurant, Food delivery, Dancer, Singer)	22.66	22
Construction sector (Driver, Digging)	8.25	8
Farming	1.03	1
Domestic helper in a family	1.03	1
Others (Underground cable work)	1.03	1
Total	100.00	97

N=97

Since the beginning of Thai migration to Japan, most Thai female migrants have gone to Japan as commercial sex workers and worked in the service industry. However, recently the work of some female workers began to shift to manufacturing factories from the service industry, because of severe labor shortage in industry, according to interviews with various Japanese informants.

In fact, in-depth analysis of our data shows that approximately 10 percent of the respondents who worked in industry and the manufacturing sector are female. As for male workers, a smaller number of Thai workers is employed in the construction industry compared to a few years ago. Experts explain that this is because of diminishing job demands in construction industries, as most public spending is shrinking and infrastructure projects have halted. Instead, the most popular occupations are changing to manufacturing and food processing factories, where securing inexpensive labor is a life and death matter at present for small and mid-size Japanese enterprises. Interestingly, the supposedly most conservative areas of Japan are taking Thai workers for labor on farmland. Legal workers work in Thai restaurants as cooks or in schools as language teachers. All respondents working in the manufacturing/ industrial sector are undocumented.

Work Condition

The questions regarding the labor condition of Thai workers reveal that, in general, Thai workers work for long hours without taking many days off. In our sample, 40 percent work for over 12 hours a day, including 3 percent who work as many as 15 hours a day. Only 23 percent work standard working hours, 8 hours, a day. The mean is 10 hours a day.

Hours of Daily Work

Hours	Percent	Frequency
6	4.12	4
7	4.12	4
8	22.68	22
9	5.15	5
10	20.62	20
11	2.06	2
12	16.49	16
13	8.25	8
14	9.28	9
15	3.09	3
Did not specify	4.12	4
Total	100.00	97

N=97

According to the expert interviews, many Thai workers are willing to work longer hours than the companies ask, because of better over time wages and thus remittances, though increases in wages for overtime labor depends on the company.

It is not only the long hours, but also the long days that most workers work. The data shows that the workers tend to take minimum holidays. 24 percent took only 4 days off a month, followed by 8 holidays (19 percent) and 7 holidays (13 percent). Surprisingly, 8 percent work without any days off.

Days of Work Per Month

Days	Percent	Frequency
No answer	3.09	3
12-18	3.09	3
20	8.25	8
22	18.56	18
23	12.37	12
24	7.22	7
25	4.12	4
26	24.74	24
28	6.19	6
29	1.03	1
30	7.22	7
Does not specify	4.12	4
Total	100.00	97

N=97

Considering that there are quite many holidays in Japan besides regular Saturdays and Sundays off, one suspects that many Thai workers are working even on designated national holidays.

The data also show that the workers in industrial and manufacturing sectors and service sector tend to work long hours and take minimum days off.

How much do the workers earn each month in Japan? As a result of such long hours and days

of work, Thai workers in Japan earn a very high amount of income. Our sample indicates that the mean monthly earning per worker is approximately 65,000 baht per month. Looking at the data more closely, over half of the sample earned over 65,000 baht a month, including 10 percent over 80,000 baht and 4 percent over 100,000.

Monthly Income

Amount (Baht)	Percent	Frequency
25,000 and less	5.15	5
25,001 – 50,000	23.71	23
50,001 – 75,000	32.99	32
75,001 – 100,000	28.87	28
more than 100,000	4.12	4
Not specify	5.15	5
Total	100.00	97

N=97

It should be also noted here that 61 percent of the respondents who earn over 80,000 baht a month in Japan are undocumented workers.

Needless to say, this sum is many times higher than income earned in Thailand. As described earlier, the mean monthly income of the migrant workers in Thailand is around 18,000 baht. It is observed that in some instances the income is sometimes even higher than what the Japanese co-workers receive from the same kind of job because Thai workers tend to work longer hours.

In addition to salary, 26 percent of the sample gets a bonus which can be quite a large portion of one's income in Japan.

Types of Benefits Besides Salary

Type of benefits besides salary	Percent	Frequency
No benefits	49.48	48
Bonus	26.80	26
Did not specify	11.34	11
Not clear	8.25	8
Depending on the business success	3.09	3
Jewelry	1.03	1
Total	100.00	97

N=97

83 percent stated that they are content with the level of income they gain in Japan. Nevertheless, in a separate question, 39 percent claimed the low salary is the main complain about working in Japan. This should be interpreted as the workers expressing the wish to earn more income for the time they work. This may be because the base hourly wage is often discriminatory against the migrant workers. In fact, 50 percent feel that they are treated unequally vis-a-vis the local employees and 77 percent have not been promoted since they started working.

Content with Income

Content with income	Percent	Frequency
Yes, it is very high	3.09	3
Yes, it is good wage	45.36	44
It is okay	34.02	33
It is not so good	15.46	15
It is bad	2.06	2
Total	100.00	97

N=97

Main Complaint in Japan

Main complaint (multiple answer)	Percent	Frequency
Feeling homesick	53.61	52
Fear of police officer	41.24	40
Low salary	39.18	38
Insecure status as foreigner	29.90	29
Poor housing	16.49	16
Did not apply, no complaints	16.49	16
Lack of support from supervisors	9.28	9
I do not like to live in Japan	8.25	8
Difficulties getting along with colleagues	6.19	6
Lack of friends	5.15	5

Equal Treatment in Comparison to Local Employees

Equal treatment	Percent	Frequency
Yes	22.68	22
No	35.05	34
Does not apply because there are no local employees	26.80	26
Did not apply	14.43	14
Did not know or specify	1.03	1
Total	100.00	97

N=97

Promotion

Promoted since starting to work	Percent	Frequency
Yes	20.62	20
No	79.38	77
Total	100.00	97

N=97

Skills

Regarding the skills that the migrant workers learn in Japan, 88 percent of our sample told they obtained new skills since they came to Japan. 57 percent achieved new skills in on the job training or

from colleagues and supervisors. This could indicate that Thai workers in our research study are not only earning a high income, but also new skills.

New Skills

Learned new skills	Percent	Frequency
Yes	87.63	85
No	7.22	7
Not sure	5.15	5
Total	100.00	97

N=97

Expenditure

In terms of expenditure per month, the mean expenditure per month for food and rent combined together is 20,000 baht.

Monthly Expenditure

Monthly expenditure (Baht)	Percent	Frequency
20,000 and less	28.87	28
20,001 – 30,000	21.65	21
30,001 – 40,000	22.68	22
40,001 – 50,000	12.37	12
50,001 – 60,000	7.22	7
60,001 and more	4.12	4
Did not specify	3.09	3
Total	100.00	97

N=97

Considering the amount in the most expensive country in the world, the data indicates that the migrant workers are trying to spend as little as possible in order to maximize their remittances. Despite paying minimum rent, Thai migrants are satisfied with their place of living as 87 percent claimed it ok, good, or very good in evaluating where they lived.

Job Turnover

56 percent of the sample have changed their jobs more than once. This indicates that their labor mobility is not static. However, this also suggests that many workers may have to change jobs involuntarily, due to unreasonable dismissal. This could well be the case because Thai workers are in vulnerable positions due to their legal status, according to experts. In fact, a large number of the respondents (74 percent) are found to be working without labor contracts, despite the Japanese labor laws requiring all labor contracts in written form.

In such a situation, dismissal can be often unfair and creates problems, though most migrants (63 percent) claimed that they know the reasons which can bring about termination of the work contract.

Life in Japan

There are some interesting findings regarding life, non-labor activities, of Thai migrant workers in Japan.

When the respondents were asked what they would like to do during their spare time, 24

percent replied that they would like to go out for shopping and travel. This implies that they could not do so because they are afraid of being arrested by the immigration officers due to their undocumented status.

According to the sample, 91 percent understand the Japanese language, at least the minimum level.

Understanding of Japanese Language

Degree of understanding in Japanese language	Percent	Frequency
Very well	8.25	8
Well	24.74	24
Okay	63.92	62
Not so well	2.06	2
Not at all	1.03	1
Total	100.00	97

N=97

This may be because most of our respondents have been in Japan for a period of time. This level of language proficiency may also partly explain why 98 percent described that their relationship with the Japanese people is all right or good.

Relationship with Japanese

Relationship with Japanese	Percent	Frequency
Good	69.07	67
Okay	28.87	28
Not so good	1.03	1
Did not apply or no contact	1.03	1
Total	100.00	97

N=97

In contrast, according to the people interviewed in expert interviewed who help suffering Thai migrant workers, Thai people understand Japanese least among the migrant workers in Japan.

Although 68 percent live with someone and 39 percent have a new partner in Japan, 86 percent said that they feel lonely living in Japan. 78 percent talk on the phone to their family in Thailand one to four times per month.

Person whom the Migrant Worker Lives with

Person who the migrant worker lives with	Percent	Frequency
By myself	31.96	31
Colleagues	28.87	28
Spouse	24.74	24
Family	9.28	9
Relatives	4.12	4
Employer	1.03	1
Total	100.00	97

N=97

New Partner in Japan

	New partner in Japan	Percent	Frequency
Yes		39.18	38
No		60.82	59
	Total	100.00	97

N=97

Number of Times Talked to the Family in Thailand

	Number of times talked with family	Percent	Frequency
1		11.34	11
2		10.31	10
3		18.56	18
4		28.87	28
5		8.25	8
6		9.28	9
7		2.06	2
8		2.06	2
10		2.06	2
Did not know		5.15	5
Did not specify		2.06	2
	Total	100.00	97

N=97

This is understandable because for some migrants, the length since they left Thailand is very long and it makes them feel lonely.

Not many respondents (26 percent) have gone back to Thailand during their stay in Japan. This is apparently because of the strict Japanese immigration laws for the overstayers.

In terms of relationship with the family in Thailand, 65 percent of our sample responded that their relationship with the relatives in Thailand has not changed since they left the country. 20 percent claimed the relationship became even better and only 6 percent answered it was worse.

Relationship with Family in Thailand

	Relationship with family in Thailand	Percent	Frequency
Much better than when I was in Thailand		7.22	7
Better		20.62	20
Same as before		64.95	63
Worse		6.19	6
Did not answer		1.03	1
	Total	100.00	97

N=97

It has been said that the migrant relationship with their kin will deteriorate because of his or her absence as a family member. However, our sample do not support such tendency.

As to the future, there are some interesting findings. Only 35 percent stated that they would go abroad again. 7 percent plan to go to the United States and only 4 percent to Japan.

Despite many workers satisfied with migration outcomes such as incomes, not many expressed interest in going abroad for work again after they return to Thailand

However, when they are questioned if they would encourage their relatives or friends to go to Japan, 67 percent said that they would encourage or strongly encourage them to go, while only 15 percent would discourage or tell them not to go.

Encourage Friends to Go to Japan

Encourage friends to go to Japan	Percent	Frequency
I would encourage them strongly	19.59	19
I would encourage them	47.42	46
I would be neutral	16.49	16
I would discourage them or would tell them rather not to come.	14.43	14
I would strongly discourage them and would warn them.	2.06	2
Total	100.00	97

N=97

In terms of complaints of Thai workers, 30 percent responded that their main complaint is insecure status as foreigners in Japan; 41 percent said fear of policeman, and 53 percent feel homesick.

It is interesting that 8 percent of our sample said that they have the intention to become Japanese citizens. Although it is true that most Thai workers are temporary workers in Japan, some hope to obtain Japanese citizenship and settle in Japan.

Intention to Become a Citizen in Japan

Intention to become a citizen in Japan	Percent	Frequency
Yes	8.25	8
No	65.98	64
Not sure	4.12	4
Did not apply or want to return	21.65	21
Total	100.00	97

N=97

Remittance

Although it is not easy for Thai migrant workers to enter Japan and work in the country, it is understandable that many Thai people are attracted to go to Japan to make a fortune because of incomparable economic benefits.

Our sample indicates that 72 percent remit once at least every two months, with the mean amount each time approximately 120,000 baht.

Remittance (Frequency)

Frequency of remittance	Percent	Frequency
Every month	43.30	42
Every 2-3 months	28.87	28
Irregularly	15.46	15
Did not apply or did not send remittances	10.31	10
Every 6 months	2.06	2
Total	100.00	97

N=97

Remittance (Amount each time)

Amount each time (Baht)	Percent	Frequency
30,000 and less	24.74	24
30,001 - 60,000	30.93	30
60,001 - 90,000	16.49	16
90,001 - 120,000	4.12	4
120,001 and more	7.22	7
Did not specify	6.19	6
Did not apply or respondent did not send remittances	10.31	10
Total	100.00	97

N=97

Remittance (In the last 12 months)

Amount (Baht)	Percent	Frequency
100,000 and less	8.25	8
100,001 - 500,000	17.53	17
500,001 - 1,000,000	27.84	27
1,000,001 - 2,000,000	15.46	15
2,000,000 and more	10.31	10
Did not specify	10.31	10
Did not apply and did not send remittances	10.31	10
Total	100.00	97

N=97

Remarkably, the respondents have remitted the mean of around 1.2 million baht in the last 12 months. The mean amount may not accurately depict the sample group or represent the general Thai population in Japan because the highest amount sent by a single Thai worker was so far above all others, 9.4 million baht, pushing up the mean. Nevertheless, if we simply take the mean of our sample and multiply it by the number of estimated 50,000 Thai migrant workers in Japan, it will be 60 billion baht annually remitted to Thailand from Thai workers in Japan.

For the person to receive the remittance, it was previously assumed that most of the recipients are the spouses of migrants. However, our sample illustrates that 30 percent claimed that persons receiving are their parents, followed by parents and children (18 percent). Only 14 percent sent money to their spouses. Another surprising finding is that only 16 percent send remittances through agents other than regular banks.

The most important use of the remittance is to buy a house and land (34 percent), followed by savings (27 percent) and repaying debts (14 percent). The mean of 1.7 million baht of remitted money was spent to purchase houses and this may not have been possible without their income earned in Japan and the remittance.

Interestingly enough, 23 percent of the migrants' families or relatives are receiving remittances not only from the respondents in Japan, but also from others working in other countries. From this, it can be supposed that some families who send their members abroad tend to have migrants in more than one country.

Most Important Expenditure in Thailand

Most important expenditure	Percent	Frequency
House / Land	34.02	33
Saving	26.80	26
Repay debts	14.43	14
Did not apply and did not send remittances	9.28	9
Repair house	7.22	7
Invest in trade	4.12	4
Family expenditure	2.06	2
Education expenditure for children/younger brother, sister..	1.03	1
Did not reply	1.03	1
Total	100.00	97

N=97

Family and Relatives Receiving Remittances from Other Persons Working Abroad

Receiving from others abroad	Percent	Frequency
Yes	22.68	22
No	18.56	18
Did not apply because none are working outside of Thailand	58.76	57
Total	100.00	97

N=97

Price of the House Purchased by Remittance

House price (Baht)	Percent	Frequency
10,000	1.03	1
20,000	1.03	1
25,000	1.03	1
350,000	1.03	1
400,000	3.09	3
470,000	1.03	1
500,000	3.09	3
600,000	1.03	1
690,000	1.03	1
750,000	2.06	2
800,000	3.09	3
1,000,000	5.15	5
1,100,000	1.03	1
1,400,000	1.03	1
2,000,000	3.09	3
7,000,000	1.03	1
12,000,000	2.06	2
Did not specify	68.04	66
Total	100.00	97

N=97

Summary of Survey

Due to the difficulty in accessing undocumented sample, a fewer proportion of undocumented workers than were actually in Japan were interviewed; 62 percent were undocumented and 38 percent legal in 97 sample.

The gender ratio of 97 sample was 57 percent male and 43 percent female. At the time of the interviews, close to half the respondents were between the ages of 30 and 39. This was further analyzed and it was found out that at least 55 percent arrived in Japan in their 20s. 58 percent arrived in Japan between 1990 and 1993.

The interview locations were widespread, but were mostly conducted in Tokyo and its surrounding prefectures

Many respondents were born in the Central provinces, especially in the Bangkok area, followed by Northeastern and Northern provinces, and also many of their residences in Thailand prior to the migration were in Central provinces. Importantly, the relationship between the place of origin and that of residence revealed that some migrant workers in Japan moved to Bangkok from their birthplaces, worked there for a period of time, and then migrated to Japan.

The highlighted family situation of the respondents was as follows. 50 percent of the sample were married, 34 percent had one child, 39 percent were her/himself the head of the household, 19 percent got married in Japan, and 25 percent lived with a spouse in Japan.

The empirical data from the survey show that close to 80 percent of the sample had more than nine years of education in Thailand and 29 percent had university level education. Cross-tabulation of the educational level with the legal status, supports, though not strongly but at least a tendency that the higher

the respondents' education is, the more likely it is that the respondents are legal workers. In fact, all respondents who had more than 18 years of education are legal workers, while 75 percent of the respondents who had education below nine years are irregular workers.

As for the backgrounds of the respondents, our data shows that 14 percent were working as farmers in Thailand, followed by working in the service sector in restaurants, cafés, or night clubs (11 percent), in the service sector but as salespersons, transport, or messengers (9 percent), industrial and manufacturing (8 percent), as a company servant (7 percent) and as dancers and singers (6 percent). The number of farmers was far less than expected.

As for the monthly income of the respondents in Thailand, the lowest monthly income was 1,000 and the highest 100,000. The mean was around 18,000 baht. This high level of the income confirms that the workers migrating to Japan are not necessarily economically poor.

78 percent of the respondents have not been abroad previously, while only 22 percent have. For those who have been overseas, their destination countries were Saudi Arabia, Hong Kong, and Singapore. Only one person had been to Japan. This data does not support what has been conventionally believed that most of recent migrants to Japan tend to be migration repeaters. On the contrary, it implies that new members are recruited and incorporated into the Thai-Japanese migration system.

The relatives and friends of the migrant workers provided information and, whether or not the information was accurate, the information they provided was an important factor in affecting the expectation and decision making of prospective migrant workers.

When the respondents were in Thailand, over two thirds of them expected to work in Japan for a relatively short period of time, no more than one year. However, many of them actually ended up staying in Japan much longer than expected, according to the data on duration of stay.

There were only 28 respondents who left Thailand before the economic crisis, but, of those, 43 percent responded there was definitely an impact of the economic crisis on their decision to migrate to Japan.

About half the respondents when entering Japan hold tourist visa and the majority of the respondents answered that they did not have any problem with passing the immigration control, despite the fact that presumably officials at entry points knew that some of the tourist visa were misused.

After arriving in Japan, a high percentage (80 percent) of the respondents obtained their first employment within a month. They were mostly helped by friends in finding employment. In the settling down period, many received assistance from the relatives and friends in the country. This finding confirms that the prior existence of relatives and friends is crucial in the Thai-Japanese migration system, and migration between two countries is not a suddenly developed one.

Recruitment fees which a high portion of the respondents paid were 25,000 baht to 50,000 baht.

Many respondents have been staying in Japan for over 5 years.

The most popular occupations of the respondents in Japan were services, followed by industry/manufacturing and entertainment.

The average monthly income of the respondents was 65,000 baht. However, about half of the respondents did not have benefits besides salary. Overall, the data showed that the migrant workers are content with their income.

For the unsatisfactory aspects of their stay in Japan, 54 percent complained that they felt homesick and 41 percent said that they feared police officers.

Close to 90 percent people replied that they learned new skills from working in Japan.

The average expenditure in Japan per month for food and rent combined together is 20,000 baht.

Most respondents stated that their understanding of Japanese language is good and that their relationship with Japanese people was good.

40 percent said that they found new partners in Japan.

Regarding the relationship between the migrant workers in Japan and the family left in Thailand, it was found that most did not think the relationship between them was altered in any way.

When asked, if they would encourage their friends to go to Japan, over 60 percent said that they would do so.

According to the data, Thai workers sent a huge amount of remittances from Japan. 31 percent remitted between 30,001 baht and 60,000 baht each time they remitted money and 28 percent remitted between 500,001 baht and 1,000,000 baht for the last 12 months.

Problems that Thai Migrant Workers in Japan Face

As described, the questionnaire results show a relatively positive migration experience and do not highlight the problems and challenges that the Thai migrants face in Japan. However, based on other sources of information a number of problems and difficulties have emerged surrounding the legality of Thai migrants in Japan due to Japanese migration policy.

What are the problems that Thai migrants face in Japan? The types of problems that male migrants and female migrants face are different. Male migrants encounter problems regarding labor issues such as levies, dismissal, labor insurance, and unpaid wages. Female migrants face problems and issues that are grounded in the social, personal, and cultural aspects of their life, such as male-female relationships, marriage, divorce, parenting, legalization of infants, and domestic violence.

The Number of Thai Migrant Workers Encountering Problems in Japan Reported and Registered at Royal Embassy of Thailand in Japan, between 1983 and 1994

Year	Number of Thai Migrant Workers with Problems
1983	37
1984	76
1985	69
1986	99
1987	109
1988	278
1989	369
1990	631
1991	1,266
1992	2,605
1993	4,089
1994	3,763

Source: Chunjitkaruna, 1997: 43.

Nevertheless, abuses of human rights and the violation of labor laws by employers such as fraud, unfair treatment, unreasonable dismissal, and so forth exist regardless of gender. In fact, the White Paper on Police figures show that arrests of Japanese employers who violated the labor laws still occur. The number of such arrests, though declining recently, were 1,235 in 1993, 700 in 1994, 320 in 1995, 282 in 1996, and 375 in 1997 (White Paper on Police, 1998: 267).

The Number of Arrests of Japanese Employers Who Violated the Labor Laws Over Mishandling Thai Migrant Workers in the Workplace, between 1993 and 1997

Year	Number of Arrests of Japanese Employers
1993	1,235
1994	700
1997	375
1995	320
1996	282

Source: White Paper on Police, page 267, 1998.

Problems in the workplace:

In our research 56 percent of respondents (mostly male) claimed that they had problems in the workplace, although 78 percent answered good or very good in terms of their relationship with other Thai colleagues, and 79 percent answered ok or good about their relationship with local Japanese colleagues. From this data, it seems that the problems in the workplace are more with employers and other issues. In fact, the expert informants reported that many Thai migrant workers were deceived within the workplace by their Japanese employers.

Problems commonly reported to NGOs were that companies impose an unfair levy on salaries (usually 10 to 20 percent), fail to pay wages regularly or fully, and dismiss workers suddenly and without reason. According to experts this is because many Japanese employers do not consider migrant workers to be "human" but just as "labor" to be exploited. In addition, Thai workers are not well informed about basic information regarding their labor rights. For instance, according to an NGO, many Thai workers do not even know the address or contact details of the company they work for. When problems do occur, this makes it difficult for NGOs to trace and negotiate with the responsible companies. Even when the NGOs are successful in locating offending companies, compensation is rarely paid, as many companies are unable to make such payments due to heavy debts associated with the economic recession. Although handbooks on labor rights are distributed in Thai language by NGOs in Japan, Thai workers tend to remain poorly informed, according to experts.

Another major problem in the workplace is the inaccessibility of insurance, as key informants told. Most basic Japanese labor laws guarantee that all workers, regardless of nationality or legal status, are treated as equal. With regard to accident cover at work for instance, there is a requirement for labor accident insurance, called the Workmen's Accident Compensation Insurance Law. This is for compensation for any injury resulting from accidents occurring in the workplace. This applies, as other labor laws do, to all workers, including migrant workers regardless of their immigration status. Even if the employers fail to pay the coverage fees for their employees, the workers have the right to claim and receive the labor insurance when job related accidents occur. In general, workers should be paid 80 percent of their salary for the period they are off work, in addition to being fully covered for their medical expenses.

In spite of such laws, in our questionnaires 55 percent of respondents claimed that the medical care and insurance was not available to them and 29 percent believed that it existed, but was difficult to access. This could be because, when accidents occur, most irregular Thai workers and many of their employers do not report them to the Labor Standard Office, the office that processes such applications. This is because they fear that the office, while investigating the details of the accident, may discover that the employment is undocumented. In reality, however, it is unlikely (although possible) that the Labor Standard Office will report to the Immigration Bureau immediately, according to experts. The Ministry of Labor which supervises the Labor Standard Office, considers that reporting to the Immigration Bureau while workers are still in need of compensation is immoral and inhumane. The Labor Standard Offices also said in 1989 it will not report immediately to the Immigration Bureau, unless the cases involved seriously violated the labor laws (Tenmyou, 1991: 48).

In some cases both Japanese employers and Thai migrant workers are not well informed about labor laws and workers' rights. In general, migrant workers with irregular status are not regarded as

regular workers, and it is therefore believed that they do not have the same rights as Japanese workers. For instance, when a job related accident occurred with an irregular migrant worker, a police officer falsely told the employer that foreign nationals could not apply for labor insurance. This was the result of both the private sectors, such as employers who hire irregular migrants, and also government officers, such as police officers, being ignorant of labor laws.

There are also technical difficulties for irregular foreign migrants in gaining labor insurance. The application process and receiving compensation takes longer for migrant workers than it does for Japanese workers. The longer the period, the more chance there is for other problems to occur. As the worker is not legally staying in Japan, they run the risk of being arrested at any time by the Immigration Bureau, and of being deported. As the person often does not have a family to support them while they are off work, without proper compensation they have no livelihood. (Tenmyou, 1991)

As a result of these various difficulties, many Thai migrant workers are not covered by insurance. Some NGO workers see this as a particularly serious problem because a large number of Thai men are regularly injured and even die in job related accidents. This is due to the fact that these Thai workers tend to work in dangerous occupations and under difficult labor conditions.

It is worth noting however that there has been a new development among the migrant laborers in Japan recently in the formation of migrant labor organizations. This is the result of an increased realization by labor experts of the importance of the migrant workforce in Japan. Bright, the first major migrant labor union in Japan, was active in assisting with labor disputes between migrant workers and Japanese employers. Recently, Bright successfully helped a Thai male worker solve a labor dispute over his workplace accident case. Prior to joining Bright, the Thai migrant worker had struggled with the dispute for three years. After he joined the union, and with union intervention between the two sides, the dispute was reconciled in only three months. Having gained confidence from such success, Bright now hope more Thai migrants would join the union. In fact, the union has been active in this regard with the union director visiting Thailand on September 20 1999 (*Matichon*, September 21, 1999). The director met with the key members of the Thai labor committee and discussed matters concerning Thai migrants in Japan and advised that an information campaign be run to encourage Thai migrants to join Bright. This was a very important issue as far as the union was concerned, as Thai workers are difficult to reach compared to Filipinos and other nationalities³ due to their status and language barrier.

Without written labor contracts, information about labor rights, and minimum protection such as labor accident insurance, it is clear that Thai workers are in a vulnerable position in their workplace. Although well a developed migration network among Thai workers facilitate migration, whether such a network is functioning adequately in terms of providing information to cope with the problems with outspoken actions is doubtful.

Problems faced especially by female workers:

In general the difficulties that Thai female migrants faced in Japan were different to those faced by their male counterparts. This was the result of the reality that Thai female migrants tend to struggle with more complicated and often serious social difficulties than Thai male migrant workers. The common struggles of Thai women which various consultants at NGO and government offices identified included: male-female relationships; marriage; divorce; domestic violence; parenting; and legalization of immigration status.

NGOs pointed out that disputes over divorce cases between Thai female migrants and Japanese nationals had begun to increasingly appear. One presumed reason for this is that there has now been significant time passed since Thai female migrants who came to Japan in the late 1980s and early 1990s (some as forced sex workers) and married Japanese men. Given this time many marriages have failed, possibly as the result of communication and cultural difficulties among other things. Another reason given for the increasing divorce rate was domestic violence against Thai females by their Japanese

³ Views expressed by Mr. Toru Saito. International Legal Labor Union, Bright International, Tokyo, at Seminar on Thai Women in Japan, September 27, 1999

husbands/partners. In fact, some Thai females who came to NGOs for help were sheltered for protection from domestic violence. One active volunteer pointed out that nowadays there are an increasing number of complicated legal issues regarding the pregnancy of overstayed Thai women and their newborns. This is partly due to Japanese husbands/partners deserting woman and infants, leaving them without support. This resulted in many children of these Thai single mother migrants (who had overstayed) being without nationality. This becomes a particular problem when children reach school age. It is estimated that there are as many as 10,000 children of Thai female migrants that are without nationality.⁴

Government counseling offices also indicated that consultations sought by Thai female migrants on the above mentioned issues were on the rise. For instance, the government of Kofu city, which governs one of the most Thai migrant populous areas in Kanto, reported that in 1998 they dealt with twenty seven cases regarding Thai migrants, mostly female: three cases on welfare; one on employment; two on schooling; four on pregnancy; ten on divorce; one on marriage; three on alien registration; and three on other issues. Similarly, the International Exchange Association in Yokohama city, Kanagawa prefecture, said that consultations sought by Thai migrants were on issues regarding divorce, marriage and alien registration. In some cases Japanese men married to Thai nationals approached the offices to inquire about the procedures needed in order to marry or divorce Thai women. As one government counsellor expressed, this is considered a rather good case scenario as such inquiries indicate that these people are thinking seriously about the legal ramifications of their actions. Usually however, most of the calls or visitations take place when problems are well advanced, or after events have occurred. For instance, many Thai female migrants make contact long after their children are born to ask about how to obtain legal status for them. This type of situation lead both NGOs and government offices to assume that the Thai female migrants have very little knowledge about Japanese laws regarding the legal status of irregular migrants' infants.

Many informants, both NGO workers and government officials, have pointed to a distinct attitude of Thai migrants in Japan. They consistently commented that Thai migrants compared to other migrants in Japan tend to isolate themselves from the Japanese public (even from the NGOs) keeping a low profile as much as possible. In fact NGOs trying to assist Thai migrants in trouble often receive calls not from the Thai migrants themselves, but from Japanese friends/colleagues worried that their friends/colleagues required help. Even when some Thai migrants did come for help (about unfair labor treatment for example) they were reluctant to speak out about their problems. In the middle of a court case over a labor dispute and before any legal conclusion had been reached, one NGO worker experienced her Thai male migrant worker disappear without any explanation. Other NGOs reported similar incidents. The prevalence of such cases has led NGOs to wonder if this characteristic behavior can be attributed to Thai social culture, as migrants from the Philippines and Bangladesh behave differently in similar situations.

Some government statistics also suggest this point. For example in Numazu city in Shizuoka prefecture there were reportedly a large number of irregular Thai migrants. Despite the migrant consulting office in the city government being aware that Thai migrants experienced a lot of trouble in the area, they found that the number of consultations with Thai citizens was minimal. There were only 49 consultations with Thai people out of the total of about 2,000 cases from other migrants in 1998. The number of consultations with Thai people has been consistently around 50 per annum for the past several years. This suggests that Thai migrants in comparison to other migrant nationalities are not using the public services because of their attitude towards outside help.

Needless to say it is natural regardless of nationality that illegal migrants in Japan are reluctant to come forward for assistance out of fear that any public commotion or disturbance (especially with government offices) could lead to arrest and deportation. However according to experts interviewed, Thai migrants both male and female have a stronger tendency towards this type of behavior. There could be many possible reasons for this, such as the language barrier. Regardless, it is certain that Thai workers were not well informed about ways to deal with problems that arise in a foreign country and thus tended to withdraw when problems did occur. This characteristic behavior tended to result in negative

⁴ Views expressed by Mr. Isao Shiina, a Thai restaurant owner and active volunteer, Tochigi, at Seminar on Thai Women in Japan, September 27, 1999

consequences.

Sickness

Many Japanese NGOs and doctors expressed their concern about the spread of HIV/AIDS amongst the Thai population in Japan. They warned that the problem could develop into a major crisis in years to come because HIV/AIDS prevalence among Thai workers in Japan was seemingly on the rise according to studies.⁵ Consistent with this view many Thai-speaking NGO workers said that they have been contacted by the local hospitals to interpret between Japanese doctors and Thai patients who have been hospitalized due to HIV/AIDS.⁶

According to a recent HIV/AIDS survey on migrants in Japan conducted by the Japanese Ministry of Welfare in 1991 and 1992, the bulk of HIV infected Asian migrants were likely to be female, heterosexual, below 30 years old, and live outside Tokyo in the Kanto and Koushin areas. Importantly, it also claimed that the number infected was rapidly increasing (*Japanese Journal of Public Health*, No.8, Vol. 42, August 1995: 575). For Thai migrants, the survey indicated that the infection rate for female migrants was much higher than for male migrants, which corresponded with the gender ratio (female to male) of 5: 1 of HIV infection among Asian migrants generally (August 1995: 576).

Another prominent report also studied HIV/AIDS and Sexually Transmitted Diseases (STDs) among Thai migrants in Japan. This was based on the medical records of those who went to the obstetrics and gynecology clinic in Ibaraki between 1989 and 1993. Of the 1,902 migrants who went to the clinic 95 percent were Thai and the majority of them were female (August 1995: 580). According to the data on those tested, the HIV infection rate was 3.0 percent in 1990, 3.6 in 1991, 4.5 in 1992, and 5.0 in 1993. The Chlamydia infection rate was also high (August 1995: 581). This study indicates that the HIV/AIDS status of Thai migrants has been worsening, especially amongst the female population working as hostess and prostitutes (August 1995). Furthermore, the survey alerts that the number of those infected with HIV could increase if those who are undiagnosed seek an HIV/AIDS test.

The Percentage of Thai Female Migrants, Tested, and Found HIV and Chlamydia Positive in Obstetrics and Gynecology Clinics in Ibaraki Prefecture, between 1989 and 1990

Year	The Number of Tested Thai Female Migrants	The Percentage of HIV Positives	The Percentage of Chlamydia Positives
1989	11	0.0	66.7
1990	70	3.0	30.6
1991	538	3.6	32.3
1992	569	4.5	28.3
1993	242	5.0	21.7

Source: "Prevalence of HIV and STD infection among foreign STD clinic attendants in Ibaraki Prefecture, Japan" *Japanese Journal of Public Health*, No.8, Vol. 42, page 581, August 1995.

In addition to HIV/AIDS and STDs, there are seemingly a number of Thai migrants in Japan who are dying or suffering from other sickness such as traffic accidents and labor related accidents, as briefly discussed earlier. There were also reports that many Thai female migrants (though not as many as before) had gone through extreme situations and were suffering from mental health problems. For instance, a Thai female was sheltered at an NGO for protection due to a psychogenesis reaction (*Saala Newsletter*, No. 43, 1999). Some NGO workers were apprehensive about the situation and called for a study into the problem as well as extensive treatment for these patients. Other opinions by concerned doctors who lend assistance to migrant workers raised the problem of some Japanese doctors and hospitals refusing to see or to admit migrant patients to their medical institutions.⁷ The Japanese Ministry of Welfare also reported that the infant mortality rate for Thai migrants was higher than the general population, at about ten percent.⁸

⁵ Views expressed by Dr. Yoshikazu Nemoto, at Seminar on Thai Women in Japan, September 27, 1999.

⁷ Views expressed by Dr. Takashi Sawada, Kanagawa Worker's Medical Cooperative, Yokohama city, Kanagawa, at Seminar on Thai Women in Japan, September 27, 1999.

⁸ Reported by Mr. Shunji Yamazaki, OASIS, Human Rights Network for Foreigners in Yamanashi, at Seminar on Thai Women in

One characteristic of the serious conditions discussed above was that they often befell Thai citizens who were not temporary migrant workers, but who had been staying in Japan for a considerable length of time, making their life there. In other words, the longer the length of stay, the more diverse and non-economic related the challenges were likely to be that emerged for the Thai migrant workers in Japan.

Suggested Solution for Thai Officials Regarding Migrant's Problems

What are the possible solutions to these problems and how is assistance being provided to Thai migrant workers? Before addressing these questions, it should be noted that despite a number of serious problems, most Thai workers do not get or seek adequate assistance. In fact, in our questionnaires 20 percent of people responded that they try to solve problems individually or feel that there is no solution. 67 percent of respondents claimed that they have never approached the Thai Embassy in Japan for assistance and 23 percent mentioned that they had been there only when they had to get papers. None indicated that they received any assistance from the Embassy to cope with their problems.

However, there is a demand among Thai workers for the Thai government or Embassy in Japan to take a more active role in helping to solve their problems. In the questionnaires 40 percent voiced the opinion that the Thai government or the Embassy should inform them more regularly of their rights; offer assistance to the problems they face in Japan; take a more active stand against officials in Japan; and do more to improve their legal status. They also insisted the Embassy should organize more social gatherings for them and inform them more regularly about happenings in Thailand.

On this point, some informants such as NGOs and Japanese government officers expressed their personal opinions and suggestions for what could be done to improve such difficult situations. At the Seminar on Thai Women in Japan, the issues that NGOs identified as most significant were: information campaigns; cooperation between NGOs and government offices; the Royal Embassy of Thailand in Japan taking a more active role; dealing with children without citizenship; dealing with serious sickness; and providing high quality interpreters.⁹ Some of these issues could also apply to the male workers.

It is not only the workers but also NGO workers who are dissatisfied with the current role of the Royal Embassy of Thailand in Japan. One interviewee of key informants mentioned that because the migrant workers in Japan are remitting a large amount of money to Thailand, the Thai government should be more serious about its workers abroad. In general, there is a feeling among NGO workers that the hardship of the Thai migrant workers in Japan is not well understood by policy makers in the Thai government. According to one interviewee, they suspect the educated policy makers of the central government are prejudiced or discriminate against less educated migrants. What many key informants agreed was that Thai migrant workers in Japan should be treated as individuals and integrated into Japanese society so they are protected adequately. Many argued that they should not be regarded just as labor that serves for the benefit of the Japanese economy.

Political and Social Structure that Deal with Thai Migrant Workers in Japan

In the previous sections, I have discussed the macro trend of migratory movements and the actual situation of Thai migrant workers in Japan. How are the Japanese institutions and individuals around the Thai migrant workers related to them? What are their roles and what support is provided to the migrants? How do they affect Thai-Japanese migration?

Governmental Institution

National Government Ministry

Traditionally, Japanese migration policies and practices have been influenced largely by bureaucracy, ministries. Among all Japanese government agencies, the Ministry of Justice and its immigration division, the Immigration Bureau, are the most influential government bodies in Japanese migration policy. They have been monitoring and regulating the arrival and departure of all migrants, including Thai migrants, through use of the ICRRL, the Japanese immigration law. Other Ministries also have keen and complex bureaucratic interests, and lobby to influence the formulation and implementation of migration policy. They include: the Ministry of Welfare, the Ministry of Foreign Affairs, the Ministry of International Trade and Industry, the Ministry of Construction, and the Ministry of Labor. Their positions vary largely based on their particular perception of migrants in Japanese society, given consideration of the costs and benefits to each ministry's specific areas of interest.

It is not easy to simplify and illustrate the complexity of ministerial stances on migrant labor issues, but in principle the Ministry of Justice is considered the strongest bureaucracy by far to oppose opening the door to migrants, especially unskilled migrant workers. One of the ministry's assumption is that there is an apparent link between rising number of the migrants and the rising crime rate (White Paper on Police, 1998). Similarly, the Ministry of Welfare traditionally takes a stance against opening the country to migrants, because it considers that migrants contribute to a large amount of social welfare and national insurance cost, pressuring its already tight budget. (Metropolitan Problems, No.2, Vol. 87, Feb. 1996: 37).

On the other hand, the Ministry of Foreign Affairs is supportive of the presence of pro migrants in Japan. The Ministry sees migrants as a vital source of direct interaction between the Japanese and non-Japanese population, and considers that this has the potential to contribute to promote the "internationalization of Japan". This slogan is often espoused by the Japanese government to dispel the conventional image of Japan as a closed society, and also to adjust the country so as to be compatible with the so-called "global standard". Likewise, the Ministry of International Trade and Industry (MITI) and the Ministry of Construction are also in favour of accepting more migrants, especially migrant workers. This is of course an obvious scheme by these ministries with economic interests, who hope that the migrant laborers will bring economic prosperity to Japan. More precisely, MITI's interests lie in substituting less costly migrant labor so that small and medium size companies (which have been hit so severely by the present recession) could reduce their labor costs, survive the recession, revitalize the economy, and become more competitive in the international market. Similarly, the Ministry of Construction argues for supplying migrant labor to construction industries where Japanese workers would not want to take up so-called "3D jobs".

The Ministry of Labor takes a slightly different view towards migrants from other government agencies. While it welcomes the migrant workers in principle, it never fails to make sure that they will never compete with Japanese workers in the same segment of the labor market. Their top priority in this issue is suppressing the rising unemployment rate, which currently stands at around five percent, a record high. They hope to prevent it rising further by preventing the importation of migrant workers into Japan.

In addition to the differences in interests among the Ministries, there are also within each ministry groups both for and against the current Japanese immigration policy. For instance, a commonly told story holds that the Ministry of Justice and the Immigration Bureau often clash over differences in interpreting and implementing immigration control and other minor bureaucratic procedures.¹⁰ In fact, understanding the bureaucratic interests of the various Ministries, departments, and sections which may conflict with each other may be one of the keys to understanding the development of Japanese migration policy and practices. However, policy debates have hardly been out of bureaucratic and political circles except for special committees such as *Gaikokujin Roudousha Mondai Kenkyuu Kai* or Research Committee on Foreign Labor Issues under the Ministry of Labor in 1987.

¹⁰ Information from Prof. Hiroshi Komai and an anonymous bureaucrat at Japanese Ministry of Justice

Local Government

Most local governments install so-called international or alien offices, usually at prefecture or city level. These offices are intended to provide public services to migrants and to promote international cooperation in their district or area of charge. With regards to migrants including Thai migrants, one of the main services is to issue migrants alien registration certificates for those who register. This is important because by law all migrants who stay in Japan for over 90 days must carry a certificate at all times during their stay. In return, the local officials collect information on the (mostly legal) migrants.

However, with regard to undocumented Thai migrant workers the local governments do not play a large role. This is because most Thai migrants in Japan are undocumented and in general they do not present themselves to the public services, although it is technically possible that migrants without legal status may register themselves and obtain the certificate. In addition, support and assistance to them are limited due to a lack of human and financial resources. Expert interviews with local governments reveal that they are not involved in solving the problems of migrants as extensively, deeply, and actively as the NGOs or individual volunteers are, though they do offer limited assistance. The assistance of government offices is largely limited to phone calls and consultation at their offices. In comparison, NGOs tend to pay direct visits to migrants and become deeply involved in the migrants' problems.

In Kanagawa prefecture, Ms. Okabe, a consultant for the International Exchange Association at International Exchange Lounge Center in Yokohama city told that she takes calls for consultations from migrants (mostly living in Yokohama city) but is not deeply involved in the cases. If she thinks the migrants who call are in need of further help with problems such as labor disputes, she directs them to relevant NGOs in Yokohama city who can give them more assistance. In fact the cases that she takes up are consultations on technical issues which need only verbal advice. At the Cultural and International Affairs Division of Planning Development at Chiba Prefecture Government in Chiba city (which has a large Thai migrant population) Ms. Takaoka, an officer in charge, and Ms. Aoki, a migrant adviser, told that the office deals with about 1,000 cases a year and this number has been recently increasing. Although Thai language consultation is not available at the office, there are frequent calls from both Thai migrants and Japanese who are concerned about their Thai friends or partners. However, their involvement in solving the problems is limited to these phone consultations.

However, in response to the increasing number of irregular migrant residents in Japan, recently many local governments have stepped further and set up additional offices with help counters and phone lines intended to help solve the difficulties that the (often undocumented) migrants encounter. As a matter of fact, as more and more Thai migrants who were once only workers but later became residents, become involved in Japanese society, the number of people who take advantage of such services is gradually increasing.

Overall, the role and support services of local governments are at present limited to Thai migrant workers because of insufficient human and financial resources. However, there is a general tendency and atmosphere among officials that the local government could and should take more action, starting with providing opportunities for the local people and the migrants. In fact, an increasing number of international events are being organized especially in Kawasaki and Yokohama city involving with NGOs and the local people. In fact, many Japanese became aware of the problems that migrant workers face in Japan through such events. They may not reach the undocumented migrant workers who are hesitant to come out and deal with bureaucracy, but it is an important action to increase public attention on the problems that migrant workers face. As one local government informant said in an interview, the ignorance of most Japanese to migrants around them is the worst problem.

Non Governmental Organization and Others

Japanese Non Governmental Organizations (NGOs) have been playing an important role in many aspects of Thai migration to Japan. They are deeply involved in day-to-day life of the migrant workers and provide devoted assistance to those who face problems and need help. Due to the fact that the bulk of Thai migrants are irregulars who generally lack knowledge and information on how to live and solve their problems in a foreign country, they often turn to NGOs for assistance, instead of the governmental organizations. This is because these illegal migrants think that government organizations

lack sincere support and fear reporting their problems to the offices may lead to their arrest.

According to one source, 72 Japanese NGOs were providing assistance to migrant workers in Japan as of 1992 (Roberts, 1995). Of those, there are currently some 35 NGOs throughout Japan which have either Thai speaking staff or experience in helping Thai migrants (Thai-Japan Handbook for Migrant Workers, 1998). While some organizations are scattered around less populated regions, many are situated in Kanto area, which includes Metropolitan Tokyo and Kanagawa prefecture where areas such as Shinjyuku city and Yokohama city have a large number of Thai workers.

Many Japanese NGOs have qualitative and up to date information about Thai migrants in Japan. In fact, such information is richer in quality than that of the government offices because NGOs are the ones who routinely contact Thais and are closer to the problems that Thai migrants face. It is true that some NGOs by and large do not ask for detailed background information concerning the migrants that they assist because they are less interested in analyzing the situation or the long term migration trends and are instead more concerned with their migrants privacy. Yet, many NGOs publicize their activities and publish newsletters that contain a lot of detailed information on the types of problems that Thai migrants face.

There are two types of Japanese NGOs lending a hand to Thai migrant workers in Japan. The dominant type tackles the difficulties of Thai migrants from a female perspective. This is because the majority of Thai migrants in Japan who encounter the harshest struggles are female. This type of NGOs emphasizes that the female workers are victims who are forced or deceived into migrating to Japan. Thus, most of the assistance goes towards those who migrated to Japan from Thailand between the late 1980's and early 1990's working in the sex industry. In the early years, in fact, the main activities of such NGOs used to be rescuing the female migrant workers from extremely harsh situations, such as those who were confined to brothels, forced to engage in prostitution, and could not escape from Yakuza, or organized crime groups. However, lately this has been changing because the nature of the problems facing migrants have been changing; this will be discussed extensively in later sections of this paper.

The most active NGOs of this type include Saalaa, MsLA, and HELP. The expert interview was initially piloted with HELP and later performed officially with Saalaa and MsLA. Three of the NGOs have been providing extensive support for female migrants workers, especially from Thailand. HELP, funded in 1986 and located in the middle of red-light district near Shinjyuku area in Tokyo, has been helping Thai female migrants by sheltering them from threats and physical abuse by gangsters, or their husbands/partners. House for Women, Saalaa, began its female migration assistance in 1991. Four NGOs in Kanagawa prefecture, which used to deal with problems of the then rapidly increasing migrants numbers in their neighborhood, coordinated to form a new NGO. The migrants who visited the NGO earlier used to be mainly women from the Philippines and Thailand, but recently they are seeing women from Colombia, Peru, and Brazil. All of those who come for help and are protected at the Saalaa shelter are female and stay at Saalaa to escape from their husbands/partners. Problems related to parenting, legal status of migrant workers' children, and their husbands are also consulted about with the staff.

MsLA, formally named Kanagawa Women's Space "MsLA", is similar to Saalaa in regards to its mission objectives. MsLA, pronounced as "mi zu ra" in Japanese, is located in Yokohama, Kanagawa prefecture. The NGO was founded in 1990 for the purpose of supporting female migrants with various problems. It is in the same neighbourhood as Minato Machi Medical Clinic which also receives quite a considerable number of Thai patients. MsLA offers consultation about female migrants difficulties for migrants from countries such as the Philippines and Latin American countries, but primarily from Thailand. Between 1990 and 1996, MsLA was involved in nearly 500 cases, mostly involving Thai women. Among Southeast Asian nationals, Thais are among the largest visitor group/phone callers, besides the Philippines, and people from Latin American countries. Like Saalaa, it is furnished with shelters for those who need protection from various kinds of threats. The consultants and counselors at MsLA are staff, volunteers, and experts who are trained in the field to deal with these issues. It is financially supported by over 500 members (both individuals and organizations) including the Thai government. The staff at MsLA assume that the number of consultation cases from migrants is likely to grow, as more and more female migrants settle in Japan.

Another type of NGO, small in number, provides assistance mainly to Thai male migrants who

have problems with labor contracts and unfair treatment. The interview was conducted with Kalabaw-No-Kai. Kalabaw-No-Kai, officially named Kalabaw-No-Kai, The Association in Kotobuki for Solidarity with Foreign Migrant Workers, located in Ishikawa town, Yokohama city, Kanagawa prefecture. It has been lending a hand to migrant workers, predominantly male workers. There are about thirty volunteers and five consultants who take phone calls from the workers, mostly from migrant workers and a very small number from Japanese workers. The area where the organization is situated is known as *Doya* or slum. The area also houses other labor related NGOs that aid unskilled workers. During the peak time, Kalabaw's neighborhood housed as many as 1,000 migrant workers, many of them living in short term lodges on a daily basis. However, because of the economic recession in Japan, there are now many fewer migrant workers. The NGO is not only offering consultation on problems that migrant workers face, but also is providing various activities to help migrants adjust to Japanese society and to promote international cooperation between the migrants and Japanese. For instance, the organization arranges Japanese language courses, cooking classes, sports activities, and offers other help that migrant workers may need. It is true that in recent years the great bulk of the consultations come from Filipino and Bangladeshi workers, with only a small number from Thai workers (becoming even smaller in recent years). However, it is also true that the organization still plays an important role of assistance to Thai male migrants because this is one of the few organizations in Japan which have both Thai speaking staff and staff who are knowledgeable and experienced in labor disputes.

In addition to the NGOs, there is an unknown number of active volunteers and concerned people in Japan (both Thai and Japanese) who are dedicated to providing compassionate and enthusiastic support to Thai migrants. These individuals are not necessarily associated with any particular NGO. Most of them speak fluent Thai and have previous experience in assisting with the problems Thai migrants face. In the Kanto area, 3 individuals are particularly active: Mr. Miura in Chiba; Mr. Irohira in Nagano; and Dr. Sawada in Yokohama, Kanagawa. According to Mr. Miura, the Thai migrant workers he was first associated with were involved in criminal cases such as murder, robbery, and prostitution. In some cases he was trying to help these migrants receive a fair trial. Later he became involved in providing assistance to those with problems related to infants and to pregnancy particularly of overstayed irregular Thai female migrants. Many of these woman had husbands/partners (often Japanese) who had deserted them after discovering that they were pregnant, leaving them destitute. Other concerned people include Dr. Takashi Sawada at Minato Machi Clinic located in Yokohama city, Kanagawa prefecture. According to the doctor, the neighbouring areas and prefectures are presumed to house a large number of Thai migrant workers, especially males. One of the most serious problems in recently years has been that some hospitals are hesitant to admit migrant patients.

As many Thai migrant workers have begun to settle down in Japan as residents, Japanese NGOs and concerned activists are aware that the social problems surrounding Thai migrants are becoming increasingly complex. As a result, many recognize the growing importance of creating coordinated networks among the NGOs. Given there are insufficient financial and human resources in the sector, there is an increasing move by NGOs to meet and exchange information in order to tackle the common sources of the problems. In October 1999, the Seminar on Thai Women in Japan, organized by the Royal Embassy of Thailand in Japan was attended by more than 120 participants from various NGOs, for a discussion on the problems faced by Thai female migrants in Japan. Officials from government organizations also attended the seminar, and an intensive information exchange between the organizations took place. This can be considered a noticeable change and clearly indicates a new era of cooperation between NGOs and GOs in addressing problems faced by Thai migrant workers.

Conclusion

Although other studies and reports have found otherwise, in our research Thai migrant workers in Japan evaluated their migration experiences and outcomes quite positively. This was mainly because they paid minimum fees to the brokers, earned an extremely high income, were able to remit large amounts, and were able to build or renovated a house. In short, the primary goal of many Thai migrant workers is earning a better income. This being met, most migrant workers are content with the fact that they migrated. Had they stayed and worked in Thailand such economic outcomes would never have been achieved.

Significantly these results have often led to a view that migration to Japan is an economic alternative worth trying for Thai migrant workers. In fact, because the economic benefits are so large in comparison to those of other countries like Singapore, Malaysia, or Taiwan, Japan has appealed strongly in the past to the policy makers. It has helped to shape an attitude among the public and the governments to treat the migrants as just "workers", if not just laborers, but hardly as individual human beings. In this respect, Thai migration to Japan was seen by many as a transnational economic system between one nation with a surplus of labor and another with a lack of it in exchange for hard currency.

During the course of the research it was felt that both the Thai and Japanese governments tend to view migration as the movement of "workers", if not laborers or commodities, but hardly as a movement of "people". This view is reflected in current practice. When support is provided for example, it is primarily targeted to meet the needs of Thai workers in the workplace, but rarely targets the needs of people such as residents and settlers in their daily life. While Japanese labor laws guarantee that all workers will be treated as equal regardless of nationality and legal status, there have been very few discussions or actions taken to protect the social well being or basic human rights of the long-term migrant stayers, such as the provision of social welfare and national medical insurance. Although the economic benefits are indeed incomparable, so are the social and psychological problems and challenges that the Thai migrants face in Japan. The research shows that although it is hidden, severe suffering exists among many Thai migrants in Japan. This suffering can be the result of issues surrounding: collapsed marriages; domestic violence; legalization of migrant's children; injuries and death resulting from accidents; housing; improper medical care; and illness such as mental disorders and HIV/AIDS. As more and more Thai nationals who were once migrant workers settle down in Japan, it will be crucial that laws and support services be inclusive, and address the problems of migrants in general, not only of migrant workers.

Very few social scientific academic studies have covered or paid adequate attention to the non-economic concerns of Thai migrant workers in Japan. This current research can therefore serve as a model for integrated interdisciplinary studies on Thai migrants in Japan. With changes in the current situation of the Thai workers, further in depth research should be conducted to investigate specific issues such as: informal social networks; communication difficulties; personal relationships; settlement of Thai women married to Japanese men; children of Thai migrant workers; family reunification; and integration of Thai citizens into Japanese society. These problems are serious and complex, yet few significant studies have addressed them.

In the late 1990s, the revival of the discussion and demands for importing more migrant labor seemed to be growing once again in Japanese political and economic circles. In fact, at the beginning of 2000 the Japanese government announced that (with discretion) the restrictions on migration would be gradually eased and more migrant workers will be accepted into the country for *Shoushika Koureika Shakai*, ageing society with declining birth rate. The first measures have already been implemented, including an extension of the trainee categories to include areas of training that were previously considered purely unskilled labor. However, mainstream discussions are still limited to how to utilize and maximize the labor to solve the labor shortage in areas which Japanese do not want to work. Therefore, one of the most important tasks for Thai-Japan migration research will be not only continuous monitoring of the forces and movements in relevant circles in Japan, but also pressing Japan to accommodate and integrate the migrant workers as new members of Japanese society.

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Appendix

Key Informants Interview

Local Governmental Intuitions:

Person(s)/ Institution: Ms. Yasuko Aoki and Ms. Takaoka/ Cultural and International Affairs Division of Planning Department, Chiba Prefectural Government
 Date: April 1999
 Location: Chiba Prefectural Government, Chiba city, Chiba prefecture

Person(s)/ Institution: Ms. Pranee Sukkri/ Office of Labor Affairs, Royal Embassy of Thailand in Japan
 Date: November 1998 (preliminary interview)
 Location: Office of Labor Affairs, Tokyo

Training Organizations:

Person(s)/ Institution: Mr. Masafumi Sato and Testuji Kawakami/ The Association for Overseas Technical Scholarship (AOTS)
 Date: April 9, 1999
 Location: AOTS office, Tokyo

Person(s)/ Institution: Mr. Tsukasa Nakazono and Ms. Izumi Yamachi/ Japan Vocational Ability Development Association (JAVADA)
 Date: April 12, 1999
 Location: JAVADA office, Tokyo

Person(s)/ Institution: Mr. Yuji Nagai and Mr. Toru Ogasawara/ Japan International Training Cooperation Organization (JITCO)
 Date: August 6, 1999
 Location: JITCO office, Tokyo

NGOs:

Person(s)/ Institution: Ms. Megumi Imaizumi and Ms. Kannari Yoshiko/ Kalabaw-No-Kai, (The Association in Kotobuki for Solidarity with Foreign Migrant Workers)
 Date: November 1998 and April 1999
 Location: Kalabaw-No-Kai office, Yokohama city, Kanagawa prefecture

Person(s)/ Institution: Ms. Yuriko Fukushima/ House for Women. Saalaa
 Date: November 1998 (preliminary interview) and April 1999
 Location: Saalaa, Yokohama city, Kanagawa prefecture

Person(s)/ Institution: Ms. Hiroko Abe/ Kanagawa Women's Space "MsLA"
 Date: April 1999
 Location: "MsLA", Yokohama city, Chiba prefecture

Person(s)/ Institution: Ms. Busayaa/ HELP
 Date: November 1998 (preliminary interview)
 Location: HELP office, Tokyo

Medical Institution:

Persons(s)/ Institution: Dr. Takashi Sawada/ Minato Machi Clinic, Yokohama city, Kanagawa prefecture
 Date: August 1999
 Location: Minato Machi Clinic, Kanagawa

Active Volunteer:

Person(s)/ Institution: Mr. Takato Miura
 Date: April 12, 1999
 Location: A Thai Temple in Chiba prefecture

Telephone interviews:

Person(s)/ Institution: Alien Consulting Office, (Gaikokujin Soudan Ka) Kofu City Government
 Date: April 1999

Person(s)/ Institution: International Exchange Department (Kokusai Kouryuu Ka), Numazu City Government, Shizuoka prefecture
 Date: April 1999

Person(s)/ Institution: International Exchange Department (Kokusai Kouryuu Ka), Welfare and Environment Division (Seikatsu Kankyou Bu), Ibaraki Prefectural Government
 Date: April 1999

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Recruitment and Problems of Thai Trainees in Japan

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Introduction

"Are the foreign trainees workers?" is a theme which is often discussed in discourses regarding migrant workers in Japan (Komai, 1993: 55-72, 1994: 103-134, 1999: 61-63, and Oishi, 1995).

Unlike other Asian countries which take in Thai migrant workers, Japan does not accept unskilled workers. Therefore, foreign trainees, together with illegal labor (irregular or unofficial labor), have become the main focus of research among migration scholars. The trainees are problematic because the Japanese training system is full of holes and thus is a hotbed of irregular and disguised labor, as will be discussed later.

Recently, the situation had reached a point where not only the migration scholars, but also the policy makers admitted that there were problems with the training system. In September 20, 1999 for instance, Kyushu Regional Administrative Inspection Bureau, the Management and Coordination Agency announced that the Bureau had found in the two prefectures of Fukuoka and Oita in Kyushu area about two thirds of the 24 businesses and organizations investigated had problems with their training practices. As a result, the Fukuoka Regional Immigration Bureau, Ministry of Justice was ordered to conduct a further investigation and give guidance on the matter (Ryukyu Shimpo September 21, 1999). In spite of such a deteriorating situation, this year the Japanese government declared further expansion of the scheme for foreign trainees.

The purpose of this paper is to reveal the problems encountered by the trainees in Japan, with emphasis on the situation of Thai trainees. Through the overview, the paper will also critically discuss the government's trainee expansion policy, which was announced recently.

Recipients of Foreign Trainees in Japan

There were 3,667,813 new entrants to Japan in 1998. This number decreased by 3.7 percent because of the economic recession in Japan and the entire Asian region. Entries for temporary visits (valid for 90 days, for purposes such as tourism) dominated this figure at 92.8 percent (3.4 million), followed by entries for entertainment activities at 2.0 percent (about 70,000) and for trainees at 1.4 percent (about 50,000). Trainees were third in significance and the proportion has been on the rise in recent years (JITCO White Paper, 1999: 80).

The number of alien registrations also showed a similar tendency. Those who had valid qualification of residence visas as trainees occupied 1.8 percent or 27,108 of about 1.5 million registering (JITCO White Paper, 1999: 81).

An interesting characteristic of these figures is that while the number of new entries and alien registrations for entertainment, college and pre-college students has been declining for some years due to the recession in Japan, the percentage of trainees has been increasing and may eventually become the greater proportion of migrants to Japan.

Traditionally, foreign training programs have been a hotbed for disguised labor outside the areas permitted by the visa. Indeed, according to research conducted by Hiroshi Komai in 1990, 72.1 percent of trainees were disguised labor according to the following four criteria: intention to fill the labor shortage; low standard of training; problems with the training period; and training longer than the period designated (Komai, 1994: 110). The situation reached a point around 1990 where it was hard to ignore the fact that there were as many as 600,000 irregular migrant workers staying in Japan.

The academics and those in business circles actively argued and raised the issues of "opening" or "closing" the country, while the Japanese government permitted their existence tacitly. In other words, the government took the stance that it did not control the irregular migrant workers strictly, as long as

there was no significant problems with them. On the other hand, due to pressure from business circles (especially from the business associations of small and medium enterprises, which faced severe labor shortage of Japanese workers in 3D jobs) the government established the Japan International Training Cooperation Organization (JITCO). JITCO functions under the jurisdiction of 5 ministries: Justice; Foreign Affairs; International Trade and Industry; Labor; and Transportation, and was founded to implement a policy to replace the irregular workers with foreign trainees.

Prior to the establishment of JITCO, the government had received trainees through the Japan International Cooperation Agency (JICA), Association of Overseas Training Scholarship (AOTS), Japan Vocational Ability Development Association (JAVADA), and International Labor Office (ILO). After JITCO started helping with receiving trainees in 1991, the number of foreign trainees has been on the rise and in particular those assisted by JITCO rapidly increased, accounting for more than 50 percent of all trainees to Japan.

Table 1 shows the entries of foreign trainees to Japan since 1994. The total number of foreign trainees who have been assisted by JITCO reached 130,000 in 1998. These trainees are now able to stay in Japan for a maximum of 3 years because of the Technical Intern Training Program (TITP) which was implemented in 1997. The number of foreign trainees who have joined TITP exceeded 30,000.

With regard to the entry of Thai trainees to Japan, as table 2 shows, Thai trainees accounted for approximately 10 percent of all new entries by Thai nationals to Japan in 1998. This increased proportion occurred when new entries by Thai nationals were declining at the time of the collapse of the Thai baht. Around 1990, the number of entries per year for Thai trainees was at 5,000 to 6,000, but it is presumed that many of those were disguised irregular workers during the era of the so-called 'bubble economy'. Therefore, the purpose of this paper is to document the situation of Thai trainees in Japan by examining case studies of Thai trainees, mainly those assisted by JITCO, but also by other organizations including AOTS, JAVADA, and JICA. This study aimed to reveal the circumstances of most trainees.

Thai Trainees Assisted by JITCO

Overview of JITCO and Thai Trainees

JITCO was founded in 1991 with the aim of implementing a healthy foreign training system. The background to this was the prior adjustments initiated by the Japanese government, including revision of the laws and regulations for foreign training systems, in order to receive workers in their youth and prime of life from developing countries as "foreign trainees" in Japanese industry. These adjustments also served to provide the trainees with skills, techniques, and knowledge at the "recipient places" for the period of time they stayed in Japan. In general, there are two types of foreign trainee recipient patterns: government and private. JITCO's role is to expand and develop the receipt of trainees through the private sector. In addition, JITCO has been positioned in the center of the TITP, which was implemented in April 1993.

Foreign trainees assisted by JITCO are received through two types of programs. Association managed programs (training programs implemented through the medium of an accepting organization) by which associations of small and medium enterprises receive trainees, and private enterprise programs (training programs implemented by a company itself), in which private enterprises independently receive trainees. In 1998, 14,867 trainees (57 percent) were received by association managed programs, while 11,208 trainees (43 percent) were received by private enterprise programs. As table 1 shows, to begin there had been more trainees in private enterprise type programs, however, since 1998 there have been more trainees in association managed programs.

A more careful examination of the breakdowns of the trainees in association management types showed 8,784 were received by associations of small and medium size businesses. These dominated the statistics with 59.1 percent, followed by 3,397 (22.8 percent) received by public organizations such as corporate and public foundations (designated in article 34 of the Civil Code), 624 trainees (4.2 percent) by the Chamber of Commerce and Industry, and 561 trainees (3.8 percent) by the Society of Commerce and Industry.

For private enterprise types, 5,237 (46.7 percent) trainees were received by joint-venture enterprises, followed by 2,632 (23.4 percent) by overseas companies, and 1,828 (16.3 percent) by business related companies. In terms of the trainees' industry, clothing and garment manufacturing accounted for 20.7 percent, followed by vehicle assembly and repair (15.1 percent), food processing (9.6 percent), and construction (8.0 percent). In total, the assembly and repair of machinery exceeded 30 percent and was the most popular industry (JITCO White Paper, 1999: 85).

The number of Thai trainees received through JITCO has been increasing, as table 3 shows. In particular, in 1998 it increased by 42.3 percent compared to the previous year. As a result, 42.9 percent of all Thai trainees traveling to Japan now go through JITCO (JITCO White Paper, 1999: 83).¹

Table 1: Entry of Foreign Trainees by Government and Private Sector

Recruiting Channels		1994	1995	1996	1997	1998
Assisted by JITCO	Private Enterprises Types	8,020	11,189	13,183	12,839	11,208
	Association Management Types	4,859	6,817	9,895	15,172	14,867
	Total	12,879	18,264	23,078	28,011	26,075
Received by the Japanese Government	JICA	9,562	7,621	6,899	7,263	8,304
	AOTS	4,444	4,752	4,882	5,207	5,110
	JAVADA	600	600	600	550	525
	ILO	207	203	212	202	197
	Total	14,813	13,176	12,593	13,222	14,136
Processed directly by the Immigration Bureau		8,920	9,151	9,865	8,361	9,586
Grand Total		36,612	40,591	45,536	49,594	49,797

Source: JITCO White Paper, 1999:pp.83, Table 5, pp.84 Table 8, composed by the Author.

Note: ILO stands for Japan ILO Association.

¹Among the foreign trainees who are arranged through JITCO, Thai trainees ranked at 3rd in 1998, after 61.0 percent by Chinese and 15.4 percent by Indonesian trainees.

Table 2: Number of Thai Trainees, All Trainees and Thai New Entering Japan between 1990 and 1998

Year	Thai Trainees Entering Japan	All Trainees Entering Japan	Thai New Entering Japan
1990	5,075	37,566	N/A
1991	6,290	43,649	N/A
1992	5,385	43,627	89,080
1993	4,075	39,795	63,432
1994	3,718	36,612	53,830
1995	3,661	40,591	46,252
1996	3,298	45,536	56,505
1997	3,534	49,594	53,778
1998	4,625	49,797	40,174

Source: Oishi 1995: 373, JITCO, and *Statistics on Immigration Control*, p.14, p.22, Japan Immigration Association, 1998, and *Statistics on Immigration Control*, p.14, 1996

Table 3: Number of Thai Trainees Assisted in Immigration Procedures by JITCO, between 1992 and 1998

Year	Number Assisted
1992	915
1993	1,038
1994	1,116
1995	1,277
1996	1,013
1997	1,393
1998	1,984

Source: JITCO internal documents, obtained from the interview at JITCO headquarter, August 1999.

The JITCO Recipient System, Trainees, and TITP Interns

As table 4 shows, the JITCO Recipient System consists of the Training Program and the TITP, which differ by their training periods. In terms of the system process, firstly foreign trainees are received as "trainees". In principle, trainees are trained for less than one year, and in the case of on-the-job training (OJT), the period of the OJT can not exceed more than two third of the entire training period. Only those who passed their exams in the training areas that have a skill evaluation system, as tables 5 and 6 show, can enter TITP.

Table 4: Comparison of Training Program and Technical Intern Training Program (TITP)

	Training Program	TITP
(1) Person eligible	1. 20 to 40 years of age 2. High school graduates 3. Have employment experience 4. Guaranteed employment after returning home 5. Other factors of JITCO Overview*	1. Person transferring from Training Program to TITP (TITP participation conditional on participation in Training Program) 2. A trainee passing the technical assessment 3. A trainee passing the behavioural assessment 4. A trainee granted the change of residence status after passing the assessments noted above
(2) Residence status	1. Training	1. Designated Activities
(3) Technologies/skills etc. covered	1. Not simply repetitive work 2. Those not obtainable in the home country	1. More practical mastery of the same class of technologies/skills etc.
(4) Contract agreement	1. A training contract between the sending /accepting organizations	1. Technical Intern Training contract between the technical intern and the accepting company, protected by the Japanese Labor Standards Law etc.
(5) Allowance	1. To defray miscellaneous expenses incurred during the training program(not wages in compensation for work) 2. To be decided on the agreement between sending organization and accepting organization	1. Wages described in each employment contract between the technical intern and the accepting company 2. The Minimum Wages Law applies as in the case of Japanese employees.
(6) Overtime Work	1. Not available	1. Permitted as required for more practical mastery of technologies /skills etc.
(7) Insurance	1. Comprehensive Insurance for Foreign Trainees	1. The Workmen's Accident Compensation Insurance Law applies during the technical internship 2. Comprehensive Insurance for Foreign Technical Intern
(8) Accommodation fees	1. To be decided on the agreement between sending organization and accepting organization; in most cases borne by the accepting company	1. Usually borne by the technical intern out of his/her salary
(9) Return air fare	1. To be decided on the agreement between sending organization and accepting organization; in most cases borne by the accepting company	1. Usually borne by the technical intern out of his/her salary

Source: An Overview of JITCO: p.13

On the other hand, the sending side also takes the following responsibilities. In Thailand, the Department of Employment, Ministry of Labor and Social Welfare is the Information Exchange Organization for JITCO and sealed the Record of Discussions in March 31, 1994 (An Overview of JITCO: 4, 13).

1. Before dispatching trainees:

- (1) Preliminary training in Japanese culture and language
- (2) A health diagnosis to certify the trainee as having adequate physical and mental constitution and as not requiring dental treatment during the training period.

2. During the training/technical internship:

- (1) Payment of salary in the home country
- (2) Support for families in the home country
- (3) Filling of posts left vacant by the trainee/technical intern.

3. After completion of the training program/TITP:

- (1) Guarantees of the reinstatement to the original post after the trainee's/technical intern's return home.

The skill evaluation system and types of occupation, which is for the trainees to enter TITP is as follows, quoted from April 20, 1999.

In April 1993, the Ministry of Justice (in Ministerial Notification 141) issued Guidelines Concerning the Handling of the Technical Intern Training Program in the Context of Immigration Control. In keeping with these guidelines, evaluation of the training results is carried out by JITCO in accordance with objective and fair systems of the sort used by public service corporations engaged in the certification and testing of qualifications. These systems are of the following two types: (An Overview of JITCO: 14-15).

1) Evaluation System based on skill assessment

This is a national system of skill assessment, under which a worker's skills are assessed with reference to a fixed set of standards and the assessed skills are notarised. It is implemented on the basis of the Occupational Skills Development Promotion Law (Law 64, 1969). In the evaluation of training results required for transfer to the Technical Intern Training Program, the assessment concerns mainly the 49 occupational categories listed below, for which two ranks of grades (Basic Grade I and Basic Grade II) are applied as below.

This assessment makes use of test problems by the Japan Vocational Ability Development Association. The occupational skills development association of the prefecture conducts the tests. Arrangements are made so that assessments involving the aforementioned two grades can be conducted as necessary, with due consideration of the timing of the candidate's entry into Japan and other matters.

Table 5:
National Skill Test Type of Occupation and Selective Works for Basic I and II Grade (49 types of occupation, 76 selective works)

Type of occupation	Selective work
Casting	Casting work(cast iron)/ Casting work(copper alloy)/Casting work(light alloy)
Forging	Die forging work(hammer)/Die forging work(press)
Machining	Engine lathe work/ Milling machine work
Metal pressing	Metal press work
Iron working	Structure steel work
Sheet metal working at plants	Machine sheet metal work
Aluminum anodizing	Aluminum anodizing work
Planting	Electroplating work/ Hot dip galvanizing work
Finishing	Finishing work (jig and tool)/Finishing work(metal die)/ Finishing work (machine assembling)
Machine inspection	Machine inspecting work
Die casting	Die casting work (hot chamber)/ Die casting work (cold chamber)
Machine maintenance	Machine maintenance work
Electronic machinery and apparatus assembling	Electronic machinery and apparatus assembling work
Electric machinery and apparatus assembling	Rotary electric machine assembling work/ Transformer assembling work/ Switchboard and control panel assembling work/ Switch control instrument assembling work/ Coil winding work
Dyeing	Hank dyeing work
Knit goods making	Hosiery knitting / Circular knitting
Ladies' and children's dress making	Ladies' and children's ready-made dress making work
Men's suit making	Men's ready-made suit making work
Canvas product making	Canvas product making work
Sewing (cloth)	Shirt sewing work
Well drilling	Well drilling work (percussion boring)/ Well drilling work (rotary boring)
Sheet metal working for construction	Sheet metal work (duct)
Freezing and air condition apparatus installing	Freezing and air condition apparatus installing work
Fixture making	Wooden fixture making work
Masonry	Stone masonry work/ terrazzo joining work
Carpentry	Carpentry work
Clay tile roofing	Clay tile roofing work
Scaffolding	Scaffolding work
Plastering	Plastering work
Tiling	Tiling work
Plumbing	Plumbing work (construction)/ Plumbing work (plant)
Form panel setting	Form panel setting work
Reinforcing bar construction	Reinforcing bar assembling
Concrete pressure feeding	Concrete pressure feeding work
Water proofing	Sealing water proofing work

Interior finishing	Plastic floor finishing work/ Carpet finishing work/ Ceiling steel under-skeleton construction work/ Ceiling surface board finishing work/ Curtain making and finishing work
Heat insulation	Heat insulating work
Sash setting	Sash setting work (building)
Well-point construction	Well-point construction work
Paper hanging	Paper hanging work (wall and ceiling)
Furniture making	Furniture making work (hand)
Printing	Offset printing work
Book binding	Book binding work/ Magazine binding work/ Stationary binding work
Plastic molding	Plastic molding work (compression)/ Plastic molding work (injection)/ Plastic molding work (inflation)
Reinforce plastic molding	Hand pile lamination molding
Ham and sausage making	Ham and sausage making work
Fish paste making	Boiled fish paste making
Painting	Building painting work/ metal painting work/Steel bridge painting work/ Spray painting work
Industrial packaging	Industrial packaging work

Source: An Overview of JITCO: Appendix

Note: *Indicates types of occupations that have had their maximum stay extended to two years (a maximum of 3 years exists for other types of occupations than above)

2) Evaluation System based on JITCO authorization

Systems of evaluation, which are in accordance with those used by public service corporations engaged in the certification and testing of qualifications and are judged to be appropriate for evaluation of skills, etc., as indicative of results training and required for placement in the Technical Intern Training Program, may be authorized by JITCO for such evaluation.

These authorizations are made separately for each category of occupation or work, and are based on standards for authorization of systems for evaluation of skills, etc. In addition, they are made by JITCO upon the deliberations of the Liaison and Adjustment Committee Concerning Evaluation Skills, etc.

Once it has authorized a system, JITCO publishes various relevant information in the Official Gazette, including the name and address of the authorized public service corporation, etc., the name of the authorized system, and the names of types occupation covered.

Table 6:
Evaluation System Based on JITCO Authorization (six occupations)

Type of occupation	Selective work
Application of construction equipment	Work of the following types Dozing/ Loading / Excavating / Road rolling
Welding	Manual welding/ Semi-automatic welding
*Can seaming for canned foods	Can seaming for canned foods
Fishing-boat fisheries	Work for the following types Skipjack pole and line fishery/ Tuna long line fishery/ Squid jigging fishery/ Purse seine fishery/ Trawl fishery/ Drift net fishery
Spinning operation	Spinning process
Weaving operation	Weaving operation/ Weaving process

Source: An Overview of JITCO: Appendix

In the fiscal year of 1998 12,437 trainees applied to enter TITP and most of them passed the entrance exams. This number accounted for 45 percent of all 28,011 trainees that JITCO received. Only

41 Thai trainees applied for TITP and considering there were 1,397 Thai trainees received by JITCO in 1997, this (2.9 percent) is extremely low, given that 45 percent of all trainees applied for TITP.

Case Studies of Thai Trainees Received through JITCO

As a case study of JITCO involvement, the "K" cooperative association in "S" city, "I" prefecture, is worth illustrating here. In "I" prefecture, there were a considerable number of Thais, especially in the outskirts of "A" town, which was called "Little Bangkok". Here a number of Thai migrants used to work, in particular undocumented female migrants. Besides "A" town, there were also areas and towns such as "H" and "I" town where there had been an influx of Thai workers through Japanese brokers and their Thai wives. Consequently there were a noticeable number of ethnic businesses such as Thai restaurants, grocery stores, clothing stores, and beauty salons, targeting Thai customers, and host clubs employing Thai women. Since the late 1980s companies that received Thai trainees through the "K" cooperative association have become more dependent on irregular migrant workers from Thailand, China, and the Philippines. The construction industry and the food processing industry have become the most common industries for these workers to work in.

The "K" cooperative association was founded in March 1996 and its membership consists of some 30 companies. Since April 1998 the association started to receive trainees benefiting from the support services which JITCO provided. However due to the various difficulties receiving trainees became possible and occurred regularly only after a Thai person (the wife of the "K" cooperative association's trustee) made several persistent visits to the Department of Employment, Ministry of Labor and Social Welfare to make arrangements. The association has received some 100 trainees so far, 40 trainees and 8 TITP interns as of November 1999. The association charged the training receiving companies 45,000 yen or 15,000 baht (based on calculation of 1 Thai baht equalling approximately 3 Japanese yen) per trainee and 30,000 yen or 10,000 baht per TITP intern. The travel expenses for the association paid both directions of the trip.

As a stipend the trainees received either 90,000 yen or 30,000 baht which included meals or 100,000 yen or 33,000 baht which excluded meals, and the companies paid for accommodation costs. For TITP interns 120,000 yen or 40,000 baht was paid and companies also provided accommodation.

The "K" cooperative association employed 2 female Japanese staff to deal with matters regarding trainees. One of them, who lived in Thailand for some 10 years, taught Japanese to the trainees and played the role of a communication facilitator with the Thai trainees.

"M", a 27-year-old male TITP intern was from Nakhonrachasimaa. He was introduced to the "K" association through the Labor Office in the Province and Ministry of Labor and Social Welfare in Bangkok. At first he was planning to go to work in Taiwan but he ended up going to Japan instead. He used to work for a construction company in Nakhonrachasimaa receiving a monthly salary of over 5,000 baht. He went to Japan as one of the 26-member trainee group. At the time of this study, there were only 8 of them still remaining in the training. He associated himself with the "K" association and passed the TITP exam successfully in February 1992, which enabled him to be promoted to a TITP intern. Once he became a TITP intern he remitted about 80,000 yen or 27,000 baht to his parents every month. He planned to go back to Thailand in 2001, where he hoped to continue working in construction related jobs and that the skills gained through training in the construction industry such as framing and scaffolding would be useful in his country of origin.

"K", a 25-year-old female from Sukhothai, came to Japan in June 1996 and worked packing eggs in a food processing company. She used to work helping her parents farm in Sukhothai before applying to be a trainee at "N" manpower in Thailand and paying a 160,000 baht commission. Before leaving for Japan she attended a one-hour lecture at the Ministry of Labor and Social Welfare in Bangkok about the training system in Japan and took Japanese language lessons for one week in Bangkok. In "S" city in Japan she attended another week of language training. She worked along with other Thai trainees at a factory that had a total of 80 employees. Her training was to be for one year only because the training category that she worked in did not offer the TITP exam for extension. Every month she remitted about 70,000 to 80,000 yen or 24,000 to 27,000 baht to her parents.

The most common problem the "K" cooperative association was concerned with was the trainees running away. Although trainees were provided with a certain amount of monthly training stipend, the amount was far less (about a half to one fifth in some cases) than the amount other irregular workers received for the same type of work. For those in the training categories which did not offer TITP, the length of stay in Japan was only one year. Even for those in the training categories which offered TITP, it was not guaranteed that they could stay for another two to three years. As a result there were always cases where trainees got to know other undocumented Thai workers in places such as "I" prefecture, obtained information from them, and then ran away from the training to work for a better salary.

Another problem is the commission paid. The "K" cooperative association had received trainees on four occasions. Initially the trainees were arranged through the Thai Ministry of Labor and Welfare and did not pay a commission. However since then the trainees have had to pay a commission because "N" manpower company became involved in the process as a broker. The amount of commission was raised to as much as 160,000 baht by the time the fourth group of trainees was received. The amount of commission was the same for the trainees in non-TITP training categories who stayed for only one year as it was for the interns in TITP categories who stayed for two to three years. During the economic recession in Thailand, going to Japan to work through the training system was still attractive even with the 160,000 baht commission. However there was mounting dissatisfaction among Thai trainees, especially among those who were trained in non-TITP training categories.

The trainees also experienced psychological problems. Some of these problems related to "*phii nong kan*" which is the hierarchical relationship between people unique to Thai culture. Other problems related to love affairs among Thais and communication difficulties with the Japanese. These types of problems often emerged and could have contributed to trainees running away or experiencing psychological problems. Although the wife of the trustee of the association was trying to help with such problems, they were difficult and complex situations especially when they involved a loss of trust.

A factory manager of a food processing company, which received 6 female Thai trainees, admitted that his business would no longer be viable without the trainees or undocumented workers. With more and more Japanese consumers demanding fresh food products labeled with a manufacturing date as close as possible to the date of purchase, the workers in the food processing industry are pressed to work around mid-night (when the date changes) making them typical "3D" workers. Small and medium businesses considered that the role of the migrant workers in such industries was becoming more and more significant and they were no longer dependent on housewives who were considered relatively flexible in the hours they will work.

State of Foreign Trainees and TITP Interns through Other Channels

Within the training programs of JITCO there were also 3 other programs that have other channels than that of JITCO's. They are channels through the Central Federation of Societies of Commerce and Industry, Japan and the National Federation of Small Business Associations. The Society of Commerce and Industry is the association for the areas at town and village level, which do not have the Chamber of Commerce and Industry at the city district level. As of April 12, 1999 the state of the training program and TITP through the Central Federation of Societies of Commerce and Industry Japan was that 1,279 interns were received in 26 cases by 545 companies at 119 Societies of Commerce and Industry (see Table 7). Among them were 606 trainees and 429 TITP interns. JITCO provided document inspection services for the Japanese Immigration Bureau.

Table 7: The State of Training Program and TITP through the Societies of Commerce and Industry as of April 1 1999

State of Process	Number of Prefectures	Number of the Societies of Commerce and Industry	Number of Trainees Received	Number of Companies
TITP in progress	13	33	429	253
Training in progress	22	54	606	213
Inspection Completed at Immigration Bureau	4	7	152	42
Inspection in progress at Immigration Bureau	7	7	33	12
Consultation in progress at Immigration Bureau	1	3	49	21
Investigation in progress in Internal Organization	6	15	10	4
Total	260	119	1,279	545

Note: The number is accumulated number. 21 prefectures out of 47 all prefectures in Japan do not fall into any processes above.

**Table 8: Changes of the Numbers of Trainees Categorized by Types of Associations
(Results from investigation by the National Federation of Small Business Associations)**

	1993	1994	1995	1996	1997	1998	1999
1. Associations that are providing training	126	117	116	100	110	207	238
2. Associations that are already certified for issuing the certificate of eligibility	4	3	3	4	7	13	14
3. Associations that are applying for certification for issuing the certificate of eligibility	6	3	2	4	5	19	23
4. Associations that are consulting with the Immigration Bureau before applying for certification	5	3	4	3	4	10	11
5. Associations that considering receiving trainees	16	12	6	7	8	15	27
Possible recipient associations	157	138	131	118	134	264	313
Associations that are provided TITP	7	28	43	36	48	125	148
The total number of recipient associations	22	180	261	251	446	1,338	1,650
The total number of TITP interns	60	494	677	765	1,275	3,911	5,239

Note: The number of responses from the administrative division of the National Federation of Small Business Association as follows: 39 prefectures in December 1998; 41 prefectures in Feb; 42 prefectures in March; 42 prefectures in April; 42 prefectures in May; and 42 prefectures in June. As of July, there were 2,219 recipient companies and 7,073 trainees.

Over half of the trainees that the Societies of Commerce and Industry received were from China, with trainees from Thailand received by only three associations as of April 1999. The research conducted on these three cases with the cooperation of the National Federation of Small Business Associations is summarized below.

1) Case of "I" village "E" prefecture

Since 1996, Thai trainees have been received through the Employment Office at the Thai Ministry of Labor and Social Welfare as the sending organization. As of October 1999, there were ten trainees in two training categories. There were 3 trainees and 4 TITP interns in the construction painting industry, while there were 3 trainees in the fruits and vegetables industry, who were working selecting oranges. These trainees were provided 90,000 yen or 30,000 baht as a stipend and 40,000 yen or 14,000 baht for meals every month. TITP interns earned a salary of 110,000 yen or 37,000 baht and 40,000 yen or 14,000 baht for meals every month for the first year and a salary of 140,000 yen or 47,000 baht for the second year. In every training case, accommodation was provided free of charge. All trainees there were from "S" County in Angthong Province. In the beginning a communication problem existed between the Japanese and the trainees but an TITP intern who had been in Japan for three years was interpreting and bridging the gap between the trainees and the Japanese.

The company came know a businessman in Kumamoto Prefecture who had a joint venture management company in Thailand and started to receive Thai trainees through a business connection of nationwide networks in the fruit and vegetable industry. This person in Kumamoto still helped in interviewing applicants in Thailand and solving disputes at training sites. In the first year, there was a runaway trainee. However, the TITP intern who came to Japan three years ago became a leader and these problems have been reduced.

2) Case Study of "Y" town, "E" prefecture

Since 1996, Thai trainees have been received through the Employment Office at the Thai Ministry of Labor and Social Welfare as a sending organization. Similar to "I" village, "E" prefecture, the same businessman in Kumamoto was involved. As of October 1999, there were seven trainees and they were in the marine products industry. All the trainees were men from Phayao. Each received 90,000 yen or 30,000 baht as a stipend every month. The company covered the costs for clothing, food, and accommodation.

3) Case Study of "A" town, "O" prefecture

"T" company, which has a joint venture company in Chonburi province (FRP manufacturing products, such as leisure boats and modular baths), has received three trainees at a time, and so far twelve trainees in total since 1999. In the one-year training period, trainees were provided 50,000 yen or 17,000 baht as a monthly stipend. Also, apartments and food were offered free of charge. The trainees had already received Japanese language training in Thailand. The training at the factory was conducted in Japanese and in Thai by Thai trainees, as well as in some basic Thai spoken by Japanese workers who had worked in Thailand before. OFF JT (off-the-job training) training to identify the causes of deficiencies and prevention of the deficiencies in finished products such as plastic products was given, while the OJT (on-the-job training) which is practical training in inspection, finishing, framing, and summarizing was conducted. Trainees who receive such training become valuable personnel assets to the joint venture company in Thailand.

Case Study of AOTS

Overview of AOTS

AOTS, a non-profit organization, was established in 1959 with the support of the Japanese Ministry of International Trade and Industry (MITI). Its main purpose is to promote technical cooperation for the industrialization and development of less developed countries, and to enhance a mutual

understanding and friendly relationship between those countries and Japan. To date AOTS has trained nearly 80,000 people in Japan from over 150 countries and regions. In addition, it has organized various training programs outside Japan involving about 79,000 participants from developing countries. The activities of AOTS are financed by a Japanese government subsidy, company contributions, and other sources. The major activities of AOTS are as follows. The activities that are especially relevant to Thai trainees are I-I and II to IV are supportive systems for the main activities (Guide to AOTS: 2).²

I. Educational Training

1. Technical and managerial training services on a private basis in Japan:

(i) General orientation courses on general subjects eg. Japanese language, industries, technology, culture and society

(ii) Specialized technical in-plant training by Japanese host companies, and

(iii) Management training programs on modern theory and practice of business management, production management, quality control, etc.

2. Pre-departure Japanese language training programs in developing countries

3. Environmental training programs for those who are responsible for environmental protection

4. Overseas correspondence programs on management for developing countries

5. Overseas training programs outside Japan

6. Training programs for those Japanese instructors who are in charge of the technical training of overseas trainees

7. Training programs for the Japanese Government, such the international organization the Asian Productivity Organization (APO), etc.

* Certification

When the training has been completed satisfactorily, a certificate will be awarded to the trainee.

II. Accommodations and Training Facilities

Training centers in Tokyo, Yokohama Toyota and Osaka are designed to serve the trainees as a home-away-from-home as well as a studying place.

III. Financial Aid to Host Companies

AOTS provides Japanese host companies with financial aid and relevant assistance to invite the trainees for training programs that are arranged according to AOTS standards.

IV. Medical Services and Accident Insurance for Trainees

Trainees are entitled to free medical treatment during the period of their training. Should an accident occur during the training period, accident insurance will be provided.

Requirements of participants for AOTS regular training program are following (Guide to AOTS: 7).

Common requirements of participants for the AOTS regular training program are as follows:

² There are other supports such as V. Follow-Up Activities for Returned Trainees, VI. AOTS Overseas Offices, VII. AOTS Alumni Society, VIII. Industrial Information, IX. Training Information.

- 1) Participants should be citizens of developing countries.
- 2) Participants should be from the fields of the secondary industries (with a high concentration from the manufacturing industries), including the management and administration fields, and of certain primary industries. Physicians, nurses, cooks and barbers are excluded.
- 3) Participants should be university graduates and/or have equivalent professional experience at managerial and/or supervisory posts.
- 4) Participants must be over 20 years of age.
- 5) The training period should be from 30 days to two years, excluding the case of the management training course.
- 6) Participants should be physically and mentally fit to undergo intensive training.

Case Studies of Thai Trainees by AOTS

Table 9: Number of Regular Participants up to FY 1997

Fiscal Year	Technical Training Programs	Management Training Programs	Total
1959-1991	4,571	442	5,013
1992	382	58	440
1993	412	64	476
1994	447	94	541
1995	443	90	533
1996	564	105	669
1997	605	95	700
Total	7,424	946	8,372

Source: Outline of AOTS Project for Thailand

As table 9 shows, until 1997 AOTS had received 8,372 trainees for the Regular Training Program. The number would be 8,612 if the trainees for the Special Training Program such as APEC Training Program were included. According to the AOTS data, in terms of industries that received the trainees, automobile related industries have received the most with 2,371 trainees, followed by the electrical appliance and the industrial machineries industry. This shows the characteristic trend of recipient companies being large corporations. As of July 1998, there were 16 organizations and 456 companies on the list of the training cooperative/supportive companies and most of the listed companies were large corporations.

As for AOTS, the research was conducted with the cooperation of "T" appliance manufacturing company that had a number of its joint management subsidiary companies in Thailand. As of September 1999, there were 3 Thai trainees. As shown in Table 10, each trainee was an employee at one of the joint management companies in Thailand and their training period was 6 months. The training programs varied, depending on each trainee as indicated below. The unique characteristic of the training at this company was that the person who was appointed in charge of the training conducted one-to-one training outside the training curriculum.

Table 10: Thai Case Studies of Training Program at "I" Company

Type of program/Period	April 5 to May 21	May 24 to May 28	May 31 to August 6	August 9 to September 4	September 6 to September 24	September 27 to September 30
A	Six-week training course at AOTS Yokohama training center	Introductory education at general section at "I" factory in company	Guidance and skill acquisition regarding facility maintenance skills at technical school in "I" factory	Skill acquisition of facility and machine assemble and adjustment at machinery section in "I" factory	Skill acquisition of manufacture of cathode-ray tube at cathode ray tube manufacturing first section in "I" factory	Summary at technical school in "I" factory
B	April 5 to May 21 Six-week training course at AOTS Yokohama training center	May 24 to May 28 Introductory education at general section at "I" factory in company	May 31 to August 20 Manufacturing skill education at electro technical section in "I" factory	August 23 to September 10 Manufacturing skill education at electro technical section in "I" factory	September 13 to September 17 Quality control management at Quality guarantee first section in "I" factory	September 20 to September 24 Applied design skill at screen tube technical section in "I" factory
C	April 5 to May 21 Six-week training course at AOTS Yokohama training center	May 24 to May 28 Introductory education at general section at "I" factory in company	May 31 to June 15 Skill acquisition on electrostatic painting design at machinery section of production technology department in "I" factory	June 18 to July 13 Manufacturing skill education at machinery section of production technology department in "I" factory	July 16 to August 13 Skill acquisition on fundamental knowledge of assemble line at cathode-ray tube manufacturing first section in "I" factory	August 16 to September 30 Skill acquisition regarding facility maintenance skills and summary at cathode-ray tube manufacturing first section in "I" factory
						September 27 to September 30 Summary at electro technical section in "I" factory

The stipend for trainees was 5,000 yen or 1,700 baht per day (62,100 yen as a monthly stipend and 62,800 yen for monthly meals) making the total amount provided to a trainee around 150,000 yen or 50,000 baht. Accommodation was provided for the trainees at the company dormitory. During their training in Japan their salary was continued to be paid in Thailand.

Each of 3 trainees had an undergraduate degree or equivalent degree at high technical educational level and were sent for training as potential management executives. "A" had been trained in Japan four times in the past, though this was the longest period of training. After his return, he would be expected to be in charge of a training section at a factory. During the training, the language used was English for technical terms and Japanese and Thai on other occasions. The Japanese employees at the company who had worked in Thailand took the role of smoothing the work environment to ensure there was no dissatisfaction from the trainees. The number of trainees at a factory for "T" company had declined dramatically since it set up its own training center in Thailand in 1996. Between 1988 and 1996 when the 'bubble economy' had reached its peak, the company received quite a number of trainees due to the shortage of labor. However more recently their production base had to move overseas because of high competition in international markets. Therefore when "T" company made new investments in facilities or began a new product line, it often took advantage of the AOTS channel, because of the merits it offered such as the Japanese language training and the subsidy that AOTS provided. Even though job-hopping is common practice for Thai trainees because they are potential management leaders in the future, the Japanese corporate culture (such as loyalty to one's company) emerges among them and could change the values that they have. This potentially results in longer working years in Thailand and could bring about positive impacts on the company.

Case Study of Japan Vocational Ability Development Association (JAVADA)

Overview of JAVADA

JAVADA was founded in 1979 in accordance with legislation for the purpose of developing the vocational ability of workers. The association has been: implementing technical skill tests in order to be socially evaluated and thus respected; creating opportunities for technical importance; providing companies with information and references regarding man-power development; and being active in various fields such as promoting international cooperation and receiving overseas trainees (JAVADA pamphlet: 3-9).

The Purposes of the Association

Trainee recipient programs are designated as a part of the international technical cooperation, based on Official Development Assistance (ODA). Their purpose is to contribute to the development of industrial economies and promoting friendship with these countries by increasing prospective skilled labor through developing the intellectual capacity and improving the skills of the youth in these developing countries.

The Agency Concerned with the Training Program

The agency that implements the training program is JAVADA, and is supervised by the government in cooperation with other institutions and companies. The trainees are youths from developing countries selected by the association from among those who fulfill all the following qualifications.

i) Applicant qualifications:

- Over 18 years old and under 25 years old as a general rule.
- High school diploma or equivalent and occupational experience in related field, or experience in training
- Ability to communicate in Japanese, ability to read and write *Hirakana* and *Katakana* as a general rule.

Ability to communicate in short conversations, to read and write plain sentences or short texts in case training requires special terminology.

-Mentally and physically healthy

ii) Those applicants who will return promptly to their country of origin after the training ends. Especially those with good prospects of applying the skills or other achievements obtained from training for example in their companies, or as skilled laborers.

iii) Those applicants who are good youth role models and who can be expected to be skilled labor in the future. These applicants may be evaluated and recommended by related institutions (in the sending and receiving countries) as being suitable to receive future training.

The companies, including cooperative associations, which receive trainees and implement the training programs are required to fulfill all the following qualifications in order to be certified by the association to do so:

- 1) Must recognize that receiving trainees and implementing the training programs are for international cooperation, not in the interests of a particular individual, and be able to prove in terms of their financial and management situations, that they are able to do so.
- 2) Have technical skills to implement the training appropriately and effectively and the management system to do so.
- 3) Have instructors who are well informed about the country that sends trainees, give guidance, and are capable of management skills.

Conditions and standards:

The implementation of training is as follows:

1) The purpose of training:

This training offers knowledge and skills for trainees which are necessary for them to work in production sites and so forth after they return to the country.

2) Training period:

The training period is over nine months and under one year and nine months.

- a. three months for introductory training
- b. over six months and under one year and six months for technical training

3) Training category:

The training site should be where it is settled, and is managed and guided appropriately by the association.

4) Training location:

Facilities at recipient companies and so on as a general rule.

5) Training hours:

a. The training consists of off-the-job training and on-the-job training and the on-the-job training is up to two thirds of the whole training hours.

b. The training hours are divided into the following training periods. In each training period, the training hours are up to eight hours a day and forty hours a week, training is not allowed outside these hours, and are required to be during appropriate times of the day.

(i) Over 350 hours for the introductory period

(ii) Over 700 hours for technical training in which case the minimum period is six months and over 2,100 hours in which case the maximum period is one year and six months

(Note: If it is the medium period, calculate it per month based on 120 hours).

c. In the middle of the period, the breaks are set appropriately and also holidays are provided appropriately.

6) Training courses and methods:

a. Introductory training

(i) Based on off-the-job training as a general rule

(ii) Training courses consist of: orientation, Japanese language, Japanese culture and social etiquette, customs, industrial circumstance, safety, health, laws, basic knowledge in training, and other training courses which enable the training to be conducted without difficulty

b. Technical training

(i) Combination of off-the-job training and on-the-job training

(ii) Training courses are composed of courses which comply with training purposes within the range of technical skills planned by training program design.

(iii) For on-the-job training, appropriate and effective training courses based on legislation to promote development of occupational ability complying with the vocational training standard should be offered.

7) Instructors:

a. Training instructor

The training is conducted by full-time staff who have over five years experience in the field of technical skills and knowledge being offered to the trainees

b. Instructor for daily life

A staff member who is in charge of giving guidance in aspects of daily life must be employed. However, in case of more than ten trainees, two staff members for this position must be employed

The conditions for the trainees:

1) Stipend and allowance for the trainees

- a. Round-trip economy class air fare
- b. 30,000 yen or 10,000 baht for preparation costs (paid in yen)
- c. 50,000 yen or 17,000 baht as a monthly training stipend (paid in yen)

These will be provided only during the training period.

2) Accommodation and meals (three time a day) provided to trainees are based on the following standards:

a. Accommodation:

1. The number of persons per room must not exceed two as a general rule
2. Living space per trainee must exceed seven square meters as a general rule
3. It must have a bath or shower facility
4. Other standards on accommodation must comply with the regulation of a dormitory attached to a

business designated by the Labor Standard Laws

b. Meals:

1. It must be considered both for nutrition and life customs of the trainees
2. Food is provided as a rule. If not a meal allowance must be provided equivalent to the food.

3) Measures related to medical care

In regard to sickness, injuries and so forth (with the exception of dental treatment) the person who paid the medical cost is reimbursed within the range of overseas travel insurance which JAVADA is contracted with.

Table 11: The Number of All Trainees and Thai Trainees Received in the Past through JAVADA

Year	Total	Thai Trainees (Estimation)
1989	200	70
1990	250	Unknown
1991	500	Unknown
1992	600	Unknown
1993	600	80-100
1994	600	80-100
1995	600	80-100
1996	600	80-100
1997	550	80-100
1998	525	70

Source: JAVADA brochure. *Kaigai Seinen Ginou Kenshu Keikaku No Goannai* 1999 p.9

Case Study of Thai Trainees by JAVADA

As mentioned above, recipients of trainees by JAVADA had been at the rate of around 500 to 600 trainees a year, relatively small compared to other channels (as shown in the table 1). Furthermore, it began with 3 sending countries in 1989 and this increased to 9 countries (Thailand, Malaysia, Indonesia, Vietnam, China, and so forth) though the details of trainees by country were unknown. The recipients were also large corporations.

As for the Thai case study, JAVADA's brochure illustrates training at an air-conditioner factory in Mitsubishi Heavy Industry company and the following is the report (Collection of JAVADA Cases: 9-10).

Mitsubishi Heavy Industry Company has been growing for over a century as a pioneer of modern Japanese industry. Its air-conditioner factory is one of the 14 factories in Japan nationwide and is a specialized factory which produces residential air-conditioner such as the very popular air-conditioner "Beaver Air-Con" and others such as freezer. It has 6 production bases overseas and receives through JAVADA's Overseas Youth Skill Training Plan a total of 16 trainees, 11 from a joint management company in Thailand (which manufactures compressor parts for air-conditioners) and 5 from a joint management company in China (which manufactures residential air-conditioners). The length of the training period is one year

When the company initially started its operation in Thailand, it wanted to make the local Thai employees learn about Japanese production ways and quality control. Since 1991 the company has received fifteen trainees every year. Over ninety four trainees have received training and became leaders in the respective home companies on their return.

The major concern with regard to receiving trainees was the language barrier. In particular, Thai trainees came to Japan with very little proficiency in Japanese language. Therefore, the emphasis

was given on language training. The core members of the trainers were selected from those who had experience working overseas, who could conduct training programs in a mix of both Thai and Japanese language. The company also employed outside professional interpreters, when necessary. The Chinese trainees however did not have language problems due to the Nishio language training centre.

Another concern was catering for differing cuisines. Initially food was provided for all three meals which meant having to provide the appropriate foods that the trainees preferred or could eat. Through detailed interviews with the trainees attempts were made to cater for these different needs, and provide only the types of foods that were suitable. The trainees were also trying to cook food with seasonings which they brought from their own country, and hence by mutual cooperation addressed these differences in tastes and food requirements.

Given the different customs and culture of Thai and Chinese trainees, there was a concern regarding the suitability of these two groups sharing the same living areas. However once the trainees started living together in 1995 they seemed to get along with each other well, eating together and chatting in Japanese. Overall, the training went without difficulties.

For the trainees, training in Japan was a valuable experience. That is why the company would like them to acquire as many skills as possible and be able to apply them. However, more importantly, the company wanted the trainees to like Japan and hoped that they would want to return to Japan.

The above is the report from the company and this company was also examined in a study by Malee Keomanotham (Malee, 1996: 130-134). According to Malee, there was a difference in the perception about the training between the recipient Japanese company and the Thai trainees. The Japanese company aimed to train and educate the trainees in line with Japanese labor values, quality product control, and skill improvements, whereas the Thai trainees thought that the training was a high paying job and saw it as an opportunity to obtain skills and experience for a better career.

Besides this, there were problems such as dissatisfaction resulting from differences in food and culture, dissatisfaction with the lack of recreation and transport, troubles resulting from personal relationships, difficulties adapting to the living conditions, and psychological distress from friction with the Japanese employees in the work place.

Case Study of JICA

Japan International Cooperation Agency (JICA) - Outline of the Program on Technical Training of Overseas Participants for JICA

JICA is under jurisdiction of the Ministry of Foreign Affairs and researches, promotes, and implements the technical cooperation and grants of bilateral assistance of Official Development Assistance (ODA). A part of the technical cooperation is to receive trainees from foreign countries. The following is a quote from 1998 JICA Annual Report and the summary of JICA characteristics (Japan International Cooperation Agency Annual Report 1998: 123-128):

Aims and significance:

Providing technical training to participants from developing countries is one of the most basic programs implemented by JICA. The aim of this program is to bring technicians, researchers and administrators from the developing world to Japan for training or to train them in certain developing countries, in order to equip them with the knowledge and skills required in their own countries.

This training program has been discussed by the Developing Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD). Its importance is internationally recognized as a key to the effective development of human resources and establishment of organizations and institutions in developing countries.

The scale of this program has grown steadily since its launch in 1954. It has also become more

and more diverse and sophisticated in content. In FY 1997, training was provided to 7,263 new participants from 152 countries and regions. The total number of participants who have received training in Japan since the inception of this program is now almost 127,400.

Features of the program

A feature of JICA's technical training program is that it operates largely in Japan. In this respect it differs from other forms of co-operation, which generally occur in the developing countries themselves. It is implemented with the participation of related government ministries and agencies, universities and research institutions, hospitals, companies and other locations where participants can receive training. Interpreters and supervisors, travel agencies, hotel staff, are people involved in the running of the JICA international centers where the training participants stay while in Japan, as well as international exchange organizations, and local communities.

Another feature of the program is that it covers virtually the whole of the developing world. Participants from nearly 150 countries have visited Japan to date and there has been a significant increase in the range of subjects for which training is available.

Yet another feature is the capacity of the program to respond dynamically to new aid requirements which emerge with changing global issues and changes in the international community.

Supported by the cooperation and participation of many people, the JICA training program is being implemented throughout Japan. As well as fulfilling its primary role of transferring technology from Japan to the developing world, the program gives participants the opportunity to meet people from other countries, and in this respect offers a valuable opportunity to enhance friendly relations with other countries and to build relationships based on mutual trust.

Content of programs

JICA offers a comprehensive range of training courses which enable programs to be executed effectively and efficiently. The training courses can be classified into two major categories:

(i) Training of overseas participants in Japan for the purpose of the transfer of technology (group training, individual training, special training for specific regions and countries, etc.)

(ii) Training outside Japan aimed at transferring skills and technology appropriate to the social, cultural and linguistic conditions of developing regions (in-country training, third country training)

In-country training and third-world country training are arousing much interest both in Japan and overseas as they aim to disseminate systematic and basic technology in line with the recipient's needs via the host country (i.e. the country where the training is provided) or in a key region.

For the purposes above, JICA holds 13 training centers and offers 300 group and private courses

Case Study of Thai Trainees by JICA

We shall now turn to the historical development of JICA Okinawa International Center (OIC). In January 1977, when then Prime Minister Zenkou Suzuki visited ASEAN countries, he proposed to set up a training center in each of the five countries then part of ASEAN (Indonesia, Malaysia, the Philippines, Singapore, and Thailand). This resulted from the recognition that training personnel who would be responsible for development in the future was crucial in promoting the further economic and social development of ASEAN countries. Responding to the proposal, ASEAN countries made a request to set up such training centers. From this interaction Japan became involved in international cooperation with regard to the human development of ASEAN countries through JICA.

JICA OIC was founded in April 17, 1985 as a part of an ASEAN human development international cooperation proposal as described above, and the 9th training center in Japan. Okinawa is geographically close to ASEAN countries and has many commonalities in terms of weather and culture. OIC had received 3,958 trainees from 137 countries by the fiscal year of 1999, including 79 from Thailand. Since its first year as a recipient this is the largest number that a single nation has sent. More recently, it has received only 15 to 20 Thai trainees on a regular basis (a declining trend for trainees from Thailand) due to increased economic growth in Thailand and the increasing numbers of trainees from other Third World countries. The fiscal year of 1998 saw 22 trainees in the training areas such as subtropical zone crop cultivation and marine protection which made use of the climatic and geographic particularities of Okinawa (1999 Overview of Okinawa International Center: 42-51).

Most trainees from Thailand were public servants. In comparison to other Third World countries, there were more female trainees. In fact, 12 trainees out of 22 Thai trainees were female in the fiscal year of 1998. As of December 1999, there were 3 Thai trainees, including a male trainee from the Ministry of Industry who was receiving Japanese language training in intermediate and advanced courses, and two females from the Prime Minister's office and University Agency being trained in computer skills. The training period varied from a short period (one to three months) to a longer period (six months to one year or more) depending on the courses. A stipend of 3,500 yen or 1,000 baht being provided per day along with free accommodation and meals.

Conclusion

The above has been a discussion about the conditions experienced by Thai citizens training in Japan, received through various channels. As already mentioned, the training system has been criticized as a 'hotbed' for disguised labor which is outside what visas permit. Let us analyze once again if this is really 'training' or not, based on the 2 to 5 cases from 4 different channels. (The ILO channel will not be mentioned here because of the small number of the trainees)

JICA training was often provided to civil servants. The training program was well established and the period of the training in most cases was short (3 months and 6 months) and thus it had a lot of the characteristics of training. Also, with regard to the channels of AOTS and JAVADA, most cases did provide adequate training because at the time of the recession in Japan, inviting trainees to come to work in Japan did not make sense because of international competition. There were many cases however, where there was a demand for inexpensive labor and thus trainees were put to work to fill this labor shortage in the 'bubble economy'.

The training channel that had a lot of problems was through JITCO. In the past, there were many cases where companies, which had hired irregular migrant workers, founded business associations in order to receive trainees. As discussed in I, the case study of "K" co-operative association in "S" city in "I" prefecture meets the 4 criteria set by Komai: intention to fill the labor shortage; low standard of training; problems with the training period (especially the non-OJT period was extremely short); and training longer than the period designated. The recipients of trainees through JITCO were of two types, association management types and private enterprise types. Problems often emerged with the association management type. The case of "S" city in "I" prefecture mentioned in this paper was the association management type and this association was established only to receive trainees. Also in the case of the Society of Commerce Industry, the 4 cases of "I" village and "Y" town in "E" prefecture discussed which are presumed to be the association management type, have at least 3 problems from the 4 criteria outlined by Komai. It seems that in the case of "A" town in "O" prefecture (the only one which was the private enterprise type) there weren't any problems with training.

The problem with the JITCO channel was that there were two types of training. One permitted only one-year training and the other enabled the trainees to enter TITP and stay a maximum of 3 years after completing the training. The 3-year training type, in principle, maintained its validity as training because of the skills evaluation system. However, in the one year training type, it was common that the trainees became disguised labor. The exception to this was in a few cases, such as the one mentioned in the case of "A" town in "O" prefecture, where the trainees were sent from a joint venture company in Thailand.

There were many trainees received through the JITCO channel who ran away from the training. The JITCO White Paper mentions that 9,943 TITP interns (2.1 percent) ran away in 1998. Although the 3,115 trainees accounted for only 1.1 percent of all irregular migrant workers in Japan, this ratio was increasing resulting from declining number of irregular migrant workers (JITCO White Paper, 1999: 23, 92). From this research it became clear that there were many trainees in the one year training type (which does not offer the TITP) who ran away, and most of these trainees had paid a large commission in advance in order to train in Japan.

The amount of commission paid is also of great concern. It had already become a business for both the sending and receiving countries, which indicates that it did not truly function as training. The issue of commission became clear in the interviews conducted however there is very little understanding of this problem as a matter of the training system.

Remarks

Entering the new millennium, the Japanese Ministry of Justice shifted its strict control on immigration policy that it had long implemented and came up with the 2nd Immigration Control Revision Plan. This considered the acceptance of migrant labor in the area of elderly care, and as effective of March 14 2000, expanded the types of TITP training in agriculture, sea produce, and in hotel work, as well as other industries which were demanding inexpensive labor (*Asahi Shimbun, Evening Edition*, February 24, 2000). This was in addition to the 55 types of training which are shown in tables 5 and 6.

Such an expansion was a response to the demands of the small and medium size businesses who were unable to obtain Japanese workers for 3D, early morning or late night jobs, even with the high unemployment rate in Japan. Therefore, the channels expanded will be those offered by JITCO. However, as discussed previously, the recipients of trainees through the routes of JITCO have many problems, in particular in the association management type. If the TITP is expanded in this route, the disguised labor will increase and the irregular workers who are already in Japan will join the scheme, leading training business to be rampant. The policy of the Japanese Ministry of Justice is just to replace the disguised workers with trainees and TITP interns in name only.

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Working and Living Conditions of Thai Contract Workers in Taiwan

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Introduction

Thailand has a long history of sending workers abroad. The initial major destination was the Middle East in 1970-1990. It then shifted to East and Southeast Asia, where labor shortages were a serious problem due to economic restructuring and socio-demographic transition (Manning and Tsay 1998; Hugo 1998; Tsay 1999). In 1992 the estimated number of Thai nationals working in other countries was close to half a million (Sussangkarn, 1995). Of these about 30 percent were in Taiwan. The current number of Thai workers legally imported by the Taiwanese is around 140,000. This number represents 50 percent of the total foreign contract workers in Taiwan.

About 70 percent of the Thai migrant workers in Taiwan are employed in the manufacturing industry. The remaining 30 percent are engaged in construction employment. In the construction industry, three quarters of the total volume of the imported workforce are accounted for by Thais. It is therefore evident that Thai workers have played a significant role in alleviating the pressure of labor shortages in the Taiwanese labor market. From the point of view of countries sending workers to Taiwan, it would be important to investigate the outcomes of migration for these workers in Taiwan. Based on a data set from the 1999 Survey of Thai Migrant Workers in Taiwan, this report aims to depict the general characteristics of the Thai workers. Specifically, it is intended to examine their working and living situations, including income expectations and adaptation issues.

From a macro point of view, labor migration is an adjustment process in the labor market through which human resources are transferred to areas with a greater demand for labor. International labor migration additionally depends on many non-economic factors contained in the government policies and regulations of both the sending and receiving countries. As a result, the labor market adjustment mechanism is often more limited in the case of cross-border labor movement than in internal migration. However, the predicted direction of international labor flows remains basically unchanged.

From the point of view of the individual, the influx of Thai workers into Taiwan may simply be explained by a wage differential theory of migration. It is well recognized that migration is likely to be caused by wage gaps due to geographic differences in the supply of and demand for labor. According to the conceptual framework postulated by Sjaastad (1962) and Todaro (1969, 1985), the pursuit of individual well-being should be taken into account when explaining the migration of Thai workers. Unlike ordinary labor migrants, Thai contract workers were barely associated with any risk of unemployment after moving to Taiwan. In all cases, their jobs had been pre-arranged by recruiters and employers prior to their migration to Taiwan. As a result, what is important is the degree of satisfaction with the outcome of migration. If the working and living conditions of Thai migrant workers in Taiwan are close to their expectations before migration, it is likely that more workers in Thailand would seek opportunities to work in Taiwan.

As Thailand is a typical fast-growing developing country, the new economic theory of migration (Stark 1991) might be a suitable alternative in accounting for the migration of Thai workers. In this perspective, the decision unit of migration is the household. Household members collaborate by sending familial members out as a means of minimizing household risks and loosening market constraints. In sharp contrast to the cost-benefit calculation of the human capital theory, the new economics of migration theory views migration as triggered by household feelings of relative deprivation.

Feelings of relative deprivation stem from income comparisons. A person will feel relatively deprived if his income falls below the mean income of his reference group by a certain amount. The remittances received by the families with out-migrants would help increase their income. For the families without out-migrants, this would then intensify their sense of relative deprivation, which in turn would

motivate them to start sending out some of their family members. Therefore, this theory suggests that an international labor migration process, once started, tends to be self-perpetuating. In this sense, the successful outcomes of Thai migrant workers in Taiwan would be crucial to the potential migrants staying behind in Thailand making decisions to move to Taiwan for work.

The main focus of this research is the dimensions of the outcomes of migration for Thai contract workers, rather than the migration decision mechanism. Abundant research on migration has indicated that although migration is not without cost, returns from migration (e.g. income gains) tend to substantially outweigh the corresponding costs (e.g. see Carnoy 1967; Osburn 1966; Tsay 1979). However, it has often been criticized that returns from migration tend to be exaggerated, because many unsuccessful incidences of migration are usually not taken into account. As our study population are Thai contract workers, their individual outcomes of migration are less likely to have the bias mentioned above.

This article is organized as follows: In section 2, we briefly introduce the survey data, including its scope and limitations. Section 3 presents the characteristics of the Thai contract workers. Section 4 aims to discuss the socioeconomic status of Thai workers and their families in Thailand before they migrated to Taiwan. In light of findings in Sections 3 and 4, Section 5 analyzes the individual outcomes of migration in Taiwan. Finally, Section 5 draws conclusions from this research.

Data, Implementation of Analysis, and Notes

This research is a sub-project of the Thai Migrant Workers in East and Southeast Asia project, coordinated by the Asian Research Center for Migration (ARCM) at Chulalongkorn University in Bangkok. To fulfill the research goal, the 1999 Survey of Thai Migrant Workers in Taiwan was conducted in April/May 1999 by the Institute of Economics at Academia Sinica in Taipei and ARCM.¹ The questionnaire comprises a number of detailed questions, including seven major parts: (1) individual characteristics, (2) information on the respondent's situation in Thailand (3) reasons for migration and recruitment, (4) situation in the destination country: working and living conditions, (5) perspectives: returning to Thailand or staying abroad, (6) impacts of migration on Thailand, and (7) the summary.

Part (3) on reasons for migration and recruitment contains questions which are further divided into the following categories: (1) earlier migration experiences, (2) reasons for leaving Thailand, (3) travel and recruitment arrangements, (4) training and skills for recruitment, (5) recruitment costs, and (6) leaving Thailand and entering the destination country. Part (4) on working and living conditions in Taiwan includes many important questions in the following categories: (1) finding work, (2) work contracts, (3) present legal status, (4) kinds of work, (5) payment and salary, (6) expenditures, (7) fringe benefits, (8) skill acquisition, (9) problems at the workplace/labor conflicts, (10) living conditions in the destination country: housing, leisure time, and (11) health.

The survey was designed with the aim of recording detailed information on Thai contract workers in Taiwan. It is beyond the scope of this paper to cover all issues and analyze every question in the survey. The main concerns of this paper are the outcomes of migration which are related to the questions in Parts (1) through (4). In other words, this study on Thai contract workers is limited to (1) their characteristics, (2) situations prior to their migration from Thailand, (3) reasons for migration and recruitment, and (4) working and living conditions in Taiwan.

In addition to the general characteristics and migration situation of Thai workers, the major concern of this report is the outcome of migration in the destination country. A substantial part of the analysis and report focuses on Thai workers' current situation in Taiwan, with respect to (1) finding work and work contracts, (2) legal status and kinds of work, (3) payment/salary and fringe benefits, (4)

¹ The field work supervisor of the survey was Samarn Laodumrongchai of ARCM. His effort in successfully conducting the interviews deserves to be acknowledged with appreciation.

problems/conflicts and health, and (5) social life and adjustment.

As indicated previously, we are mainly interested in the migration outcomes of Thai workers in various industries in Taiwan. The major independent variable of the analysis is based on the question: "what kind of work do you do in Taiwan?". Due to the limited number of observations, the variation in reported industries of Thai workers has only two broad categories: the manufacturing and construction industries. One observation which was recorded working in the service sector has been excluded from the analysis. The total number of valid observations is 183. By cross-tabulating the reported industry with other variables, we are able to observe and contrast the differences in migration outcomes of Thai workers in the manufacturing sector versus in the construction sector.

In terms of the implementation of data analysis, the initial surveyed information was stored in Microsoft Excel format. The main reason for this was that this format of data storage allows most statistical software to retrieve the data directly so that its flexibility and utility can be extended to other researchers. However, with an aim of systematically analyzing the information by using SAS, we first "dumped" the information from Excel format to an ASCII text format and reorganized it to be SAS-readable. By using some powerful SAS analyzing tools (e.g. PROC TABULATE), we then explored our research questions and conducted the procedure of tabulation. The output ASCII results were finally reorganized and transferred into Excel in various strict forms of academic tabulations.

As noted above, the advantage of this survey is its detailed information on Thai contract workers in Taiwan. Due to constraints in time, budget and manpower, the total number of recorded responses is limited to 184, with 183 valid observations. As a result, the data set has a major limitation in tabulating multi-dimension tables. To avoid the phenomenon of sparse cases in any cell of a table, all tabulations are limited to a 2-way layout.

Characteristics of the Interviewed Thai Workers

The individual characteristics of Thai workers are recorded in Part I of the Survey. For some key variables, the results from the interviews are summarized in Table 1. The number of observations is 183. Two thirds of the surveyed workers (66.7%) were engaged in manufacturing employment while the rest (33.3%) worked in the construction industry. This distribution is close to the industrial composition of the total number of Thai contract workers in Taiwan. At the end of February 1999, there were 134,066 Thais working in the Taiwanese labor market, 71 percent in manufacturing and 28 percent in the construction industry (Tsay 1999, Table 13).

In terms of the spatial distribution of the observations, the survey reveals that more than 65 percent of Thai migrants were working in northern Taiwan (Taipei and Taoyuan areas), with the remainder scattered over central Taiwan (Taichung area) and southern Taiwan (Kaohsiung area). For the construction industry, workers were mostly situated in the Taipei area (75.4%), while manufacturing workers were more concentrated in the Taoyuan area (40.2%). It should be noted that this distribution does not represent the geographic composition of all Thais working in the Taiwanese labor market, as the number of observations is too small to cover the whole country. According to official statistics, the number of Thai workers in the cities and prefectures of the four surveyed areas accounts for 57 percent of the total Thai workers in Taiwan. At the end of February 1998, the Taipei area (Taipei City and Taipei Prefecture) had 23,728 Thai workers (17.7%), the Taoyuan area (Taoyuan prefecture) 28,839 (21.5%), the Taichung area (Taichung City and Prefecture) 14,521 (10.8%), and the Kaohsiung area (Kaohsiung City and Prefecture) 9,717 (7.2%). Given this, the surveyed locations appear to cover the major localities and industries in which the Thai migrant workers are distributed quite well.

With regard to the gender composition of the sample, male Thai workers (143) outnumber their female counterparts (40) substantially. The male dominance (78%) is consistent with the reported situation of Thai workers in Taiwan. Female workers were all observed in the manufacturing industry.

For the interviewed males, 57 percent were engaged in manufacturing employment and 43 percent in construction. All Thai workers surveyed were below the age of 40. The three most distinct age groups in order of size were 25-29, 20-24, and 30-34. For both the manufacturing and construction industries, the 25-29 age group accounts for the biggest proportion of surveyed workers, followed by the 20-24 year age group for manufacturing and 30-34 year age group for construction. This suggests that Thai workers in the manufacturing industry are more likely to be younger, female, and/or better educated than their counterparts employed in the construction industry.

Married Thai workers are slightly more numerous (57%) in the survey than single people (41%). In terms of industrial composition, single workers more commonly worked in manufacturing (77.3%) rather than construction (22.7%). In terms of change in marital status after migrating to Taiwan, the survey does not show any Thai workers who married in the destination country. At the same time, the majority (98%) of Thai workers reported no negative impacts on their marital relations due to migration.

The human capital level of Thai workers is very basic. In terms of formal schooling, the majority of workers (71%) received no more than primary education, and only 22% have junior high education. In the construction industry the educational level of workers is particularly low; as many as 87% have only primary education or less. These findings reveal that better educated Thai workers are less willing to take construction jobs. The survey also found that most of them (97%) did not receive any vocational training before coming to Taiwan. The low level of education and skill training which characterize Thai workers can probably explain the fact that they make up the majority (75%) of the contract workforce imported by the construction industry in Taiwan.

Situation in Thailand and Migration

As expected, the survey discovered that the reason for migration of Thai workers is uniform and straightforward, namely, the pursuit of higher pay in Taiwan. Given this simple reason, it is worthwhile to examine the socioeconomic characteristics of the workers before they moved to work in Taiwan. Table 2 presents some of the key results. Among the surveyed Thai workers, over half (57%) reported that the family household head in the home country was the father. This result is quite understandable, because many of them are youths. The proportion of workers who were the household head was 28%. The data shows that the majority of Thai workers in Taiwan were probably not the only breadwinner in the family. This was particularly true in the case of manufacturing workers. Among construction workers, 46% were the head of their family in Thailand, while 39% indicated that the father took this role.

The survey further reveals that the household income level in the home country had a negative impact on Thai workers emigration. For all the observations, more than 80 percent of them are in the two lowest income categories, 58 percent below 10,000 Baht/month and 25 percent between 10,000 and 20,000 Baht/month. The degree of concentration was slightly higher among construction workers than those in manufacturing. This probably reflects the differences between the two groups in age and educational composition as discussed in the last section.

In terms of jobs in Thailand, 72 percent were in the agriculture sector and only 16 percent were in industrial employment. This fact is likely to be related to the educational level of Thai contract workers in Taiwan, as mentioned above. The evidence clearly implies that Thai workers in Taiwan are characterized by a strong rural-agricultural background. Those who had agricultural jobs might in fact be underemployed or even unemployed. This implication gains some support from the data on their individual incomes. More than half of the respondents were hesitant to report their individual income before leaving Thailand.

Among the 84 valid cases, the majority (44%) made 4,000-6,000 Baht/month. The next most common category was 2,000-4,000 (21%), to be followed by 6,000-8,000 (14%) and over 8,000 (16%). The findings reveal that the Thai workers had rather low individual income in their home country. By

comparing the household and individual income levels, it is clear that most of the Thai workers were not the only contributor to their household income.

Issues in migration and recruitment experiences are summarized in Tables 3.1 and 3.2. The survey indicated that only 28 out of the 183 Thai workers interviewed had previously worked in a foreign country. The proportion with earlier migration experience is particularly low for those working in the manufacturing industry in Taiwan (11.5%), but somewhat higher for those in the construction sector (23.0%). With regard to the length of stay in Taiwan, it was found that about 78 percent of Thai workers had been in Taiwan for less than one year. Very few workers had been in Taiwan for up to two years. This finding reflects the fact that a very high proportion of Thai workers in Taiwan are contract workers. They are limited to working in Taiwan for two years, with one possible extension of up to a year.

To assess the impact of the 1997-98 financial crisis, a hypothetical question, "if Thai economy improves, will you migrate?", was asked in the survey. Slightly more respondents indicated that they would (probably) leave Thailand (52.5%) than would (probably) stay in Thailand (44.8%). The data seems to imply that the financial crisis had exerted a reinforcing effect on the outflow of Thai workers to Taiwan. It is surely not a major trigger of the outward labor migration from Thailand, however.

As suggested by Table 3.1, most Thai workers were well informed about the working and living conditions in Taiwan. This was particularly true among the construction workers rather than amongst manufacturing workers. The survey results further indicated that most Thai workers have no relatives in Taiwan. This implies that kinships networks in the destination country play virtually no role in initiating migration to Taiwan. As a result, it is not surprising to find that travel and first jobs were mostly pre-arranged in Thailand, mainly through the assistance of recruiters, employers and Thai government agencies.

Table 3.2 indicates that in order to fulfill the requirements of going to work in Taiwan, 147 out of 183 respondents indicated that they attended some special pre-departure orientation/training sessions. This proportion was particularly high among construction workers (97%), compared to those employed in the manufacturing industry (72%). With regard to the cost of migration, the figures show that it is very expensive to be able to work in Taiwan. More than 90 percent of Thai workers paid over 80,000 baht for their job. The most common price was 80,000-140,000 baht (43%), followed by the 140,000-160,000 (23%) and over 160,000 (25%). It is hard to believe that one quarter of Thai workers in Taiwan indicated a migration cost of over 160,000 baht. By examining results for different industries separately, the data clearly reveals that the cost of migration was substantially higher for those in the construction industry than for those in manufacturing.

As discussed above, the cost of migration was unbelievably high for the Thai workers in Taiwan given their low income level before leaving Thailand. As a result, 165 out of 183 respondents (90%) reported that they became indebted in order to get the opportunity to work in Taiwan. Examining the sources of credit, almost all of the Thai workers were financed by private lenders or through informal channels. The role of the Thai banking system is not significant at all. Apparently the migrant workers did not have the required guarantees to apply for loans from formal financial institutions. The high interest rates commonly charged by private lending agencies in the underground market probably explains a part of the high migration cost reported.

Migration Outcomes: Situation in the Destination Country finding Work, Contract, Legal Status, and Kind of Work

As mentioned earlier, the surveyed respondents were all contract workers in Taiwan. Their work arrangements had been made in advance before leaving Thailand. Consequently, Table 4.1 shows that they started their first job immediately after arriving in the destination country. As regulated by the work contract, nobody reported that they had ever changed employers. They also realized that they did not have

the right to change employers by themselves, even if working conditions were not satisfactory.

Despite the seemingly perfect pre-work arrangements made in Thailand, the survey reveals that only 30% of the interviewed Thai workers fully understood the contents of their work contract. The majority of them knew the contract just partially (64%) otherwise very little (6%). This fact is probably due to their low education level and lack of experience in working abroad, as discussed in the previous section. It also implies that the recruiting agencies did not perform well in educating and orientating workers in pre-departure training sessions. A potential danger of this phenomenon is that workers might be deprived of certain rights and benefits in the destination country. Recruiting agencies and Thai authorities should pay more attention to this problem.

In terms of their financial source of livelihood in Taiwan, all respondents reported that they needed to depend solely on their wage earnings in Taiwan. As mentioned above, a substantial proportion of them became indebted in order to get a work opportunity abroad. Almost all of them were obliged to remit a proportion of their income back to their home country. The amount of their disposable income for maintaining a regular life in Taiwan was very limited. As a result, their lives could be much more difficult than that of the ordinary local people, as will be discussed later.

One important finding revealed by Table 4.1 concerns the general expectation of migration outcomes among Thai workers. Among the 183 Thai workers, over two thirds (126 respondents) were satisfied with their migration outcome, citing job expectations being met. The main source of satisfaction is believed to be the higher income in Taiwan. However, there appears to be a sharp contrast in satisfaction between the manufacturing workers and the construction workers. Among those engaged in manufacturing employment, as many as 99 percent of Thai workers were satisfied with their migration outcomes. In contrast, 92 percent of Thai workers in the construction industry indicated that migration to Taiwan fell short of their original expectations. As will be discussed further in section 5.2, Thai workers in the construction sector have much higher earnings than their counterparts in the manufacturing industry. It is thus surprising to find that the former were much less satisfied with migration outcomes than the latter.

Table 4.2 summarizes the information on the legal status of Thai workers and type of work in Taiwan. Because the survey is limited to contract workers, all respondents held legal visas with work permits to enter Taiwan. Only 4 respondents had invalid visas. Table 4.2 further indicates that 61.2 percent of Thai workers were employed by large/medium-sized enterprises. But only 10 percent of the Thai workers said that their companies in Taiwan have branches in Thailand. Only 6 out of 183 respondents worked in the same company as they did in Thailand. The data suggest that the Taiwanese enterprises employing Thai workers have minimal business linkage to Thailand. Thus, initial recruiting and assistance with migration is mainly through recruiters. In terms of workload, 76 percent of Thai workers reported being overworked. Specifically, the proportion of people working overtime was as high as 98 percent for the Thai construction workers. The corresponding figure was 66 percent for their counterparts in manufacturing. This finding could explain the fact that construction workers were less satisfied with their jobs, even though they had higher earnings than the manufacturing workers.

Payment/Salary and Fringe Benefit

Table 4.3 summarizes the migration outcomes of Thai workers in terms of income gains and other benefits in Taiwan. Not surprisingly, more than three quarters (77%) of the Thai workers made less than NT\$ 30,000 a month. In 1998, the average monthly earnings of Taiwanese manufacturing and construction workers was about NT\$35,000. Because foreign workers are protected by the minimum wage regulation (NT\$ 15,840 a month), there was only one uncharacteristic respondent who reported a monthly income below NT\$ 15,000. The data in Table 4.3 clearly shows that the income distribution of Thai workers is patterned as a smooth declining trend from the NT\$ 15,001-20,000 category to the category of NT\$ 30,000 and over. It is believed that most Thai contract workers are normally paid around the level of the minimum wage. All their extra earnings were most likely made by working overtime. The income statistics in Table 4.3 suggest that virtually all Thai workers made their monthly income through

extra work. The proportion of Thai workers making NT\$20,000 a month is roughly the same as the proportion that reported having an overload of work.²

Further investigation of the data reveals that the distribution of income is in fact very different between the manufacturing and construction groups. The two distributions are exactly opposite: a sharp declining pattern in manufacturing and a distinct soaring trend construction. Thai construction workers in Taiwan have a much higher monthly income level than their counterparts in the manufacturing industry. About 84 percent of construction workers earn over NT\$ 25,000, whereas 73 percent of manufacturing workers make no more than NT\$ 25,000 a month. According to official statistics, the difference in average monthly earnings between the local manufacturing and construction workers in the Taiwanese labor market in 1998 was only about NT\$ 4,000 (31,615 vs. 34,585). This finding implies that Thai construction workers do much more overtime work than their manufacturing counterparts.

With regard to satisfaction with migration, more than 95 percent of the total Thai workers reported that their income was at a higher level after migrating to Taiwan. The corresponding proportion for Thai construction workers was as high as 98 percent. Consequently, 89 percent of the Thai workers were satisfied with their earnings, indicating that they receive fair, good, or very good pay. As expected, a higher percentage of construction workers (93.5%) were satisfied with their monthly income than manufacturing workers (87%).

Based on the findings above, it is believed that the information in earnings of different industries should be spread widely among Thai workers. As a result, the percentage of Thai manufacturing workers who expressed dissatisfaction with their income (13%) was much higher than their counterparts in construction (6.6%). In sharp contrast, although Thai construction workers had much higher earnings than manufacturing workers, they showed a much lower percentage of high satisfaction with their income than the latter. The data shows that only 16.4 percent of the construction workers expressed that they have good or very good pay. The corresponding figure for the manufacturing workers is more than double (38.6 percent).

The findings discussed above could well reflect the hardship associated with construction work and the high extent of overtime worked among Thai migrant workers employed in the construction industry. Most construction workers (77%) indicated that they were paid fairly for their work. Among the rest, more said that their pay was "good" (16.4%) than "not good" (6.6%). Manufacturing jobs are less demanding and less dangerous in nature. As a result, compared to construction workers, the proportion of workers of being highly satisfied with their pay (38.6%) and dissatisfied with their pay (13.1%) were both higher in the manufacturing sector. The high satisfaction probably stems from the lower degree of hardship of the work, while the dissatisfaction might be due to less opportunities to work overtime for extra income.

In terms of fringe benefits, 41.5 percent of the Thai workers received pay in the case of sickness. However the difference between the two industries is very big (3.3% in construction and 60.7% in manufacturing). According to the Taiwanese labor code, foreign contract workers must be covered by health insurance schemes which are the employer's responsibility. There were only two cases out of the 183 responses where workers claimed that they had no health insurance coverage. The majority (78%) were positive about the insurance. But, one fifth of the Thai workers were not sure whether they were covered by any health insurance plan. This proportion was particularly high among the construction workers (41%). For other benefits, over 80 percent of the workers said that they had the right to terminate their work contract, and 97.2 percent of the workers thought that financial assistance from Taiwan was not available.

As previously mentioned, most Thai workers do not fully understand their work contract.

² It is 71% vs 76% for all the Thai workers, and 58% vs 66% and 97% vs 98% for the manufacturing and construction workers, respectively.

Probably due to this fact, a substantial proportion of the Thai workers were not sure whether they were entitled to any fringe benefits in Taiwan. For example, about 28 percent were not sure whether they should be paid in the case of sickness, and about 21 percent were not sure if they had health insurance. Apparently, more education and training are needed before Thai workers are able to fully enjoy the rewards and benefits of working in Taiwan.

Problems/Conflicts and Health/Social Issues

Tables 4.4 and 4.5 summarize the information on working problems/conflicts and health and social issues related to Thai workers in Taiwan. As shown by Table 4.4, virtually none of the respondents joined any labor unions in Taiwan. At the same time, as many as 40 percent of them mentioned some sort of problem in their workplace. The proportion was especially high among the construction workers (64%). In dealing with their problems at work, 28 percent indicated that their situations had worsened. For construction workers the figure was 72 percent, while for those working in the manufacturing industry it was 7 percent. These findings suggest that Thai construction workers in Taiwan have encountered more problems and difficulties with their job and workplace than those employed by the manufacturing industry.

In terms of health issues, about 52 percent of workers reported some sort of problem. In comparison to their manufacturing counterparts, construction workers seem more easily to be subjected to health problems (69% vs. 43%). With regard to health services, 46 percent of the Thai workers indicated that they had good access to medical services. On the contrary, another 45 percent said they had bad or no access. The survey further reveals that for about one quarter of the Thai workers, their health condition had deteriorated. Examining the two industries separately, the difference in change in health is quite dramatic. While 89 percent of Thai manufacturing workers stated that their health situation stayed the same, only 46 percent of construction workers felt similarly. In contrast, 54 percent of the construction workers claimed to have experienced health deterioration. The corresponding number for manufacturing workers was only 9 percent.

Information on social issues is summarized in Table 4.5. In terms of language used in the workplace, the most popular languages were Mandarin (54%) and Thai (42%). Among the manufacturing workers, 20 percent used Thai at work. Thai is more commonly used in the construction industry (85%). In terms of their relationship with local people, the survey indicated that Thai workers interact well with the Taiwanese. For married Thai workers, their relationship with their spouse in Thailand remained virtually the same. Only one worker responded that their spouse had a new partner in Thailand. However, there were 10 respondents that admitted to having a new partner after working in Taiwan. The majority (95%) reported having no new partner in the destination country. Not surprisingly, as many as 97 percent of the Thai workers expressed feelings of loneliness. This represents an important component of the psychological cost of migrating to work in Taiwan.

Concluding Remarks

Taiwan is the major destination for Thai nationals working abroad, accounting for nearly one third of the total. In Taiwan, Thai contract workers represent half of the whole imported labor force. For both the sending and receiving countries, it is important to understand the migration outcomes for Thai workers. As the main reason for moving to work in Taiwan is the pursuit of higher pay, the focus of this paper has been on the working and living conditions of the workers. The 1999 Survey of Thai Migrant workers in Taiwan was conducted to fulfill this purpose. Additionally, the survey data will be used for comparisons with the situation of Thai workers in Japan, Singapore and Malaysia.

This study examines the characteristics of Thai migrant workers in two major industries: manufacturing and construction. The survey data indicated that all Thai workers were under the age of 40. On average construction workers were older than manufacturing workers. The level of education was

minimal with the majority of all workers having no more than primary education. The level was especially low among construction workers. Almost all Thai workers did not participate in any skill training programs before coming to Taiwan. Most of them had no experience of working in another country either.

Most of the workers were not household heads, indicating that they were probably not the only breadwinner in the family. This is particularly true among construction workers. With regard to household income, the largest group (58%) was the one which earned below 10,000 baht/month, followed by 10-20 thousand baht per month (25%). With regard to previous employment in Thailand, the evidence shows that Thai workers in Taiwan were characterized by a strong rural-agricultural background. Some of them might in fact have been underemployed or even unemployed. As a result, over a half of the respondents were hesitant to reveal their individual income and the incomes that were reported indicated that they were at a low level. The estimated monthly income was around 5,000 baht.

As contract workers, most Thai migrants (78%) had been in Taiwan for less than a year. Their travel and employment arrangements were all made by recruiters in Thailand. They were well informed about the working and living conditions in Taiwan. However, the amount of money they paid to go to work in Taiwan was extremely high. Over 90 percent of them paid over 80,000 baht, with 48 percent paying over 140,000 baht and 43 percent paying 80,000-140,000. The cost of migration was substantially higher for construction workers than for those in the manufacturing sector. Just to pay back the migration costs, the Thai workers would have to work for at least half a year without spending any of the income.

Given the low income level in Thailand, almost all Thai workers were in debt due to migration. They were mostly financed by private lenders or through some informal channels. The high interest rates charged by the private lending agencies in the underground market should explain part of the high migration cost. It is very likely that the migrant workers did not have the required guarantee to apply for loans from formal financial institutions. One way to solve this problem is the involvement of the Thai authority in charge of labor exportation. The government should be able to act as a guarantee to the banks for the migrant workers to obtain credit loans at the market rate. Without the loans from the underground market, the cost of migration would be able to be substantially reduced.

Most of Thai workers in Taiwan were satisfied with their migration outcomes, indicating a their jobs had met their expectations and were receiving higher income. All the Thai contract workers were paid over the minimum wage (NT\$15,840 per month) in Taiwan. Most of them earned over that amount by working overtime. The median earnings were close to NT\$25,000 a month, which is remarkably higher than their previous incomes in Thailand. The construction workers earn more than their manufacturing counterparts by taking more overtime work. Probably because of the differences in job nature, construction workers were far less satisfied than manufacturing workers in terms of jobs meeting their expectations.

Almost all the Thai workers (89%) were satisfied with their earnings in Taiwan. The percentage was higher in the construction group than in the manufacturing group. Although the construction workers earned more than the manufacturing workers, they showed a much lower percentage of satisfaction with their income. Most construction workers (77%) indicated that they were paid fairly for their work. The findings reflect the difficult nature of construction work and the large amount of overtime work in the industry. Compared to construction workers, the proportion who were highly satisfied with earnings and dissatisfied with earnings were both higher among the manufacturing workers. This result is probably related to the less physically demanding nature of manufacturing work and fewer opportunities to work overtime for extra income in this industry.

Thai workers have some problems in their workplace in Taiwan. The construction workers experienced more difficulties with their jobs and workplaces than manufacturing workers did. Construction workers also experienced more health problems. Over half of the construction workers claimed that their health conditions had deteriorated, while the figure for the manufacturing workers was

only 9 percent. The most serious problem for the Thai workers as a whole is the feeling of loneliness. This feeling represents an important component of the psychological cost of migrating to work in Taiwan. The mental well-being of Thai workers deserves more attention in labor management.

In short, the migration outcomes of Thai workers in Taiwan are satisfactory. Of course, there are some problems with work, workplaces and living environments. The problems are particularly serious among the construction workers, even though their earnings are higher than the manufacturing workers. There have also been recent group conflicts between the Thai and Filipino construction workers in central Taiwan. More efforts to address these problems should be made by employers, recruiters, governments and workers themselves.

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Table 1 Individual Characteristics by Worker's Industry in Taiwan

Individual Characteristics	Total Number (Persons)	Composition by Characteristics			Composition by Industry		
		Overall (%)	Manufacturing (%)	Construction (%)	Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0	100.0	66.7	33.3
Work Place							
Taipei	64	35.0	14.8	75.4	100.0	28.1	71.9
Taoyuan	55	30.1	40.2	9.8	100.0	89.1	10.9
Taichung	30	16.4	17.2	14.8	100.0	70.0	30.0
Kaohsiung	34	18.6	27.9	-	100.0	100.0	-
Gender							
Male	143	78.1	67.2	100.0	100.0	57.3	42.7
Female	40	21.9	32.8	-	100.0	100.0	-
Age							
21-24	54	29.5	33.6	21.3	100.0	75.9	24.1
25-29	81	44.3	41.8	49.2	100.0	63.0	37.0
30-34	37	20.2	17.2	26.2	100.0	56.8	43.2
35-39	11	6.0	7.4	3.3	100.0	81.8	18.2
Marital Status							
Single	75	41.0	47.5	27.9	100.0	77.3	22.7
Married	104	56.8	50.8	68.9	100.0	59.6	40.4
Divorced	4	2.2	1.6	3.3	100.0	50.0	50.0
Widowed	-	-	-	-	-	-	-
Education (Years)							
1-6	129	70.5	62.3	86.9	100.0	58.9	41.1
7-9	41	22.4	27.1	13.1	100.0	80.5	19.5
10-12	11	6.0	9.0	-	100.0	100.0	-
13-15	-	-	-	-	-	-	-
16+	2	1.1	1.6	-	100.0	100.0	-
Vocational Training							
Yes	5	2.7	3.3	1.6	100.0	80.0	20.0
No	178	97.3	96.7	98.4	100.0	66.3	33.7

Table 2_{NG} Respondent's Situation in Thailand by Worker's Industry in Taiwan

Characteristics before Migration	Total Number (Persons)	Composition by Characteristics			Composition by Industry		
		Overall (%)	Manufacturing (%)	Construction (%)	Overall (%)	Manufacturing (%)	Construction (%)
Household Head	183	100.0	100.0	100.0	100.0	66.7	33.3
Himself	51	27.9	18.9	45.9	100.0	45.1	54.9
Father	6	3.3	4.1	1.6	100.0	83.3	16.7
Mother	105	57.4	66.4	39.3	100.0	77.1	22.9
Other	21	11.5	10.7	13.1	100.0	61.9	38.1
Household Monthly Income (Bhat)							
0-10000	106	57.9	59.8	54.1	100.0	68.9	31.1
10001-20000	45	24.6	20.5	32.8	100.0	55.6	44.4
20001-30000	20	10.9	10.7	11.5	100.0	65.0	35.0
30001-40000	9	4.9	6.6	1.6	100.0	88.9	11.1
40000+	3	1.6	2.5	-	100.0	100.0	-
Occupation in Thailand							
Agriculture	131	71.6	71.3	72.1	100.0	66.4	33.6
Industry	29	15.8	21.3	4.9	100.0	89.7	10.3
Construction	3	1.6	1.6	1.6	100.0	66.7	33.3
Service	4	2.2	-	6.6	100.0	-	100.0
Government	1	0.5	-	1.6	100.0	-	100.0
Other	15	8.2	5.7	13.1	100.0	46.7	53.3
Individual Monthly Income (Bhat)							
0-2,000	4	4.8	5.8	3.1	100.0	75.0	25.0
2,001-4,000	18	21.4	26.9	12.5	100.0	77.8	22.2
4,001-6,000	37	44.0	38.5	53.1	100.0	54.1	46.0
6,001-8,000	12	14.3	11.5	18.8	100.0	50.0	50.0
8,001+	13	15.5	17.3	12.5	100.0	69.2	30.8
No Answer	99	-	-	-	-	-	-

Table 3.1 : Migration and Recruitment Experiences of Thai Contract Workers

Migration Reasons & Recruitment	Total Number (Persons)	Composition by Reasons & Recruitment		
		Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0
3.a and 3.b : Earlier Migration Experience and Reasons for Leaving Thailand				
Experience of Working Abroad				
Yes	28	15.3	11.5	23.0
No	155	84.7	88.5	77.1
Months of Stay in Taiwan				
0- 6	95	51.9	40.2	75.4
7-12	48	26.2	27.9	23.0
13-18	24	13.1	19.7	-
19-24	8	4.4	5.7	1.6
25+	8	4.4	6.6	-
If Thai Economic Situation Got Improved				
Stay	65	35.5	32.0	42.6
Probably Stay	17	9.3	10.7	6.6
Probably Leave	41	22.4	26.2	14.8
Leave	55	30.1	27.9	34.4
Not Sure	4	2.2	2.5	1.6
Arrived before the Crisis	1	0.5	0.8	-
Taiwan's Work Information				
Very Good	45	24.6	16.4	41.0
Good	100	54.6	56.6	50.8
Well	27	14.8	18.9	6.6
Poor	10	5.5	7.4	1.6
Very Poor	1	0.5	0.8	-
Taiwan's Live Information				
Very Good	34	18.6	13.1	29.5
Good	101	55.2	55.7	54.1
Well	35	19.1	22.1	13.1
Poor	11	6.0	7.4	3.3
Very Poor	2	1.1	1.6	-
3.c. Travel and Recruitment Arrangements				
Having Relatives in Taiwan				
Yes	23	12.6	12.3	13.1
No	160	87.4	87.7	86.9
Travel Arrangement to Taiwan				
Myself	2	1.1	1.6	-
Gove/Empler in Thailand	178	97.3	95.9	100.0
Empler/Recruiter in Taiwan	3	1.6	2.5	-
Arrangement of 1st Job in Taiwan				
Gove/Empler in Thailand	176	96.2	95.1	98.4
Empler/Recruiter in Taiwan	7	3.8	4.9	1.6
Initial Contact				
Myself	4	2.2	3.3	-
Recruiter	165	90.2	88.5	93.4
N.A.	14	7.7	8.2	6.6
Satisfaction about Information Provided by Thai Government				
Not Satisfied	3	1.6	1.6	1.6
Neutral	7	3.8	3.3	4.9
Satisfied	24	13.1	13.1	13.1
Very Satisfied	2	1.1	1.6	-
N.A.	147	80.3	80.3	80.3

Table 3.2 : Migration and Recruitment Experiences of Thai Contract Workers (Cont.)

Migration Reasons & Recruitment	Total Number (Persons)	Composition		
		Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0
3.d and 3.e: Training and Skills for and Costs of Recruitment				
Special Training				
Yes	147	80.3	72.1	96.7
No	36	19.7	27.9	3.3
Emigration Costs				
0- 40,000	5	2.7	4.1	-
40,001- 80,000	12	6.6	9.9	-
80,001-140,000	78	42.9	48.8	31.2
140,001-160,000	42	23.1	18.2	32.8
160,001+	45	24.7	19.0	36.1
In Debt				
Yes	165	90.2	86.9	96.7
No	18	9.8	13.1	3.3
Source of Debt				
Recruiter	14	7.7	4.9	13.1
Thailand Bank	6	3.3	3.3	3.3
Private Lender	115	62.8	63.1	62.3
Other	31	16.9	15.6	19.7
N.A.	17	9.3	13.1	1.6
3.f: Entrance into Taiwan				
Kind of Visa				
Residential	183	100.0	100.0	100.0
Assistance of Applying for Visa				
Recruiter	173	94.5	91.8	100.0
Employer	10	5.5	8.2	-
Problem in Applying for Visa				
Yes	10	5.5	3.3	9.8
No	170	92.9	94.3	90.2
N.A.	3	1.6	2.5	-

Table 4.1 : Situation of Thai Contract Workers in the Destination Country

Situation in Taiwan	Total Number (Persons)	Composition by Situation		
		Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0
4.a and 4.b : Finding Work and Work Contract				
Main Means of Financial Support				
Salary	183	100.0	100.0	100.0
Timing of Starting Work				
Immediately	181	99.5	99.2	100.0
Less 3 Months	1	0.5	0.8	-
Contract-signing				
Yes	183	100.0	100.0	100.0
Place of Signing Contract				
Thailand	182	99.5	99.2	100.0
Taiwan	1	0.5	0.8	-
Comprehension of Work Contract				
Totally	54	29.5	41.0	6.6
Partially	117	63.9	55.7	80.3
Hardly	10	5.5	3.3	9.8
No	2	1.1	-	3.3
Fitness of Job Expectation				
Yes	126	68.9	99.2	8.2
No	57	31.1	0.8	91.8
Right to Change Employer				
No	183	100.0	100.0	100.0
Ever Change Employer				
No	183	100.0	100.0	100.0
Length of Work (Months)				
0-12	146	79.8	70.5	98.4
12-24	29	15.8	23.0	1.6
25+	8	4.4	6.6	-

Table 4.2 : Situation of Thai Contract Workers in the Destination Country (Cont.)

Situation in Taiwan	Total Number (Persons)	Composition by Situation		
		Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0
4.c and 4.d : Present Legal Status and Kind of Work				
Legal Status				
Visa	183	100.0	100.0	100.0
Validity of Visa				
No	4	2.2	0.8	4.9
Yes	178	97.3	98.4	95.1
N.A.	1	0.5	0.8	-
Work Permit				
Yes	183	100.0	100.0	100.0
No	-	-	-	-
Person in Assistance of Getting Work Permit				
Taiwanese Friend	1	0.5	0.8	-
Recruiter	161	88.0	83.6	96.7
Employer	17	9.3	13.1	1.6
N.A.	4	2.2	2.5	1.6
Work Status				
Contract	183	100.0	100.0	100.0
Trainee	-	-	-	-
No Contract	-	-	-	-
Enterprise Scale				
Lag/Mid	112	61.2	68.0	47.5
Small	65	35.5	27.1	52.5
V Small	6	3.3	4.9	-
Having Branch in Thailand				
Yes	19	10.4	15.6	-
No	157	85.8	78.7	100.0
N.A.	7	3.8	5.7	-
Worked in the Same Company in Thailand				
Yes	6	3.3	4.9	-
No	177	96.7	95.1	100.0
Overload of Work in Taiwan				
Yes	140	76.5	65.6	98.4
No	43	23.5	34.4	1.6

Table 4.3 : Situation of Thai Contract Workers in the Destination Country (Cont.)

Situation in Taiwan	Total Number (Persons)	Composition by Situation		
		Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0
4.e and 4.g : Payment/Salary and Fringe Benefits				
Overhead				
Yes	180	98.9	98.4	100.0
No	2	1.1	1.7	-
Total Monthly Income (NT\$)				
0-15,000	1	0.5	0.8	-
15,001-20,000	52	28.4	41.0	3.3
20,001-25,000	46	25.1	31.2	13.1
25,001-30,000	43	23.5	22.1	26.2
30,001+	41	22.4	4.9	57.4
Growth of Monthly Income				
Higher	174	95.1	93.4	98.4
Same	9	4.9	6.6	1.6
Satisfaction with Income				
Bad	1	0.5	0.8	-
Not Good	19	10.4	12.3	6.6
Fair	106	57.9	48.4	77.1
Good Pay	54	29.5	36.1	16.4
Very Good Pay	3	1.6	2.5	-
Get Pay in Case of Sickness				
Yes	76	41.5	60.7	3.3
No	55	30.1	11.5	67.2
Not Sure	52	28.4	27.9	29.5
Health Insurance				
Yes	143	78.1	89.3	55.7
No	1	0.5	-	1.6
Not Sure	38	20.8	10.7	41.0
N.A.	1	0.5	-	1.6
Right of Terminating Contract				
Yes	151	82.5	83.6	80.3
No	9	4.9	6.6	1.6
Not Sure	23	12.6	9.8	18.0
Financial Assistance from Taiwan				
Food	4	2.2	3.3	-
Health	1	0.6	0.8	-
Not Available	174	97.2	95.9	100.0

Table 4.4 : Situation of Thai Contract Workers in the Destination Country (Cont.)

Situation in Taiwan	Total Number (Persons)	Composition by Situation		
		Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0
4.j and 4.1 : Problems/Conflicts and Health				
Having Problem in Workplace				
Yes	74	40.4	28.7	63.9
No	109	59.6	71.3	36.1
Union Member				
Yes	-	-	-	-
No	182	99	100.0	98.4
Not Sure	1	1	-	1.6
Situation Getting Worsened				
Better	25	13.7	18.9	3.3
Same	106	57.9	74.6	24.6
Worse	52	28.4	6.6	72.1
Health Problem				
Yes	95	51.9	43.4	68.9
No	88	48.1	56.6	31.2
Health Service				
Good Access	84	45.9	45.1	47.5
Existing	16	8.7	9.8	6.6
Bad Access	48	26.2	23.0	32.8
No Access	35	19.1	22.1	13.1
Comparative Health Condition				
Much Worse	2	1.1	1.6	-
Worse	44	24.0	9.0	54.1
Same	137	74.9	89.3	45.9

Table 4.5 : Situation of Thai Contract Workers in the Destination Country (Cont.)

Situation in Taiwan	Total Number (Persons)	Composition by Situation		
		Overall (%)	Manufacturing (%)	Construction (%)
Total	183	100.0	100.0	100.0
4.m : Social Issues				
Language				
English	3	1.6	2.5	-
Mandarin/Taiwanese	98	53.6	73.0	14.8
Thai	77	42.1	20.5	85.3
Other	5	2.7	4.1	-
Interaction with Local People				
Not Well	1	0.5	0.8	-
Fine	93	50.8	53.3	45.9
Well	79	43.2	43.4	42.6
Very Well	7	3.8	2.5	6.6
No Contact	3	1.6	-	4.9
Relationship with Spouse in Thailand				
Worse	1	0.5	0.8	-
Same	106	57.9	51.6	70.5
Better	1	0.5	0.8	-
N.A.	75	41.0	46.7	29.5
Having New Partner in Taiwan				
Yes	10	5.5	8.2	-
No	173	94.5	91.8	100.0
Spouse Having New Partner in Thailand				
Yes	1	0.5	-	1.6
No	153	83.6	81.2	88.5
N.A.	29	15.8	18.9	9.8
Feel Lonely				
Yes	179	97.8	96.7	100.0
No	2	1.1	1.6	-
Not Sure	2	1.1	1.6	-

Undocumented Thai Migrant Workers in Taiwan

Samarn Laodumrongchai

According to the statistics released from the Ministry of Labor and Social Welfare (MLSW) in Thailand, 106,828 Thai migrant workers went to Taiwan in 1998 and 115,096 in 1999, an increase of 8,264. The number tends to be increasing every year. Other statistics show that there have been 70,544 Thai migrant workers to Taiwan between January and April in 2000. The number only includes the legal Thai workers who have labor contracts and work permits, but does not include undocumented individuals. Some of the Thai workers in Taiwan have expired labor contracts but remain in the country in order to search for better earnings. These workers hope to earn more income in order to pay debts and remit to their families. Some of the Thai women have been cheated to work as prostitutes.

Accurate estimation on the number of such undocumented Thai migrant workers is not possible, because of the lack of data on this population. However, there are statistics available on foreign workers including Thai nationals who were arrested for overstaying and detained at the Alien Detention Center in Taiwan.

Table 1. The Number of Detained Migrant Workers

Year	Number
1992	1,710
1993	609
1994	599
1995	1,779
1996	1,816
1997	1,161
Total	7,674

Source: Alien Detention Center, National Administration, Taipei, Taiwan, December 31, 1997.

Table 2. The Number of Detained Migrant Workers in Taiwan (By country)

	Thai	Philippines	Malaysia	Indonesia	Other countries	Total
Male	2,910	1,704	427	336	372	5,749
Female	771	781	132	137	104	1,925
Total	3,681	2,485	559	473	476	7,674

Source: Alien Detention Center, National Administration, Taipei, Taiwan, December 31, 1997.

Below are tables showing the numbers of female migrant workers who were arrested in Taiwan, classified by country, age, and types of entry.

Table 3. Female Migrant Workers by Country

	Thai	Philippines	Indonesia	Malaysia	Other countries	Total
October 1998- December 1998	19	0	0	0	0	19
1995 – 1998	377	42	14	19	5	457

Table 4. Female Migrant Workers by Age

	10-20	20-30	30-40	40-50	50 and over	Total
October 1998- December 1998	0	12	6	1	0	19
1995 – 1998	13	264	138	42	5	457

Table 5. Female Migrant Workers by Types of Entry

	Legal	Swindling	Using false document	Temporary purpose	Other	Total
October 1998-December 1998	10	6	1	1	1	19
1995 – 1998	200	65	94	79	19	457

Source: End Child Prostitution Association Taiwan, Taipei, Taiwan, 1999.

Means and Types of Entry

From the interviews with Thai workers who went to Taiwan and were arrested there, it was found that there are many ways to enter Taiwan to work. The following are the common means and types of entry:

1. Prior to entry to Taiwan, a prospective Thai migrant worker makes a contact with a broker in Thailand. He obtains a tourist visa and enters the country with it. Then the broker arranges a job with employers and job seekers and provides the worker with employment, such as employment at the factory and services in *Karaoke* bars or massage salons in the service industry.
2. A prospective Thai migrant worker enters Taiwan through a third country. For instance, the person goes to Malaysia, applies for visa to Taiwan there, and enters Taiwan. Some enter Taiwan with a transferring/temporary passing visa to ask for permit to travel in Taiwan by pretending that their final destination is another country, such as the US or Canada. After the successful entry, friends or brokers in Taiwan, whom the worker had made a contact with previously, help find employment.
3. A marriage visa is used to enter the country; Thai female workers obtained the visa from marriage with local Taiwanese. This arrangement is often made by gangsters who have the network or know the brokers in villages in Thailand. They come to search for good-looking prospective female workers in Thai villages and arrange marriages for those women with Taiwanese men. The women would be told by the brokers that they do not have to pay any fees because the Taiwanese men would pay for them. After they went to Taiwan, the brokers took them to become prostitutes. This kind of entry is an example of trafficking by gangs.

Case Studies of Thai Illegal Migrant Workers to Taiwan

Case Study 1

Name: Nooi

Sex: Female

Age: 21 years

Birth Place: Weing Chieng sub-district in Chiang Rai Province

Marital Status: Single

Education: High school (Level 3)

Migrant's background

Nooi went to Taiwan after reading in a Thai newspaper, a notice for match-making with a 40-year old Taiwanese man. Brokers were the contact persons between Nooi and the man. Nooi, who was in Chiang Rai, called them in Bangkok. The broker told her that she did not have to pay anything because the Taiwanese man would pay the cost for her. She made up her mind to go to Taiwan in one week. A month later, the broker sent her the visa and ticket to Taiwan. In a few days, the broker came to pick her up from Chiang Rai and she departed for Taiwan. The broker told her that when she arrived in Taiwan, there would be someone to pick her up there.

When she arrived there, she had a minor problem with the immigration passport control, because she had a tourist visa and was alone. She was questioned by the immigration officer in English,

but she was not able to speak the language and thus was not able to respond. As a result, she was kept there for two hours. Later, the officer arranged for a Taiwanese woman who spoke Thai to pick her up.

When she arrived in Taipei, she was sent to a house. She did not know where it was because it was the first time for her to go to the place. She noticed that there were ten Thai women in the house who had been swindled. Those women were around the same age as she was. Seven of them were from the North and three were from Isaan. This place was for massage and prostitution. In the front area of the house, Taiwanese were running massage services, while in the back Thai women like her were conducting prostitution. From the first night, she was forced to do prostitution. When she refused, she was hit by the manager who controlled the place. She thought about running away several times but she could not do so, because the manager kept her passport and the control was very tight. She has done the prostitution for about one year. For the first year, she did not earn money from the work except for tips from the customers. After one year, she started to earn 5,000 NTD or 7,000 Baht per month. She did the prostitution for about 3 years. One day, after she finished her service at a hotel, while waiting for the taxi for returning, she got arrested by the police. She is now in a prison waiting to be deported to Thailand.

The place she stayed was a four-story three-room house. The first through the third floors were for massage, and the fourth had many rooms for prostitution. The bathroom was outside and was for common use. She worked from 6pm until 4 or 5am. However, sometimes she worked longer than those hours, depending on the customers. When there were no customers, these Thai women waited in a small room.

Case Study 2

Name: Daeng

Sex: Female

Age: 22 years

Birth Place: Mai Yaa sub-district in Phayaa Meng Rai district in Chiang Rai Province

Marital Status: Single

Education: Primary School (Level 6)

Her family members were farmers. Due to the fact that her family was very poor, she was trying to find a job. She went to Bangkok several times to work at factories. Finally, she tried to go to work in Taiwan. It started when a Thai broker came with a Taiwanese broker to her village in Thailand and told her that a Taiwanese man would like to marry a Thai woman. She thought about this as an opportunity to improve her family's social and economic status, which would not cost her anything, but would provide her more experiences from abroad. The broker told her that she did not need to pay anything and that all she needed was to prepare her passport and some money to go abroad. She waited for about 2 weeks before departure.

When she arrived in Taiwan, she had a few problems. However, because she went with a Taiwanese broker, she could pass the immigration control. When she went to Taipei, the broker took her to a house that she knew later was a massage parlor. In this house, she found that there were about five Thai women, four from the North and one from Isaan, and there were also six Taiwanese women. She worked in Taiwan for one year and two months as a prostitute. She has conducted sex services for 700 times. At first, it was very difficult for her because she was in debt for the cost of the ticket, so she was not paid for the first 500 times. Later, she earned 1,000 NTD to 1,200 NTD or 2,000 Baht per month. The police investigated the place, arrested her, and took her to the Alien Detention Center in the National Administration before she was deported to Thailand.

Case Study 3

Name: Ruang

Sex: Male

Age: 23 years

Birthplace: Archsamaart District in Roi Et Province

Marital Status: Single

Education: Primary school (Level 6)

Ruang was a farmer prior to working in Taiwan. During the time when the farming season was over, he used to go to work at a construction site. His salary before going abroad is not known, but he sometimes lived day by day depending on the neighbors for food and help because there were some times when he did not have any work. The highest salary that he used to receive was 150 Baht per day. (This salary was from his construction work, but the salary from farming was difficult to assess). He cultivated eight to ten *guin* (land unit unique to Thai) per year, and each *guin* was sold for 1,500 to 1,600 Baht. Because his family had debts exceeding his salary, he decided to work abroad. In his village, there were people who went abroad and returned with better status.

He went to Taiwan legally. First, his neighbor told him that there was a recruitment agency looking for workers to go abroad. The agency told him the work was in industry and had a good welfare scheme. He and four friends in his neighborhood made contact with this recruitment agency to go to work in Taiwan. Later, this recruitment agency contacted him and his friends, asking them to come to Roi Et to sign their contract. This contract was in English and Chinese, so he could not understand it. However, the recruitment agency had a translator for the document for the contract. The recruitment agency paid the cost, including the visa, air tickets and other expenses, totaling the fee of 180,000 Baht. It also did other paper work for the migrants.

He paid the cost by multiple installments. The first installment he paid was 80,000 Baht because the agency told him that it was to buy the tickets and to process the documents. One week later, he was contacted to go abroad. The agency told him that the passport, visa and air tickets would be picked up at the airport. Then, he would have to pay the other installments before the departure. The agency told them to return the immigration documents to the broker in Taiwan after they passed the immigration control. He noticed there were about 30 Thai migrant workers going with him.

When he arrived in Taiwan, he did not face any problems at the immigration control. The broker took him and other Thai migrant workers to the factories. This factory manufactures umbrellas, which was the kind of work the contract had promised. This factory was in Tao Yuan City. Later, his employer explained to him about his job and the environment in the factory. The factory had an interpreter. The Taiwanese broker also took him and other Thai migrant workers to a factory dormitory.

He was working for 8 hours every day. Sunday was an off-day and holidays were days based on the Thai and Taiwan calendar. Sometimes, he worked for overtime for one to two hours per day. However, towards the end, there was less overtime. After daily work, he spent his free time reading and playing *Trugrow*, Thai traditional kicking ball. On Sundays, he jogged in a park close to the factory. On some Sundays, some Thai friends picked him up to go to parks where there were other Thai migrant workers, such as the park in Tai Chuang City.

He had worked at the factory for around six months. Then, his employer moved him and four other Thai workers to the employer's younger brother's factory, because the employer told them to help other factories due to the economic crisis. He was working at this factory for two months. However, the police came to check his work permit. Because of the Taiwanese immigration regulations that prohibit the workers to work for employers other than the permit designates, the police arrested him and sent him to the detention center.

Assistance for Thai Migrant Workers in Taiwan

1. Thai Government Assistance

The Thai Office of Economy and Culture in Taipei

This Office is under the Thai Ministry of Foreign Affairs. Since Thailand does not have an official diplomatic relationship with Taiwan, this Office is the representative institution working as an embassy to issue visas for Taiwanese and foreigners who would like to go to Thailand. Thai workers who would like to go back to Thailand in case their visa or passport has expired also need to go to this Office. From

interviews with an officer there, it was found that many Thai migrant workers who come to the Office complain that their employers do not pay their salary properly or try to send them back to Thailand before the contract expires. The Office can only help some cases of the complaints because their contracts are lawful; the Thai workers could not read them because of the English language used, and the contracts actually say that the length of the employment is less than what the Thai workers had understood. Even illegal Thai workers come there to process the certificates to go home because their visa has already expired after they run away from the factories that they were supposed to work in according to their contracts. When they finished saving a certain amount of money, they would come out to the Office to process the certificates in order to go back to Thailand.

Regarding the Taiwanese policy on foreign labor, the Thai officer commented in the interview that Taiwan has been receiving a certain number of Thai migrant workers, because every year, the quota has been set for Thailand and also other countries. Taiwanese business sectors still employ migrant workers for their inexpensive cost and salary. Migrant workers in Taiwan engage in so-called 3 D jobs, dirty, dangerous and difficult. The officer also told us that foreign workers other than Thais, such as Vietnamese, are likely to replace Thai workers in the future, however not on a large scale. Under the quota, the policy of the Taiwanese Labor Office is to admit 100,000 migrant workers per year. Some Taiwanese businesses, nevertheless, do not reach the quota so it is getting lower. The Thai officer commented that recruitment cost is getting higher and higher every year, even reaching 200,000 Baht. However, the Office is consulting with the Taiwan Labor Office to control this high recruitment cost.

Regarding the illegal Thai workers, the Thai officer in Taiwan does not know where they reside. The officer thinks the number of illegal workers is very high, but does not know their exact number. The Thai office knows about them only from reports and calls by Taiwanese employers or someone who knows about Thai illegal migrant workers. However, the workers are highly mobile so they cannot be easily contacted. Most of those Thai workers stay with other Thai workers in groups. The local police do not care about this, because they do not know if the Thai worker is legal or illegal. When someone calls the police, then the police will come and arrest the illegal workers. The Thai office knows about the illegal Thai migrant workers only when they are arrested, and when they come to the Office for the certificate to go back to Thailand. Those workers who are arrested are deported and are blacklisted in the immigration records so that they cannot come to Taiwan again. The Thai Office cannot help when this happens.

The Office for Assistance and Protection of Thai Workers Abroad, under the Ministry of Labor and Social Welfare

This Office has two branches, one in Taipei and another is in Kaohsiung city. It was scaled down because of the economic crisis and now each branch has only two Thai officers. The officers who work in Taipei assist and protect the Thai workers who are in the area between the North and the Central of Taiwan, while the officers in Kaohsiung city cover the area between the Central area and the South. If a Thai worker runs away from a factory, he cannot be contacted because it is not known where he went. On the other hand, if a Thai worker is arrested, the officers go to assist the person.

2. Taiwan Government Assistance

County Government of Taoyuan, Taoyuan Foreign Workers' Consultation Center

This Center assists and protects foreign workers in Taoyuan city because the city is in the most important industrial area in Taiwan. Thus, there are a lot of factories in the area and many Thai workers working here. For the last few years, the number of Thai workers who ran away has declined because the Center co-operates with the employers to assist and pay good attention to the living conditions of the Thai workers.

Alien Detention Center, National Public Administration

This Center holds the illegal foreign workers who were arrested for illegal status and wait for deportation. The statistics on this Center indicate that the number of Thai migrant workers has been the

highest compared to other migrant groups during the period from 1982 to 1997. The total number in those years was 3,681, consisting of 2,910 male and 771 female workers. The statistics of the period show that the Thai workers stay at this Center the longest. Half of them were staying there for 45 days and the longest stay was 720 days. (The police check the criminal records before they arrest the workers and check with the employers.)

3. NGOs in Taiwan

Hope Worker's Center

This Center was founded by the National Catholic Commission on Migration. This Center also serves as a religious institute in Chung Li city and covers the Central area of Taiwan as well. Most of the foreign workers who come to this center are from the Philippines and most of them come on Sundays. This Center has only one Thai staff. In the past, the Center used to assist only those from the Philippines, but it expanded its assistance to the Thai workers also, because the area became increasingly popular for Thai migrant workers. At present, activities such as playing music are organized for the Thai workers at the Center. When the Thai workers have problems, they come to consult at the Center and about four of them come per month. Some of them consult by telephone. When the Thai workers run away and would like to go back to Thailand, the Center provides consultation and assistance, and negotiates with the local police. The worker pays about 4,000 NTD or 4,300 Baht for a ticket going back to Thailand. If they run away after less than one year, they have to pay the fine of 650 NTD or 700 Baht. If they run away between one and five years, they have to pay 10,000 NTD or 13,000 Baht. If more than five years, they have to pay 15,000 NTD or 18,000 Baht. If they do not come to the Center, they turn themselves in at the police station and will be detained in a jail. In cases of other cities, if they turn themselves in after more than 2 years, they have to pay 15,000 NTD or 18,000 Baht.

End Child Prostitution Association Taiwan (ECPAT)

This Center started assisting children and women who conduct prostitution. Later, this Center expanded to assist Thai female workers as well. Most of the female workers were arrested because they were cheated into coming to Taiwan for prostitution. However, some were arrested because they had false contracts. A staff member of the Center commented about the trafficking process of women. She said that many Laotians, Burmese, Vietnamese and Cambodian women go through Thailand to Singapore, Taiwan, and Japan for sex work. Chinese women go through Burma and Laos to come to Thailand, and finally to Hong Kong and Taiwan. Thai women are cheated to go to Malaysia and later to Singapore, the Philippines, and finally to Taiwan. In each country they go through, they work in the sex industry for three to six months.

4. Temples in Taiwan

Thai people come to the Thai temples in Taiwan to do merit making. In Taiwan, the temples are the center of activities for Thai people. However, the temples in Taiwan do not look like the ones in Thailand.

There are two Thai temples in Taiwan. One is in Taipei and another is in Chung Li. The temple in Taipei does not look like a temple in Thailand because they are renting a room in an apartment block and the place is very narrow due to the high land price. This temple has five monks from Wat Thamaakaai in Bangkok. The main activity at the temple is to teach meditation. The monks need to learn the Chinese language in order to extend visa to stay in Taiwan. Most of the Thai workers come on Sundays and also for important days in the Thai calendar. Some Taiwanese employers allow them holidays on such days. Most workers come from Taipei and the nearby cities.

The temple in Chung Li is in the center of Taiwan. This temple has one *rai* of land which was donated by a Taiwanese. The temple was made out of containers arranged in a U-shape. This temple also has five monks from a temple in rural Thailand. The activity of this temple is to ordain, for a short period of time, Taiwanese as well as Thai people. For instance, the temple hosts for ordination of Taiwanese children in summer and teaches Thai and Chinese language to Thai workers. This has Thai volunteers to

help monks in teaching. Another activity is for monks to pray at funerals when Thai migrant worker die at factories. The monks told us that most of the Thai workers die because of the Sudden Death Syndrome. It is estimated that one person dies of this syndrome per month. The other main activity is the Songkran holiday and the workers go with Thai officers to the temple to celebrate.

Conclusion

Taiwan is the country in Asia which receives the most number of Thai migrant workers compared to other countries. It hosts migrant workers both legally and illegally. There are many types of entry by foreign workers to enter Taiwan. There are also a lot of illegal workers who are arrested for overstaying. Most of them are Thai migrant workers. In the labor laws of Taiwan, foreign workers who were arrested and deported are not allowed to enter the country again, but regardless of the laws a great number of Thai workers try to re-enter the country. They try to go no matter how much it costs them. The well-known means to do this is to change one's passport. The Taiwanese government also tries to solve the problem of illegal migrant workers.

There are also many organizations which assist and protect Thai and foreign workers. In both Taiwan and Thailand, there are such local organizations supported by both governments. In Taiwan, there are some NGOs which provide consultation to Thai workers.

Thai Migrant Workers in Malaysia

*Khadija Muhamed
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Introduction

- Several images come to mind when we speak about contemporary immigration into Malaysia. Firstly, it is overwhelmingly illegal; secondly, their numbers are very uncertain; and thirdly, it is predominantly Indonesian. The illegal images can be glimpsed, sometimes almost every night on television, as well as in newspapers and on radio - groups of them being caught in raids or operations by the relevant authorities. The uncertainty of their actual number can be understood by the different statistics being offered by different authorities, even at the same time. Added to this is the fact that boatloads, carloads, vanloads or truckloads of them cross the Malaysian borders undetected, and also the fact that even though the immigration department has made efforts to register them, only a small number come forward to be counted.

The situation is overwhelmingly Indonesian, in the sense that Indonesian is spoken all around Malaysians, in their homes, on the roads to the place of work, at work, in the canteens or cafeteria, even on the television in the comedy and drama or entertainment series, at the stores, supermarkets and shopping centers, at the petrol stations when they refill our cars and everywhere else that they go. The migrant presence is felt in the economic activities, in the households, in schools and institutions of higher learning, in associations, in the places of worship, and in our professions. In sum, migrant culture is in Malaysia to stay.

The Situation

Although official figures show a much lower number, it is safe to assume that there have been more than two million migrants pouring into Malaysia in the last 20 years. This brings us to about 10% of the total population and 20% of the total workforce. One in five workers in Malaysia is an alien. From 1992 to 1996 alone, there were about three quarters of a million legal workers (743,641), and one and a quarter million illegal workers. Out of three quarters of a million legal workers, only 23,265 were Thais, the bulk being Indonesians (294,809), followed by the Bangladeshis (103,367), and Filipinos (31,540). Thai workers represent only 3.3% of the legal migrant labor or one out of every 30 legal workers is Thai. Thai workers are more prominent in Singapore and Brunei. In Singapore, out of 230,000 workers in 1994, 40,000 were Thais, compared to 60,000 Filipinos and 100,000 Malaysians which comprised the largest ethnic group. In Brunei, out of 37,000 foreign workers in 1988, 9,941 were Thais; they were the second largest group, the largest group being Malaysian, at 18,418 (Kassim, 1998).

Earlier, from the mid 1980s to the beginning of the 90s, 23,694 work permits were issued to Thai workers by the immigration department (1985-91). This is the largest number of work permits issued to any ethnic group. Only 19,984 permits were issued to the Indonesian workers, and 20,046 work permits to Filipinos. Therefore during this period, the Thais represented the largest group of legal workers (35.6%), second being the Filipinos (30.1%) followed by Indonesians at 30.0%. Only a few thousand Bangladeshis started to trickle into the country at this time, 2,852 or 4.3% of a total of 66,576 legal alien workers. From 1992 to 1996, there was an exodus of Bangladeshi workers from Bangladesh into Malaysia, numbering 103,367, second to the Indonesians. During this period the Thai proportion shrank from 35.6% to a mere 3.3% of the documented labor force.

The reasons for this dramatic decrease in the number of Thai migrant workers have not been identified yet. One possibility is perhaps the recruitment structure, and another is the availability of a ready and willing labor pool from Bangladesh recruited to work in many sectors, especially the construction sector, as well as the manufacturing and agricultural sectors. However, on a macro level, there has been an increase of the number of Thai migrant workers going abroad since the 1980s. They are found in at least twenty countries in the Asia-Pacific region, the Middle East, Europe and the United States. In Asia, many Thai workers are found in Japan, Singapore and Hong Kong, reaching a total of 85% in the Asia-Pacific region, and almost one third of them are found in Singapore, Brunei and Malaysia.

The exact number of illegal workers from Thailand to Malaysia is not known, but an indication of their presence can be gauged from the number of illegals arrested by the authorities, and the number of illegals who came forward to be registered in the amnesty exercise to all alien workers by the Immigration Department, which started in December 1991 and ended in 1994. The operation to legalize illegals in the plantation sector began much earlier in 1987. Between 1992 and 1995, almost half a million illegals registered (483,784), out of which only 6% was from Thailand. The bulk was Indonesians (83.2%) and the Bangladeshis were the third largest group at 5%. Again in 1996, the Malaysian government gave another chance for the illegals to register themselves, a reprieve lasting four and a half months till the end of December 1996, and another grace period of the whole month of January 1997.

The illegals originated from 53 countries. Several operations to catch and send back the illegals were launched since the early 90s, known as Ops Nyah I, II and so on. In the first exercise (Ops Nyah I), about 51,000 were apprehended, and almost all were Indonesians. None from Thailand was caught. However, in the second exercise, (Ops Nyah II), 136,876 illegals were caught, and 3.3% were from Thailand. The largest group was still the Indonesians, at 70%, with a growing number from Bangladesh (13.2%) and a substantial proportion from Myanmar, at 9.5%. The Thais again did not appear to be very significant as illegal labor, compared to the other three groups. It is estimated that at least another quarter of a million illegals are still at large in Malaysia.

Trends

An analysis of annual figures of issuance of temporary work permits indicates that the inflow of migrants varies from year to year. For the period from 1985 to 1991, the Thais were most numerous in 1989, totaling 6,695. Less than a thousand Thais came in 1985, but the number grew to between 4,000 to over 6,000 from 1987-1990, and decreased suddenly to only 566 in 1991. Again, it is hard to provide an answer at this point in time as to the reason for this sudden decrease.

However, the Thais represented the largest group to be issued the temporary work permit for this period. Compared to the Filipinos, the second largest group, the numbers peaked at two points, 1987-88 and 1990-91. For the Indonesians, the third largest group, out of 19,984 permits issued, 14,125 were issued in 1990 and 3,351 in 1991. Prior to 1990, less than 1,000 permits were issued every year. As for the Bangladeshis, a total of 2,852 permits were issued, the highest being 1,126 issued in 1985. For the two years of 1987 and 1988, not a single permit was issued to them, while for other years the number ranged from a little over 300 to a little over 600 only. These were the only four ethnic groups issued with work permits for this period.

From 1992 to 1996, a total of 460,319 permits were issued, the majority to Indonesians, at 64% (294,805); second, to Bangladeshis at 22.5% (103,367); third to Filipinos at 6.9% (31,540), and fourth, to Thais at 5.1% (23,265). This ranking persisted throughout this period, but the percentage for Thais decreased dramatically from 5.6% for June 1992 to December 1993, to 4.3% in 1994, up to 6.3% in 1995 and then down to as low as 1.3% in 1996. Only 449 permits were issued in that year. Again, the causes for this sudden reduction have yet to be researched.

The scenario changed after 1991 until the present where 53 nationalities are found in the alien workforce, legal and illegal. This array of incoming groups from various ethnic and cultural backgrounds present to Malaysia another dimension of the impact of importation of foreign labor on the socio-cultural scene of the country. Malaysia is already heterogeneous enough without the additional 53 incoming migrant labor groups. The management of such a mixture of ethnic groups and the subsequent interactions or lack of interactions among them is another important dimension aspect to be researched on.

Employment

For the five years from July 1992 to June 1996, temporary work permits were issued to various types of employment. The Thais were mainly found in the plantation sector in the northern states of Kedah and Perlis, and mainly in the sugar and tobacco plantations. A few are found scattered in oil-palm and rubber estates managed by the Federal Land and Development Authority (Marsitah, 1994) but these are negligible compared to the thousands employed in the sugar plantations in Kedah. A total of 10,872

permits were issued for this sector. A recent study in Kedah showed about 2,500 workers employed in the sugar plantation in Padang Terap. These are seasonal workers, the employers having arranged for them to get the temporary work permits of three months at a time. These permits can be extended depending on the nature of the additional work to be completed.

The second largest group of Thais is found in the construction sector where 6,353 permits were issued. The third largest group is the domestic maids, where a total of 3,857 permits were issued, while a total of 1,141 permits were issued for the services industry and 287 only for the manufacturing sector. A total of 755 permits were issued to unidentified sectors under the category of Others. It would be interesting to know what this category comprises since their number is quite large.

This pattern of employment is almost similar to the Indonesian pattern, where Indonesian workers were found mostly in the plantation sector, followed by the construction, domestic and manufacturing sectors. The services sector did not seem to attract the Indonesian workers. This differs from the Filipino pattern which shows a preponderance of workers in the domestic sector: almost 80% or 27,919 out of 31,540. Among the Bangladeshis, the majority is found in the manufacturing sector, more than 50%, and another 40% are found in the construction and plantation sectors. These different preferences may be due to the employers' preferences or the workers' preferences. This is yet to be researched.

There is a restraint among employers to initiate documentation or legalization of their foreign workers. Firstly, legalization of employment means a waiting period of two to three months for the paperwork to go through. Secondly, the cost factor ranges from \$1,500 to \$2,260 which includes work permits, visas, compound fines, deposits and levies. These vary according to job category and nationality. And thirdly, workers themselves are not keen to register because by doing so, they would have to abide by the terms and conditions of their contracts which is very restrictive in terms of what they can and cannot do. Fourthly, legalization would mean limited job mobility within sectors and across sectors, horizontal as well as vertical.

Research on the Thais in Malaysia

The Thais have not attracted that much interest among researchers of foreign migrants. This is probably because of their insignificance compared to the Indonesians in terms of numbers. However, the Department of Southeast Asian Studies was the earliest to focus on micro-level studies based on ethnic origin of the migrants. Since 1980, we have conducted several studies including the Thais (Department of Southeast Asian Studies 1980-1998). Enquiries at other faculties and Universities in Malaysia drew a blank. No research has been done on the Thais per se though there have been Research and Development funded research projects on a macro-level for Peninsular Malaysia and across ethnic groups (Azizah Kassim, 1998). There were also studies conducted for specific areas, for example, the Klang Valley (Khadijah Muhamed, 1996) or specifically for a particular sector, for example, the construction or plantation sectors (Marsitah Mohd Radzi, 1991).

Research on the Thai migrants falls into two categories:-

A. Established Thai migrant community studies:

- I. Buddhist communities.
- II. Muslim communities.

B. Recent Thai migrant studies:

- I. Seasonal migrant workers.
- II. Temporary migrant workers.

Established Thai Community Studies

The Thais are a minority in Malaysia. The latest census (1990) shows a total of 36,184 Thais (0.2%) in the country out of 18.4 million people in the total population. They are distributed in several states, almost 50% (17,779) are found in Kedah, one of the northern states near the border of Malaysia and Thailand. Another quarter, or 23% (8,301) Thais is located in Kelantan, another northern state at the border on the eastern coast of Peninsular Malaysia. The third largest group is found in Perlis, the northernmost border state on the West coast. These three states house more than three quarters (83%) of the Thai population in Malaysia (Table 1).

Table 1. Distribution of Thais in Malaysia

State	Number	Percent
Kedah	17,779	49.13
Kelantan	8,301	22.94
Perlis	4,639	12.82
Perak	2,000	5.53
Pulau Pinang	1,074	2.97
Selangor	657	1.82
Terengganu	499	1.38
Others	1,235	3.41
Total	36,184	100.00

Source: Population Census of Malaysia, 1990.

The Thai presence in Malaysia was not a planned strategy by the ruling government as in the case of the Chinese and the Indians during colonial days. The Chinese and Indians were systematically brought into the country as migrant labor or to fulfill some other economic functions. The Thais have been in the country since the 18th century, as social migrants, economic migrants or security migrants.

There are cultural proximities of ethnic Thai Muslims with Malays in the states and provinces near the border areas. The northern states have had close political relationships with Thailand since the 13th century. The inflow of Thais into these states can be traced back to the early 19th century. In the case of Perlis, the northernmost state on the west coast of Peninsular Malaysia, the greatest inflow occurred between 1921 and 1984, and tapered to a trickle after that. After the handing-over of the state to the British in 1909, many Thais moved back into Thailand. These early migrants came as traders, many subsequently setting up families with the locals, thus encouraging social migrants. Most of the migrants were originally from the southern provinces like Narathiwat, Songkhla and Haadnyai. These were the early pioneers who formed the nucleus for Thai settlements in Malaysia. Many regarded Perlis as part of Thailand, and opened up land accordingly. There were no rules and regulations regarding movement of population across the borders of the two countries.

It was only in 1932 that rules and regulations were imposed on immigrants, but even then, illegal movements continued unabated across the border. Many moved, following friends and relatives, or on their own after assessing the situation from news spread by former migrants who returned home. The pull factor was the better socio-economic conditions in the areas of destination. The availability of land and job opportunities drew them across the border into Peninsular Malaysia.

Many of the migrants were Buddhist Thais, and the ability to continue with their socio-cultural traditions in the new area besides improved economic opportunities drew them further. With the Japanese Occupation, people from the Peninsula were sent to work on the railway tracks in Thailand. Many married Thai women and brought them back after the war.

The Thais were not located in a concentrated settlement, but were scattered into smaller groupings. In Perlis, we have seven communities or villages headed by a leader or a village head. The villages are Kampung Jejawi Permatang, Padang Petani, Guar Nangka, Kubang Tiga, Behor Gelam, Alor Banat and Guar Musang. Almost all the residents in these villages are Thais who practice Buddhism. Hence they are separated socially and geographically from the neighboring Muslim communities; they rear

pigs and breed dogs as family pets or for family and property protection. Non-Thais residing in these villages are usually Chinese who are not Muslims.

In one study on Kampung Padang Petani (Nazihah Halim, 1998), out of a total of 185 households, 184 were Thais and one was Chinese. The children were born in the village, but their parents and ancestors were migrants; the first batch migrated in the 19th century from the districts of Yala, Narathiwat, Songkhla, Pattani and Haadnyai. The village was founded by a Malay about 200 years ago and named Padang Petani to denote the agricultural base of the village economy. The village was taken over by the Thais after the death of the founder, the process of which is unknown.

The village is administered along similar lines as other Malaysian villages, with the Village Development Committee spearheading development projects helped by sub-committees. They also enjoy whatever subsidies from the government trickle down to the other villages, in the form of seeds, fertilizer, pesticide, and rental of machinery. Therefore, these types of Thai communities which started as migrant communities are by now integrated into the Malaysian village scenario and enjoy similar facilities as other types of villages. They are free to practice their religion and culture and pursue suitable economic activities.

Recent Thai Migrant Studies

For the past two and a half decades Malaysia has experienced rapid economic growth. Labor supply in certain sectors outstrips supply. This encouraged the inflow of migration from neighboring countries, especially Indonesia which occurred in waves of different volumes, with or without the blessing of the authorities. Studies on the Thai migrants were included within the research that had been undertaken to examine the question of labor supply in certain sectors like plantation and construction. Studies on the Thai migrant per se were undertaken more recently with the recognition of the situation in certain states like Trengganu, Kelantan, Kedah and Perlis, the northern and east coast states of Peninsular Malaysia.

1. Thai Migrant plantation workers: The plantation sector is experiencing a shortage of labor, including FELDA (Federal Land Development Authority) which is the biggest plantation developer in the country. Felda was initially in 1956 established to develop land for the production of rubber and later oil-palm with settler communities as the source of labor. Since then, 891,986 hectares were developed with 114,159 settler families in 309 settlements at a cost of RM8.18 billion. Since the early 80s these settlements were experiencing labor shortage due to the aging of the settler population, the aging of trees, and the opening of vast tracts of land in Sabah where it was difficult to get settler families. In 1989 it was discovered that there were 16,092 non-settlers in Felda schemes in Peninsular Malaysia; 4,310 or 26.8% were non-Malaysians, 4.4% of which were Thais, or 189. The largest group was Indonesians (21.8%). One study was conducted in several Felda settlements in Pahang to detect the use of foreign labor in the late 80s (Marsitah Mohd Radzi, 1991).

There was a total of about 7,000 Thai contract workers in 1970. The inflow of Thai contract workers increased to 17,500 in 1980; 59% had stayed 5 years in the country and wished to continue with the contract jobs in the plantations.

Recently, an attempt was made to study Thai labor in a Felda plantation in Pahang also, but before the study could get off the ground, the whole group of Thais had moved on to the port of Kuantan. These were Thai contract workers employed to tap rubber in 12 plantations in Kuala Lipis. They may be employed to do other chores as well, such as weeding and clearing of the area before the arrival of settlers into the plantation. They have to move from one area to another as soon as their contract expires. They may be hired by an employer who moves them from one job to another, depending on the need for labor.

Thai workers have been coming in to work in the sugar plantations in the northern states of Perlis and Kedah as seasonal labor. An ongoing study in Kuala Nerang, Kedah shows that the Government had put a quota on the number of contract seasonal workers for 1997-98 at 2,500. These workers are recruited to work in the Padang Terap Sugar Plantation which was established in 1973 to develop 15,000 hectares for the production of sugar. The company goes through the labor recruitment contractors to hire workers. Every year, 12 to 15 such contractors are licensed to recruit and each contractor is able to hire the number of

workers according to their financial outlay, management skill and efficiency in organizing the workers. The most successful contractors may be able to hire 300 to 500 workers; the medium group will be able to recruit 200 to 250, while the lesser able contractors make do with 100 to 150 workers.

These contractors are responsible for the search and travel to the work site, the processing of all documents on both the Thai and Malaysian sides, provision of housing and other basic facilities, allocation of tasks, supervision and general management including payment of wages, leave and other problems related to the workers. One contractor, for example, Liew Kok Seng Company was able to recruit 275 workers, 188 males and 87 females. A total of 29 children tagged along, since 87 were married couples with children; 49 were married but did not bring their wives along, and 52 were single. Most workers come from 13 districts of Thailand, and they are Buddhist. They started coming into Malaysia from November 1997 in stages till December. The search for workers was carried out by their Thai counterparts starting in September, and the contractor paid RM150 to the Thai agent for each worker. The workers were brought to the Malaysian border where a bus or van was ready to transport them to the work site. This transport cost was paid or arranged by the Malaysian contractor. The workers underwent a medical examination in Thailand and had to be 21 years old and above. All expenses regarding travel, search fee and document processing were advanced by the contractor.

The contract is for only 3 months, renewable for another 3 months. The maximum period of stay in Malaysia for seasonal contract workers is 6 months. The processing fee is RM60 for three months, and another RM10 for administration. Harvesting starts from December and continues up till March in the dry season. The workers are paid either by the area harvested (80 cents per *rantai*) or by wholesale rate per hectare (RM300-350). The former is used for harvesting and the latter for planting and maintaining the plantation which requires between 10-15 workers. They work from 8.30 a.m. to 6.30 p.m. every day except for 2 to 3 days' leave to celebrate religious functions or to rest. Each worker can earn between RM500-800 a month.

II. Thai migrant workers in the tobacco industry: In an ongoing study in the district of Merbok, Kedah, most of the workers are Muslims from Pattani, Southern Thailand. The process of recruitment starts with an application from the manager of the Tobacco Processing Plant to the Immigration Department in Alor Star before the tobacco leaves are harvested. The application is supported by a letter from the National Tobacco Board. The employer sends his representative to Pattani to search for workers or get in touch with Thai brokers who charge a considerable fee. One tobacco station operator has paid almost RM2,000 to the broker to cover the search fee, telephone and transportation costs. Once the recruits are identified, the employer will process the necessary documents, such as passports and temporary work permits which cost up to RM60 per worker. For each worker, the employer has to pay RM180.

III. Thai migrant construction workers: The construction sector has been another rapidly expanding sector during the economic boom in the last 20 years. A shortage of labor resulted and was filled by foreign recruits, mainly from Indonesia. Studies so far had focused on this group (Khadijah Muhamed et al, 1997).

IV. Other Sectors: Thai workers are also found in the service sector, in jobs such as domestic maids, cooks, cleaners, petty traders, hawkers and food outlets. Hence they are in homes, hotels, restaurants, retail shops, shopping centers and night markets. In the late 70s and 80s, many homes in the east coast states of Trengganu and Kelantan, as well as the northern states of Kedah, and Perlis had Thai Muslim cooks and domestic maids brought in by informal agents or recruiters, and many without proper documentation. They have gradually been replaced by Indonesians who are seen to be more hardworking and more disciplined, as well as more tolerant of certain situations. The Thai women mainly from Southern Thailand prefer independent economic pursuits like petty trading, hawking and running food outlets. Several studies have been conducted in these activities (Hashim Abdul Rashid, 1989; Mariashabiradalia Mohammed Hashim, 1992; Engku Sabariah Engku Abas, 1997).

Survey Findings

Data from the field study in four areas in Malaysia consists of the sample group from Kuala Lumpur (13.6%), Kadar (36.4%) and Klantan (36.4%). Most of them were from the northern states of

Malaysia that bordered on Thailand. The findings from interviews with 110 Thai migrant workers are described in the following sections.

Background in Thailand

Most of Thai migrant workers came from the Southern region of Thailand; 42.7% came from Pattani, 17.3% came from Songkla, 16.4% came from Yala, and 10% from Narathiwat. There were migrant workers from other regions such as from Sakon Nakhon and Chiang Rai, but only in small numbers (2%). This is due to the geographical proximity. The sample group was composed of 62% male laborers and 38% female laborers and the majority were 21-30 years old (52.7%). About 37% were under 20 years old and some were older than 30 years old. The number of Thai workers who had children and those with no children was almost even; the same applied to the marital status. Some 56.4% graduated from primary school and 26.4% graduated from secondary school. Most of the workers were young, so they were not the heads of families in Thailand. Some 50% of the workers who came to work thought that their families were in the middle class when compared to others, while 23.6% thought that they were little lower in status than others. Families had an average income of less than 5,000 baht (48%); the rest had an income of around 5,000-20,000 baht (44%). About 22.7% of the migrant workers were previously farmers, 15% were unemployed, 9% were businessmen and 11% were fishermen. Even though most of them were not farmers, they had 1-20 *rai* of family land to work on.

Travel procedures and work in Malaysia

About 40% of Thai migrant workers said that the reason that they came to work in Malaysia was because they could not find jobs in Thailand; 47% were not satisfied with their low income in Thailand. Most of them had information about Malaysia from their relatives or friends in Thailand; 65% already had relatives working in Malaysia. These relatives had an important role in assisting workers to go to Malaysia (35%); the rest had their travel arranged by their employers (32%), and 20% went by themselves. Only 10% of the migrant workers in Malaysia used the service of job placement agencies or brokers in Thailand to arrange their travel. Therefore, job placement agencies or brokers played a small role in arranging for workers to go to Malaysia. In fact, most of the workers spent only RM100-200 for traveling costs (57%); the rest of the workers (18%) did not have any traveling costs because their employers paid for them, and only 15% paid RM200-300. Most of the expenses were for traveling costs, for these workers did not have any debts concerning preparation to go to Malaysia.

Most of the migrant workers entered Malaysia by using border passes and temporary working passes or were without any documents, for it was usual for Thai Muslims to pass through the Thai - Malaysian border. Malaysians and Thais who live near the border share similar language and culture and have had kinship ties for a long time. Therefore 94% of Thai migrant workers could pass through the border with or without travel documents; only 6% had problems. The main reason that Thais went to work in Malaysia was economic; 30% wanted to have working experience; 16.4% wanted to find better working opportunities, some followed their relatives or spouses, some went because it was nearby; others went because they used the same language, and some because employers persuaded them to go. Thai workers went there to work informally; 93% of them did not have an employment contract; only 6.4% had employment contracts. Most of them got the jobs that they expected (94.5%). Some 38% of the workers had been working less than a year, 25.5% had worked 1-3 years, and 17.3% had worked there 4-6 years. There were a large number of workers who had worked more than 1 year.

Work conditions

About 42% of Thai migrant workers worked in restaurants, 16.4% worked in the agricultural sector, 10% worked as factory workers, 7.3% did fishery jobs. The rest were scattered working in different jobs, such as rubber plant tappers, construction workers, food vendors, housework, barbers, and massagers. It was found that there were Thai migrant workers working scattered in restaurants in Kuala Lumpur, Selangor, Kedah, and Kelantan. Workers in agricultural jobs only worked in Kedah state, and there were Thai workers who worked in other jobs both in Kedah and Kelantan. In terms of gender, women did not do jobs such as fishing, barbering, coolies, vendors and masseurs.

When comparing their original jobs in Thailand and jobs in Malaysia, it was found that the workers who used to be farmers could go to work in almost any kind of job, excluding jobs that needed skills to work in, such as barbers, masseurs, or bricklayers. Most of workers who used to do fishing jobs would go to work in the same jobs as before. The persons who used to be rubber tappers and seamstresses would go to work in other jobs such as restaurant workers and so on. Those who used to work as barbers or masseurs would go to work in the same jobs as before. Most of the workers who used to be businessmen or hired drivers would work in restaurants. It was interesting that the majority of persons who did not have any jobs before would go to work in restaurants and in the agricultural sector. Most of them went to work in restaurants.

Most of Thai workers worked without holidays as they had not signed any employment contracts (53%). As for the income aspect, workers received income per day (12%), per week (15.5%), per month (58%). About 70% of Thai migrant workers, which was the majority, had an average income of RM400-800 per month. Also, 70% had a higher income when they worked in Malaysia. Besides their income, there were no other welfare benefits as they worked without any employment contract. Only workers who were brought in by their employers received welfare benefits. It was this group (23%) that would receive welfare benefits according to Malaysian labor law. About 90% of workers did not have problems due to cultural differences or at their workplace as they were Thai Muslims.

Living Conditions

Some 44% of Thai migrant workers lived in a compound with other co-workers, 16% lived together in rented houses, and 23.6% lived alone. It was interesting to note that 23.6% stayed with their spouses and 12.7% lived with their families in Malaysia. When combining these two groups, there were 36.4% who stayed with their families which was a considerable percentage. This was different from the case of Thai migrant workers in other countries where Thai workers had no right to bring their spouses or families to live with them.

Cultural Similarity

About 75.5% of Thai workers were able to understand the Malaysian language. Some 56% had new spouses in Malaysia. This is important data because the marital status had an influence on their staying in Malaysia. It was found that 73% of Thai migrant workers were not sure whether they would return back to Thailand or not. Only 21% answered that they would return to Thailand when their contracts ended and only 3.6% would return in 1 or 2 years' time. This shows the trend of Thai workers towards remaining in Malaysia for a long time or maybe permanently. When asked whether they intended to apply for Malaysian nationality, 38% replied that they so intended.

Impact of the migration on Thailand and Malaysia

About 74.5% of Thai migrant workers in Malaysia sent money home, 25.5% did not send any. The reason that there were less workers who sent money back home than workers who went to work elsewhere was because workers could go back and forth between Malaysia and Thailand as Malaysia borders on Thailand. Workers who used a border pass that was valid for 14 days had to go back to Thailand and then return to Malaysia again; these workers could bring money back by themselves without sending back money through any system. The frequency of sending money back home was not the issue. Some sent money back every month, some twice a year. In the group which sent money back home, it was found that on average RM100-300 a month was sent (35%), the rest sent no more than RM500 back (15%), and 15% sent money back reaching RM600-2000. About 16.4% sent money to their parents, 47.3% sent money to their children. Only 9% sent money to their spouses as some of workers' spouses stayed with them in Malaysia and some workers were single. It was found that workers who sent the largest amount of money back home had an income of RM400-600 per month and the majority of them worked in restaurants.

Thai migrant workers in Malaysia mostly worked in Kelantan and Kedah states (36.4) which was more than two-thirds of the sample group. These workers did not have problems adjusting themselves in cultural or language aspects. When asked whether they would support other people to come to work in Malaysia, 63% replied that they would, 17% would strongly support, 16% were indifferent, and 4% would

not support other people to come. This data shows the positive attitude of Thai migrant workers to work in Malaysia. For the Muslim community, the role of women who went to work in Malaysia was of interest; 64% of interviewees answered that they supported women to migrate to work to earn income for their families and only 7.3% specified that they could only go if they were permitted to do so by their husbands. The most important reasons were that they would support women to go to Malaysia if their husbands were sick, deceased, or they did not live with husbands.

About 85% of Thai migrant workers felt that Malaysians were friendly to them, 15% felt indifferent, only one person felt that Malaysians were not friendly. To the contrary, only 13.6% thought that Ministry of Labor and Social Welfare officials were friendly to them, 63.6% had no opinion or felt indifferent, 8.2% felt that they were not friendly and did not assist them at all. When asked about their wages, everyone replied that they were very high (88%), and their families were in better condition after they decided to come to work in Malaysia (81%). None thought that their families' condition had gotten worse.

Conclusion

The manufacturing and service sectors still have jobs for workers, especially in the northern states of the country. Seasonal agricultural work is also available. It is possible that more workers can commute, and the common Muslim culture and language shared by Thai workers and Malay employers can allow for a safety net and ample job opportunities.

Flows are spontaneous with predominantly Thai Muslim workers from the south of Thailand to labor markets mostly in the northern States of Malaysia. However, the ongoing scale of the largely undocumented flow of labor and the potential for absorbing more labor from Thailand is not acknowledged. Some intervention from the Thai government is needed in order to provide workers with their rightful legal status.

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The Regional Economic Crisis and the Migration of Thai Workers to Singapore

Pornnipa Atipas

Introduction

The strategic location and the prosperity of Singapore has historically attracted immigrants from the region since her independence in 1965. The traditional source of immigrants from Malaysia is now supplemented by those, legal and illegal, from countries as far away as India, Bangladesh, Myanmar, China, India and Thailand. The influx of these immigrants continued during the Asian economic crisis which saw Singapore relatively less negatively affected by the crisis than her neighboring countries.

The influx of foreign workers in Singapore can be traced to the boom days of the late 1980s. Up until 1997 the constraint on many economies, including Singapore, was inadequate labor supply. Singapore enjoyed an impressive economic growth rate averaging 8.5% in the first half of the 1990s. Between 1980-1992 employment growth showed an increase of 47% (Sio and Yeo, 1996). Indeed, it was able to grow as rapidly as it did precisely because it imported labor into its economy¹.

Thai workers first came to Singapore in October 1978 to work in the electronic and textile companies (Chunsuvimol, 1980). The construction boom in Singapore in the 1980s saw the systematic increase in the number of Thai workers in Singapore. This was the result of Singapore government policy allowing workers from "non-traditional" sources (i.e. Bangladesh, India, Indonesia, Philippines, Sri Lanka, Myanmar and Thailand) to take up employment in the construction sector in order to alleviate the labor shortage in this sector. A large number of Thai workers started to come to Singapore to fill this secondary market segment. In 1989, Singapore received about 9% of the total number of migrant workers from Thailand and 15% in 1991 (Vasuprasat, 1994). Singapore has become a major destination for Thai workers, especially since the decrease in the number of workers migrating to the Middle East². The present study is part of the research project on "Thai Migrant Workers in Southeast and East Asia," coordinated by the Asian Research Center for Migration, Institute of Asian Studies, Chulalongkorn University, Bangkok. The project involves a comparative study of Thai workers in 4 major destination countries, namely Japan, Taiwan, Malaysia and Singapore. The objective is to explore the impact of the regional economic recession on the migration of Thai workers in 3 main areas: a) the pattern of migration of Thai workers abroad; b) The cost-benefit of migration; and c) the workers' experience with labor relations in receiving countries. The analysis is based on the data from surveys and in-depth interviews with workers and experts on migration issues in Singapore conducted in 1999.

The paper will be organized into 8 sections. After this introduction, the second section reviews the general situation of Thai workers in Singapore, including the numbers, recruitment and employment. Section 3 discusses the ongoing debates on immigration issues in Singapore. This section examines the labor market and illegal immigration in Singapore. Section 4 explores the current research on migration in Singapore. Section 5 presents the political structure that deals with migration issues in Singapore. The role of Singapore government in directing the pattern of immigration will be discussed to give fuller insight into the issue.

The results from the present study will be presented in section 6. This section is further subdivided into 3 subsections in order to systematically discuss the 3 main areas as stated in the objectives: Section 6.1 focuses on the regional economic crisis and the migration experience. This section will present the profile of the sample, the determinant of migration in terms of the economic and social "push" and "pull" factors, the recruitment process, the skill training, the legality of migration and the employment in Singapore. Section 6.2 discusses the costs and benefits of migration in tangible and intangible forms. Section 6.3 presents the workers' experience with labor relations and with problems at work. The role of the Thai embassy as perceived by the workers will be discussed in Section 7. The paper

¹ Economic growth is the sum of productivity growth and labor force growth, and the latter was boosted through importation of labor into the economy.

² This is partly the result of the Saudi Arabia ban on Thai workers in 1992 following a diplomatic blow between Riyadh and Bangkok over the unsolved murder of 2 Saudi Arabian embassy officials here.

will conclude with section 8 which highlights the outcome of the research.

Thai Workers in Singapore

The number of foreign workers in Singapore in general, and Thai workers in particular, is difficult to establish due to lack of official data³. In 1970, it was estimated that foreign workers in Singapore accounted for only 3.2% of the total workforce. Since then, this figure has doubled roughly every 10 years with a jump in the number of foreign workers in the 1990s. This brings the estimated number of foreign workers as percentage of the total workforce to 7.4% in 1980, 11.5-13.5% in 1990, 20.7% in 1995⁴ and more than 25% in 1997. This is the highest proportion of foreign workers in the labor force in Asia (Wong, 1997). The estimated number of foreign workers in Singapore in 1997 was 450,000.⁵ The number of foreign construction workers increased from under 100,000 in 1994 to 200,000 in October 1999⁶. Foreign workers constituted more than 60% of the overall workers in the construction sector.

Estimated Number of Thai workers

The estimated numbers of Thai workers in Singapore over the years is shown in table A below.

Table A

Number of Thai Workers in Singapore

Year	1988	1989	1990	1991	1992	1993	1994	1995	1996	1998	1999
Number of Workers	25,000	30,000	30,000 *20,000	27,000	50,000	50,000	50,000 *45,000	**40,000	50,000	*65,000	*65,000

Source: Wong, 1996

* Data from the Thai Office of Labor Affairs, Singapore

** From *Straits Times*, 15/05/95, cited in Lim, 1996

Estimating the actual numbers of Thai workers in Singapore is further complicated by the substantial number of illegal workers. The estimated number of illegal Thai workers in Singapore varies considerably according to different sources. The Thai Labor Office in Singapore estimated a reduction in the number of illegal Thai workers in 1999 from the previous year's figure of 3,500 and of 5,000-8,000 in 1996. The reduction was said to be the result of the slow down in construction activity in Singapore, and the increased risk due to intensive law enforcement conducted by Singapore authorities since the beginning of 1998. However there were other sources and anecdotal evidence that tended to support the number of illegal Thai workers being large. For example when interviewed, the representative of the National Trade Union (Singapore) estimated the number of illegal Thai workers to be 10,000⁷. The Singapore Immigration and Registration (SIR) reported 100-200 illegal Thai workers being caught and surrendered per month. On an annual basis alone, this already gives an estimate of about 2,000 workers. In 1989 when the Singapore authorities issued an amnesty for illegal workers that surfaced, almost 10,000 Thai illegal workers registered themselves for repatriation. This was 40% of the 25,000 legal Thai worker population who possessed work permits at that time. As a further estimate Wong (1996) cited a local newspaper report which suggested that the number of illegal Thai workers in 1996 equaled that of the legal Thai workers in Singapore.

³ There is no data released by the Ministry of Labor. Although Census provides some information on non-citizen workers, it is not comprehensive enough to determine the type of workers. The Labor Force Surveys do not distinguish between resident and non-resident foreign workers.

⁴ There is an estimation of 150,000 foreign workers in 1990 out of the total workforce of 1.3 million (*Straits Times*, June 9, 1990, cited in Pang, 1992); 350,000 foreign workers in 1995 out of the total workforce of 1.69 million

⁵ According to the Ministry of Labor, reported in the *Straits Times* of 5th November 1997.

⁶ According to the Minister of State for Manpower, Mr. Othman Haron Eusofe, appeared in the *Straits Times*, October 8, 1999. Foreign workers in construction sector include workers from 7 countries namely India, Myanmar, Thailand, China, Philippines, Indonesia and Bangladesh.

⁷ In the interview conducted with Mr. Daipi, the labor member of parliament, representing the NTUC at the Trade Union House on 19th July 1999

The Recruitment of Thai Workers

The channels of recruitment of Thai workers can be divided into legal and illegal channels. The legal channel is done through 4 main modes of recruitment: Ministry of Labor and Social Welfare in Thailand; direct recruitment by employers; recruitment by private agencies; and self-organization by workers. The mode of labor recruitment is shown in table B below.

Table B

Numbers of Thai Workers Migrating to Singapore Registered with the Ministry of Labor and Social Welfare Classified by Modes of Labor Recruitment Between 1990 to 1996

Year	Self recruit	Department of Labor	Direct hiring	Job training	Private agencies	Total
1990	4,082	7	0	0	2,375	6,464
1991	5,241	4	721	0	3,525	9,488
1992	5,381	0	287	0	5,669	1,137
1993	4,527	0	427	0	9,215	14,171
1994	7,461	4	1,129	0	6,506	15,100
1995	8,061	2	1,935	13	6,613	16,624
1996	8,517	5	890	252	7,937	17,601
Total (%)	43,270 (47.66)	19 (0.02)	5,391 (5.94)	265 (0.29)	41,840 (46.09)	90,785 (100)

Source: Ministry of Labor and Social Welfare in Thailand, appeared in Weekly Epidemiological Surveillance Report, Division of Epidemiology, Ministry of Public Health

Recruitment by private agencies and "self-organization" have always been the two competing modes of labor recruitment. Self-organization is on the increase and is the preferred mode of Thai workers entering Singapore. This is because self-recruitment avoids the heavy cost generally associated with private recruitment agencies. The cost of labor recruitment often rises exponentially due to the fact that recruitment agencies need to offer commissions ("kick-backs") to Singapore employers so that the employers "reserve" work permit quotas for the workers. This fee was usually charged to the workers⁸.

The kick-back fee was estimated to amount to S\$500 – S\$1500 per work permit holder (Wong, 1996). Incorporating this cost, the recruitment fee could therefore amount to as much as 50,000 baht for unskilled workers and 70,000 baht for skilled workers. The official commission charges set by the MOLSW in Thailand is 22,500 baht which includes a month's wage, typically about 8,000 baht, plus expenses of some 15,000 baht. Of the 50,000 baht, it was estimated that one third went to the employer, one third to the Singapore agent and another third to the Thai agent (Wong, 1996).

Another new development is the direct recruitment of skilled workers by private construction companies in Singapore. This started when the Overseas Testing Scheme was introduced in 1995 which will be discussed later.

Finally there needs to be some mention of the illegal channels. Wong (1996) described the illegal channel known among workers as "number two" ("be song" in Thai) with the legal channel being known as "number one" ("be neung" in Thai). The recruiters involved in the illegal channel were said to operate in Haadyai. Wong estimated 20 such gangs were in operation. The illegal channel of recruitment is used mainly by workers from the North of Thailand. Although the number is small compared to the legal channels from the Issan region of Thailand, the number of workers from the North is increasing. This led Wong to postulate that the illegal channels could increase in significance.

⁸ After the closure of employment market in the Middle East in the early 1990s which increased labor supply from Thailand, as well as the intense competition among employment agencies, agencies often offer free service or commission to Singapore employers. However, with the recent opening up of employment markets in other countries like Taiwan, Japan, Malaysia and Israel, which offers choices to Thai workers, Singapore employers were said to become more realistic in their demand for the kick-back. (Office of the Labor Affairs, 1998).

There are good reasons why people resort to illegal channels of recruitment despite the high risks. Illegal recruitment has proven beneficial to all parties involved in the recruitment process. For workers, it means a substantive reduction in the recruitment cost (down from an average of 50,000 baht for legal recruitment⁹ to an average of 12,260 baht for illegal recruitment¹⁰) as well as the shorter time spent on the process. For employers, illegal workers take away the burden of levy payment as well as of providing the welfare and protection required by law. At the same time employers are ensured of an adequate labor supply as they are not restricted by the quotas imposed by the government. Employers also have all the bargaining power over the vulnerable workers. For the agencies illegal recruitment helps to avoid taxes and the bureaucratic procedures, hence speeds up the recruitment process.

Working in Singapore

According to the Labor Counselor, Office of the Thai Labor Affairs in Singapore it was estimated that about 75% of Thai workers were in the construction sector. The Construction Industry Manpower Survey reported in 1994 that Thai workers accounted for about 69% of the "non-traditional" sources of labor and were 38.2% of the overall foreign workers in the construction sector (composed of 180,000-220,000 foreign workers) (Wong 1996). This makes Thais the largest group of workers in the construction industry. Thai workers are also found in shipyards and service sectors. There are approximately 15% of workers in shipyards and less than 10% in the service sector. Workers in the service sector work as domestic maids, beauticians, waitresses, dressmakers, masseuses and prostitutes.

With the widening gap between the government levy on the skilled and unskilled workers, there has been a marked increase in the number of skilled workers and a decrease in the number of semi-skilled workers (since the semi-skilled workers do not enjoy the levy reduction). According to the Labor Counselor at the Thai Office of Labor Affairs in Singapore, the number of skilled Thai workers recently entering Singapore rose to 40% -50% in 1998, and 80%-90% in 1999.

Most Thai workers receive hourly wages. They might get their pay daily, weekly, bi-monthly or monthly. On the average, workers receive a monthly wage of S\$ 800-1200 each¹¹. They work between 80-130% of the maximum work time allowed by Singapore Labor Law (which specifies 44 working hours per week). Interestingly the daily wage of Thai construction workers is less than half of that of the local and Malaysian workers doing the same job (i.e. S\$21.47 as compared to S\$54.42 for Malaysian and S\$63.47 for local bricklayers as reported in Yeong, 1997). However, compared to other foreign workers like those from Myanmar, India and Bangladesh, Thai construction workers receive higher wages (i.e. S\$25 per day for skilled Thai workers and S\$17-20 for unskilled Thai workers as compared to S\$20-22 for skilled and S\$13-14 for unskilled workers from these other countries).

According to the report from the Office of the Thai Labor Affairs, Singapore (1999) the monthly remittance to Thailand averaged S\$450-800 per worker. This gave a total monthly remittance of S\$22.5 million and a total annual remittance of S\$270 million from Thai workers in Singapore. This amount was said to be close to the amount of money spent by Singaporean tourists in Thailand

Ongoing Debates on Immigration Issues

The Labor Market:

During the boom days of the late 1980s and up until 1997, the constraint on many economies, including Singapore, was inadequate labor supply. Singapore enjoyed an impressive economic growth rate of an average of 8.5% in the first half of the 1990s. Between 1980-1992, employment growth showed an increase of 47% (Sio and Yeo, 1996). It was able to grow as rapidly as it did precisely because it

⁹ From the survey done by Wong (1996)

¹⁰ From the survey done by Sullivan, Gunasekaran and Siengthai (1992)

¹¹ The minimum wage set by the Thai Government is S\$20/day for unskilled worker, S\$25/day for skilled worker and S\$350/month for domestic maid. However, workers often received less than the minimum wages. There is no minimum wage in Singapore labor law

imported labor into its economy¹².

The Asian regional crisis led to a severe withdrawal of credit and liquidity from the region including from Singapore. The asset "bubble" burst. Domestic demand collapsed. The impact on the Singapore economy started to be evident in the first quarter of 1998. The economic growth rate declined to 5.6% in the first 3 months (down from the preceding quarter of 7.6% growth).¹³ The impact was felt strongly in the second quarter when the growth slid to 1.6%, the lowest growth rate in 12 years¹⁴ (down sharply from February estimates of 2.5 to 4.5%).

The Singapore government attempted to boost its construction activities in an effort to counter the economic downturn, as it had done in previous cycles. Unlike its neighboring countries, the Singapore government had the fiscal surplus to improve infrastructure during the economic downturn. As part of the measure to stimulate domestic growth as well as to cushion the sharp drop in the demand for private residences, Finance Minister Dr. Hu announced S\$668 million to be allocated to the public sector in order to speed up on-going public projects (*Straits Times*, June 30, 1998). This amount was spent on the upgrading of HDB, of schools, on the extension of MRT and of Changi Airport, among other projects. Moreover it was reasoned that this was a good time to invest in heavy infrastructure projects like the LRT because prices were lower¹⁵. In the third quarter of 1997, the contracts awarded to the public sector grew by some 40%.

This rise in public construction activities however could not offset the sharp drop in the private sector. In 1999 the construction industry still emerged as the worst victim of the economic crisis as it had contracted by about a fifth to S\$18.4 billion. This was due to the oversupply of building space, the narrowing project pipeline and cautious public sentiment. For the first quarter of 1999 when the Singapore economy grew by 1.2% and was technically out of recession, the construction sector still shrank by 9% with the contracts awarded falling 43%.¹⁶

From the early 1990s the government's policy was aggressively aimed at attracting the high value-added and skilled foreign workers worldwide. By bringing in these types of workers, the productivity growth of the economy is boosted and this leads to higher sustainable growth rates for the economy. Indeed since the economic crisis the government has leaned even more towards skilled and professional workers. This is because in the future Singapore's growth may gradually diversify away from hinterland-based growth. Instead of being a major provider of hard infrastructure (airports and ports for example) to Malaysia and Indonesia, Singapore may have to attempt to become a more important provider of "soft services" (i.e. R&D, logistic support, education centers, medical hub) to the global market. To achieve this it will have to increase the importation of world class professionals and skilled people to help produce world-class services.

The position of the government towards low skilled workers is different. Unskilled foreign workers are deemed a necessity but not without inherent problems. These workers who dominate the construction sector are seen to retard the industry's development. The construction industry has been known as the most unproductive and inefficient industry in Singapore. The output per person employed in the Japanese and South Korea construction industry is said to be about two or three times more than in Singapore. The dependence on unskilled foreign workers has resulted in low productivity, poor quality of work, bad safety records¹⁷ and backward building methods, as well as contributing to a series of social problems. The inflow of unskilled foreign workers is therefore regulated tightly by the Dependency Ratio (DR) and relatively high Foreign Worker Levy (FWL) which have been revised regularly (as will be

¹² Economic growth is the sum of productivity growth and labor force growth, and the latter was boosted through importation of labor into the economy.

¹³ According to Mr. Peter Ong, Ministry of Trade and Industry's first deputy secretary. Reported in the *Straits Times*, May 19, 1998.

¹⁴ The *Straits Times*, August 12, 1998.

¹⁵ The announcement made by Communications Minister Mr. Mah Bow Tan regarding the construction of the Sengkang and Punggol Light Rapid Transit lines. Appear in *Straits Times*, July 5, 1998.

¹⁶ The *Straits Times*, May 20, 1999.

¹⁷ The *Straits Times* of October 9, 1999 reported that since 1994, the industry's safety record has deteriorated alarmingly. From 1994 to September 1999, 316 construction workers died in 301 accidents. killed since. Every week one construction worker dies on the job.

discussed further). The government also has a target to halve the number of foreign construction workers¹⁸.

The message from the government is clear that skilled workers will slowly replace unskilled workers in the Singapore labor market. In response to the government policy to attract skilled workers and to create loyalty among them, a manufacturing company (the first of its kind in Singapore) announced in October 1999 that it was offering its skilled Bangladeshi workers stock options as an incentive for them to stay with the company for a longer term¹⁹.

Illegal Immigration:

Illegal workers in Singapore include those who enter the country illegally as well as the "overstayers" who remain in Singapore after their work permits have been cancelled. The presence of illegal workers has been a major concern for the Singapore government. Firstly, it increases the number of available construction laborers, depresses the growth, and hampers the government intention to upgrade the industry. Secondly, it raises social and security issues.

There is evidence that the regional economic crisis has resulted in an increase in the number of illegal workers. On April 21, 1998 *The Straits Times* reported that in the parliamentary update on illegal immigrants, Home Affairs Minister Wong Kang Seng revealed that the number of illegal immigrants arrested rose from 431 in January, to 644 in February, and then to 2,086 in March 1998. According to the Singapore Immigration and Registration (SIR), 23,000 illegal immigrants were arrested in 1998; a 64% increase on the 14,000 arrested in the previous year. Of this figure, 14,000 were illegal immigrants while 9,000 were overstayers. For the first eight months of 1999, over 5,500 foreigners had been caught trying to enter Singapore illegally and nearly 50 had been caught trying to leave illegally. 3,800 of these 5,500 illegal immigrants 7 out of 10 came in through the old Woodlands checkpoint.²⁰ These illegal immigrants came mainly from Bangladesh, China, India, Myanmar and Thailand. According to the Ministry of Manpower, forgery of work permit cards also increased to 70 cases a month for the first 3 months of 1999, compared to 40 such cases a month in 1998, and 5 such cases in 1997.

In Singapore, the slow down in the property market during the economic recession did not seem to discourage illegal immigration. At least 3 parties are responsible for the entry of illegal immigrants: the employer, the worker, and the recruitment agent. During the crisis, employers were more willing to take risks since hiring of illegal immigrants meant substantial savings for the employers, because of the non-payment of levies and welfare provisions, among other things. There was also evidence that illegal agents offered some employers higher "kick-backs".

With the slow down in the construction activities, there were employers who defaulted on levy payments. This resulted in more than 7,000 workers having their work permits cancelled in the first five months of 1998 (compared to about 6,000 cancelled for the whole of 1997)²¹. Some unscrupulous employers brought in foreign workers only to default on their levy payment deliberately and abandon them after receiving their "kick-backs".

For illegal workers, the option to return home to seek a livelihood was limited. However they were under pressure within the Singapore labor market since imported labor is the first to be shed during a difficult period. At the same, the economic crisis had hit Thailand even more severely than Singapore. The illegal Thai workers found themselves caught and isolated in Singapore. A majority these workers were also in substantial debt incurred in the recruitment process. If the workers found out that they are about to be deported, they often ran away. It was reported that from 1997 to 1998 the number of run-aways rose 40%. These workers then remained in Singapore as "overstayers".

The incidence of illegal workers was also boosted by the existence of illegal recruitment agents

¹⁸ Mr. Mah's speech to the reporters after the launch of the Construction 21, cited in the *Straits Times*, October 21, 1999.

¹⁹ In the *Straits Times*, October 22, 1999.

²⁰ The *Straits Times*, August 5, 1999.

²¹ According to the spokesman of the Ministry of Manpower, reported in the *Straits Times*, June 28, 1998.

and illegal labor suppliers. Despite the 1,093 licensed employment agents in Singapore, there were as many as 30 illegal syndicates in Johor Bahru and Kuala Lumpur (*The Sunday Times*, 15 August, 1999). This was because importing foreign workers for construction work was a lucrative business here. A report in *The Sunday Times* of October 24, 1999 estimated there was a S\$560 million a year tax-free business among contractors and labor agents importing foreign labor to work at construction sites²² in Singapore.

The emerging concern was the increased trafficking of illegal workers in and out of Singapore via the Causeway. The illegal immigrants were smuggled into Singapore by car, bus, lorry or boat. In one incident, four men died while in a group of 35 being ferried across the Causeway by lorry. In April, July and August 1999, 14 Thai illegal workers were caught trying to leave Singapore in car boots. Workers who were smuggled out illegally were those who entered illegally. Often illegal male immigrants entered to work at various construction sites and illegal female immigrants entered to work as prostitutes. Those arrested reported that they had paid agents between S\$228 and S\$800 each to enter Singapore illegally and between S\$300–400 to leave the country illegally. The drivers were generally recruited in Johor Baru and were promised RM80 (S\$35) for every person they smuggled out. According to the SIR, it was clear that syndicates were behind the trafficking activities.

The Singapore government has however claimed that measures to combat illegal employment have been effective. For example, since the introduction of the security bond on levy payment in April 1998 (of S\$2,000 per worker on top of the S\$5,000 bond per worker all employers must post), there was a reduction by more than 30% on the figure of the first quarter of last year, in the number of workers whose work permits were cancelled because their employers had defaulted on levy payments²³.

The severe penalties imposed on all the immigration offenders also made the cost of illegality high. The Employment of Foreign Workers Act introduced on January 1991 imposes penalties on illegal workers, employers and those harboring illegal workers whether his is attempted or successful. They are liable to be fined, jailed and/or caned. For workers, the maximum penalty for illegal entry and overstaying is 6 months jail. Male workers who overstay beyond 90 days get at least 3 strokes of the cane. For employers, a first time offender can face a jail sentence of up to 12 months, or a fine of two to four years levy (or equivalent of S\$7,990 to S\$16,000) per worker (Then, 1996, cited in Wong, 1996). For second and subsequent offences, a mandatory jail sentence of between six months and two years, in addition to the fines is imposed. Those hiring more than 5 illegal workers will also be caned. The harsh punitive action against employers and those harboring illegal immigrants is illustrated by a case in 1999 where a smuggler who tried to bring in 15 illegal immigrants was sentenced to 10 years jail and 24 strokes of the cane. A police spokesman expressed the rationale behind this: "Without those who provide refuge and those who employ the illegal immigrants, we believe there will be little reason for illegal immigrants to come to Singapore." (*The Straits Times*, May 27, 1998).

For employment agencies that are caught operating without a license, first time offenders face fines of up to S\$5,000. Repeated offenders risk jail and a S\$10,000 fine. Labor suppliers who abet them also face jail and a S\$10,000 fine. For those caught smuggling illegal immigrants, the SIR has recommended raising the penalty from a two year to a ten year jail sentence and caning, as well as a fine of S\$6,000.²⁴

There were a series of well-publicized raids especially on construction sites. Crackdowns were made on illegal immigrants, "overstayers", their employers, harbourers and traffickers. In January 1989, the Immigration Department began to make raids and round up illegal immigrants who did not have valid work permits. About a hundred raids were carried out each month. In March 1998, numerous joint raids by the Singapore Immigration Department, the police and the Ministry of Manpower were carried out in forested areas, HDB flats and lodging houses. In one such raid (a joint operation between the police and

²² A labor agent may get \$1,000 for each construction workers he brings in. He might also collect \$50 a month for a year from each worker for helping him get work here. Multiply this with 70,000 or so construction workers who come here every year make this a multi-million dollar business.

²³ According to the Assistant Director Corporate Communication, the Ministry of Manpower, appeared in the Forum, *Straits Times*, August 1, 1998.

²⁴ *The Straits Times*, August 16, 1999.

the Singapore Immigration Department) which took place over a 24 hour period in August, 153 offenders were caught. Among them were 137 people who had entered Singapore illegally, 15 people who had overstayed and a Singaporean who had harbored illegal immigrants.²⁵

In an effort to combat forgery of work permits, a new green identity card for foreign workers was introduced in April 1999. The new ID card bears photographs and fingerprints of the worker, as well as other enhanced security features²⁶. Existing work permit holders would be issued with new cards when their old permits expired. It was expected that all the foreign workers in Singapore would carry this new ID card by the year 2001.

The State of the Art in the Migration Research in Singapore

It was well documented in Yap (1997) that there was "no institution devoted to migration research in Singapore or even one where migration is the main focus." Research on migration in general and on legal aspects in particular is therefore scattered. A few available studies on migration were done by academics in universities, by students as academic theses, and "think tanks" on an individual basis. Most papers focused on Singapore's comprehensive immigration policy. These included Wong and Heng, (1989), Pang (1992), Chew and Chew (1995), Yeh (1995), Wong (1996, 1997), Hui (1997) and Yap (1997, 1998).

The evolution of Singapore's policies regarding foreign workers is well understood from the studies by Wong (1997) and Yeh (1995). Wong (1997) identified 3 phases in the evolution of the policy: the "ad-hoc" nature up to the 1980s, the comprehensive policy in the 1980s, and the liberalized policy in the 1990s. Yeh (1995) divided the policy development into 3 periods according to the mechanism used in the regulation of the flow of foreign workers. Pang (1992) explained that the shift in the foreign worker policy had to do with the "changing perceptions about its costs and benefits." Low, Wong and Heng (1989) focused on the impact of the Foreign Worker Levy and argued that the FWL bore no impact on economic restructuring to more capital-intensive methods. Other studies on Thai workers' experiences in Singapore included Gwee (1986) and Lim (1996). Gwee's thesis (1986) examined the problems facing foreign workers in construction industry. Lim (1996) revealed the segregation of Thai construction workers. Due to the difficulties in conducting studies with illegal immigrants, the only study available on illegal workers was the one presented by Sullivan, Gunasekaran and Siengthai (1992).

The Political Structure that Deals with Immigration Issues in Singapore

Government Institutions

In September 1998 the Singapore government implemented an integrated framework in manpower planning in order to provide a clearer, more efficient and more convenient administrative approach. The Foreign Manpower Employment Division of the Ministry of Manpower handles all matters pertaining to the employment of foreign workers. This includes the issuing of work permits for unskilled workers (previously issued by the CIDB) and of employment passes for professionals (previously the responsibility of the SIR). The Singapore Immigration (SIR) would only be responsible for preventing illegal entry. In April 1999 the government also established the Building and Construction Authority (BCA) under the Ministry of National Development by merging the Construction Industry Development Board (CIDB) with the Building Control Division of the Public Work Department. This new government body oversees all aspects of the construction industry including the approval of quotas of foreign workers, controlling the standard of construction and of the quality of the construction workforce. One important role of the BCA related to foreign workers is to conduct training courses²⁷ and the Skills Evaluation

²⁵ The Straits Times, August 5, 1999.

²⁶ For example, the multi-laser imaging of the Manpower Ministry's logo and of a map of Singapore which will be better defined by ultra-violet light.

²⁷ The training covers various skills such as civil and structural, architectural, building services, plant and related trade, and other trades such as metal scaffold erection.

Certificates Test. The Commissioner of Labor issues license to employment agencies²⁸.

Singapore's laws relating to the employment of foreign workers include Employment Act, Workmen's Compensation Act, Employment of Foreign Worker Act, and Employment Agencies Act.

The Singapore Foreign Worker policy was said to be one that is 'highly restrictive for the unskilled, extremely liberal for the professional' (Wong, 1997). There are 3 types of work passes under the Work Pass Framework implemented in September 1998. The first type is P pass (previously Employment Pass). Holders of this pass are professionals holding administrative, professional and managerial positions with the minimum salary of S\$3,500. The second type is Q pass (previously 3 year work permit or Employment Pass of lower caliber). Holders of this type are skilled workers and technicians with monthly income of more than S\$2,000 and educational qualification of at least 5 'O' levels. P and Q pass holders can work in all sectors of the economy. They can marry Singaporeans, their children can be born in Singapore, and they are allowed to bring in their dependants. They are placed under the CPF scheme and could apply for permanent residency (and later for citizenship). The Singapore government also sets up the Social Integration Management Service (SIMS) to help professionals and skilled workers settle down and integrate into Singapore society.

The third type of work pass is R pass (previously 2 year work permit). These are semi-skilled and unskilled workers who earn less than S\$2,000 monthly and are repatriated once their contract has expired. The contract is generally 2 years (renewable up to 4 years) and valid only for employment by a specific employer. R work pass holders can be employed only in approved sectors which include manufacturing, construction, marine and domestic service sectors. They can marry Singaporeans only upon the approval of the Minister of Labor. They are not permitted to bring in their dependants. Female R pass holders are deported if they are found to be pregnant. For unskilled workers, the policy therefore emphasizes the nature of "transience."

Since the 1960s, the Singapore government has also differentiated 3 types of semi-skilled and unskilled workers accordingly to the countries of origin: traditional source from Malaysia; North Asian sources from Hong Kong, South Korea, Macau, and Taiwan; and non-traditional sources from Bangladesh, India, Indonesia, Philippines, Sri Lanka, Myanmar and Thailand. There are different regulations for workers from traditional and non-traditional sources. For example, in 1990, the Singapore government started to allow all sectors in the economy to recruit Malaysian workers. This did not apply to workers from non-traditional source (Pang, 1992).

The control of unskilled R pass holders is done through 2 mechanisms: Foreign Worker Levy and the Dependency Ratio.²⁹ The Dependency Ratio is the ratio of local workers to foreign workers (i.e. 5 foreign workers to 1 local worker in construction sector). Companies are allocated a dependency level based on their local workforce. The Foreign Worker Levy is the amount of money paid to the government for hiring a foreign worker. It was initially used as a pricing mechanism to keep the cost of hiring foreign workers high so those foreign workers did not compete with local workers for the same job. However, with the advance in the economy and local workers shunning away from unskilled "dirty" jobs, the Foreign Worker Levy and the Dependency Ratio are now used to support the upgrading of the industry and as such have been constantly revised. For example in 1991, the two-tier levy was introduced. This was aimed to encourage employers to use and train more skilled workers. The first tier levy for the lower dependency ceiling is lower than that for the next dependency ceiling. This makes it more expensive for companies that are dependent on foreign workers.

The government has also differentiated the levy for the skilled and unskilled R pass holders. Skilled workers are determined by the possession of a Skill Evaluation Certificate (SEC).³⁰ The unskilled

²⁸ From 1998, all employment agents who hire work permit holders must pass a Certificate of Employment Agencies (CEA) course.

²⁹ In Singapore the following conditions are set for the approval of work permit in construction sector: a dependency ratio, a security bond of S\$5,000 and payment of a monthly levy per worker. Other requirements are that the companies must have S\$1.5 million worth of contract in hand, and a project duration of six months (Wong, 1996).

³⁰ Skilled workers made up only 10% of the construction industry's workforce according to Manpower Minister Mr. Lee Boon Yang, reported in the *Straits Times*, 4 October, 1997. However, Yeong (1997) argued that many workers, who are labeled "unskilled" because they are not sent for skill certification or do not pass the test, actually possess skill certificates in their home countries.

workers might only have passed the Basic Skills Test (BST) or might not have passed a test at all. The levy of the skilled workers is much lower than that of the unskilled workers and this gap was often widened. For example on April 1 1998 the levy for unskilled construction workers was raised from S\$440 to S\$470 and the levy for the skilled worker was halved from S\$200 to S\$100. The gap was widened again in January 1999. The current levy for the skilled and unskilled workers is S\$30 and S\$470 respectively. It has been announced that the levy for unskilled workers will be raised again in the near future. The current Dependency Ratio and the Foreign Worker Levy are shown in table C below.

Table C

Dependency Ratio and Foreign Worker Levy as in October 1989

Sector	Dependency Ratio	Category of Foreign Workers	Levy Rates (\$)	
			Monthly	Daily
Manufacturing	Up to 40% of total workforce	-	240	8
	Between 40% to 50% of total workforce	-	310	11
Construction	1 local full-time worker to 5 foreign workers	Skilled	30	1
		Unskilled	470	16
Marine	1 local full-time worker to 3 foreign workers	Skilled	30	1
		Unskilled	295	10
Service	30% of total workforce	-	240	8
Harbor Craft	1 local full-time worker to 9 foreign workers	Certified crew	30	1
	No of crews (shown on MPA Harbor Craft License) x 2 The lower quota will apply	Non-certified crew	240	8
Domestic Worker	-	-	345	12

Source: Ministry of Manpower

The Skill Evaluation Test (SECT) and the Basic Skill Test (BST) are the two measures to upgrade the construction industry workforce. A target was set that half of the foreign workers must pass either SECT or BST by April 1999 and all foreign workers by April 2000. Although the BST does not guarantee that the workers are skilled after they pass the test, at least these workers have basic building skills and exposure to construction work. This is seen as a means to discourage farmers and jobless laborers who possess no skills to contribute to Singapore's industry. Those who pass the SECT will be certified as "skilled." The government had plans to double the percentage of skilled workers to 45% by 2005 and to 60% by 2010.¹¹

The Building and Control Authority has cooperated with the construction industry in sending officers to conduct skill tests in labor sending countries under the Overseas Testing Scheme introduced in 1995. Training centers have been set up in countries like Thailand by construction firms to give workers the skills they need. Moreover, in order to improve the safety record of the construction sector, all parties involved (i.e. workers, supervisors and project managers) are required to go through a specially packaged program that includes the "safety first" message.

Construction 21 initiated in May 1998 by the Manpower and National Development Ministries provides the most updated "blueprint" for the construction sector in the 21st century. It examines the introduction of new design and management regulations.

Non-government Organization

In Singapore there are few non-government organizations that deal with immigration issues in general and with Thai workers in particular. The Singapore Contractors Association represents the only NGO that deals with foreign workers in the construction sector. The main activity of this NGO that

¹¹ Mr. Mah's speech to the reporters after the launch of the Construction 21, cited in the Straits Times, October 21, 1999

relates to workers is the setting up of a recruitment agency – Singapore Contractor Association Ltd. (SCAL) to supply foreign workers to construction companies. Other NGOs are charitable organizations like church groups.³² They provide basic English courses and consultation to workers on an ad hoc basis.

Results from Fieldwork

The analysis was based on 2 sets of data collected during June and August 1999. First, 145 cases were collected by fact-to-face structured interviews. The data collection took place at various locations: construction work sites, workers' dormitories, Golden Mile complex (shopping complex where Thai workers gather during their free time) and some outlets of the Phuen-Thai provision shops frequented by the workers. The distribution of sample by sector approximates the distribution of the population of workers in these sectors.

Proportion of Thai workers in each sector		Sample taken
Construction	75%	99 workers (68.2%)
Industry	15%	34 workers (23.4%)
Service (domestic & driver)	>10%	10 workers (6.9%)
Others (general office work)		1 workers (.7%)
Unemployed at time of interview		1 workers (.7%)

The survey data was supplemented with the second set of data obtained from the unstructured interviews with the government and NGOs officials who were involved in migration matters (the list of the expert interview is attached in the appendix 2). The interviews were carried out at their respective offices.

The analysis focused on the comparison of data before and during the crisis periods in order to assess the impact of the regional economic crisis on migration of Thai workers to Singapore. As the baht devalued in mid 1997 and Thai workers needed about six months or less to decide and make arrangements to migrate to Singapore, given this time frame, approximately half of the workers presently in Singapore made the decision to come and actually came after the crisis started. 53.6% of the sample arrived in Singapore after January 1998, as compared to 46.3% who arrived before the crisis (as shown in Table 1).

The Regional Economic Crisis and Migration Experience

Profile of Thai Workers In Singapore (Table 2)

A typical Thai worker in this survey was the male farmer from Isaan region with a low level of education. There were 139 male and 6 female workers. The present data showed very little changes in the demographic characteristics of workers between the pre-crisis and the crisis periods. The average duration of education in our sample was 5.81 years. There was little difference between the education level of workers who came before and during the crisis (5.9 years and 5.7 years of education respectively). Workers arriving before the crisis tended to be slightly older (36.4 years as compared to 32.9 years). About 76% of the workers in both periods were married and most had children (average 1.6 children). About half of our sample from both periods (57.6% and 50.6%) were the head of a medium size household (of an average of 5 persons). There was also little difference in the number of wage earners in the household between the two periods (1.8 and 2.0 persons).

It has been well documented that migrant workers did not generally come from the poorest category. This was also true for both periods. Almost 90% of workers in our sample from both periods came from average and above average household income families in their villages.

There was also little difference in terms of previous occupation held in Thailand. A majority of workers were farmers in Thailand (65.1% and 60.0%). About one third of these farmers held second jobs,

³² Among these are the Christian Trinity Church and the Thai Good News.

mostly construction or general/manual jobs, to supplement their income after the harvest. Non-farm workers held a wide range of occupations ranging from steel workers, mechanics, barbers, carpenters, taxi drivers, textile workers, and a few worked in the construction industry. A majority of these non-farm workers reported to own farms and have family members working on them. More workers in the pre-crisis period had experience working abroad (46.2% compared to 35.4%), mostly in construction work in Asian countries or in the Middle East.

An interesting point to note was that the data seemed to suggest little internal migration from towns to rural areas in Thailand as previously expected. This was shown by the stable proportion of workers migrating to Singapore directly from the farm and from town areas during the two periods. Jobless town workers did not seem to return to the villages to seek subsistence in the villages and swell the village population count. Two factors might be responsible for this. First, the El Nino that affected the Northeast region severely during the crisis had removed the option to go back to farming activities despite the fact that most workers came from land owning families. Second, as suggested by Skeldon (1999), going back to the villages was an unappealing alternative for these workers who were accustomed to the material culture in the city. For farmers, the economic crisis in Thailand limited the opportunity to earn much needed income after the harvest through a second job in town.

In terms of regional origin, our sample showed a significant increase in the proportion of workers from the North during the economic crisis. The number of workers from the North in our sample was 46 (32%). Of these, 37 workers came after the economic crisis. The study by Wong (1996) already noted the increase in the migration of workers from the North. The increase in the number of these workers most likely represented the continuation of the changing trend that began in the mid 1990s, rather than being a consequence of the crisis.

Attention was also drawn to these northern workers. This was because the North was generally known to be a traditional supply of illegal workers. Among our sample there were 9 workers who could be labeled "illegal" (those without a work permit). Five of them were from the North (four from the Northeast). Although our small sample base does not allow any conclusive statement to be made, it might suggest that our sample in fact included more illegal workers from the North than reported by the workers themselves. This coincides with the information obtained during an interview conducted on June 2, 1999 with the Thai Ambassador in Singapore, who said that there had been a substantial increase in the number of illegal workers from the North in the recent years. In 1998 the Thai Embassy sent back 2000 illegal workers, mostly from the North. The ambassador postulated that workers from the Northeast had greater experience dealing with recruitment agencies to eliminate the unscrupulous agencies unlike workers from the North who are relatively new to employment overseas. After arrival, some of these illegal workers were abandoned by the recruiters at Golden Mile Complex.³³

The Determinants of Migration (Table 3)

a) The Economic Factor

As it has always been, people move to where jobs are available. Our data showed that the economy played a decisive role in the migration of Thai workers in both periods. This contradicts the result from the 1995 survey that highlighted social reasons in the migration of Thai workers to Singapore. It was surprising to find, however, that the economy did not exert a more severe impact on determining migration during the economic crisis period as previously expected. In both periods, the economic condition acted as the major "push" and "pull" factor for migration. Workers saw Singapore as an economic "oasis." This coincides with the fact that Singapore was the country least affected by the crisis. In both periods, workers reported choosing Singapore as their destination country in the same descending order of ranking: no jobs in Thailand and coming to Singapore to find a job (38.2% and 34.7%),

³³ To prevent innocent workers who entered Singapore illegally because they were cheated by recruiters, the Thai Embassy had negotiated with Singapore government to have these workers who can prove their innocence being sent back to Thailand without punishment. However this arrangement poses a dilemma. It could encourage (real) illegal workers to throw away their passports and report themselves as being cheated to come illegally. (Without passports, the authority cannot trace their record).

Singapore offered better income (25.5% and 30.4%), needing money due to poverty or debt (12.7% and 17.4%), 7.3% and 8.7% workers cited new experience/adventure as a reason for migration in the periods prior to and during the crisis respectively.

It is easy to understand why Thai workers saw Singapore as offering good prospects and opportunities. These workers were being offered jobs in Singapore while they were in Thailand when unemployment was the norm in Thailand (85.3% reported obtaining jobs prior to coming)³⁴.

In response to the question about whether the economic crisis influenced their decision, a quarter of workers (32.4%) in the post-crisis period were convinced that the economic crisis was a definite factor. 23% said it had a bearing but was not the absolute decisive factor.

b) The Social Network

The above analysis has established that Thai workers were economic migrants. In both the periods prior to, and during the crisis however, the existence of friends and relatives in Singapore had influenced the decision to migrate as well the destination. A majority of workers in both periods (67.8% and 72.8%) took less than 6 months to make that decision with about a quarter reporting that they took less than a month to do so. The swift decision was facilitated by existence of friends and relatives. More than half (59% and 57%) workers reported that they had friends/relatives in Singapore before they came. 65.9% of those surveyed received help from friends/relatives in the areas of: housing (29.5%), finding a job (28.2%), materialistic support (20.5%) food (19.2%) and others (2.5%).

The Migration of Thai Workers to Singapore (Table 4)

a) The Recruitment Process

The mode of labor recruitment by private agencies established before the crisis became even more common in recruiting workers from Thailand during the crisis³⁵. Private agencies arranged for the travel for 67.7% of workers in the pre-crisis years and 80% during the crisis. They also arranged for the first job in Singapore for 64.5% and 68.4% of the workers (pre and during crisis respectively).³⁶ It was surprising to find only a small proportion of workers had arranged for their own recruitment (the trend that was picked up in the mid 1990s as shown in table B earlier). In both periods, none of the workers had their recruitment arranged by the Thai government recruitment office.

b) The Skill Training

The attempt made by the Singapore government to admit more skilled workers started to show results in our sample. As mentioned earlier, the Singapore government had initiated the establishment of skill training centers and skill test centers in labor sending countries. Subsequently, private skill training centers started to mushroom in Thailand. Following this development, the numbers of workers arriving during the crisis who had undergone skilled training almost doubled (40.5% as compared to 24% in the pre-crisis period). However, the number of workers taking skill tests seemed to lag behind. There were only slightly more workers coming during the crisis period taking the skill test (43% as compared to 35.4%), most of whom past the test.

The entry of higher skilled workers from Thailand was confirmed by the Thai Ambassador in Singapore³⁷ as well as by the Labor Counselor of the Thai Labor Office in Singapore³⁸. The evidence was seen from the substantial increase in the number of job applications from skilled Thai workers received by the Labor Office in Singapore. Our data above supports the claim made by the Ministry of

³⁴ According to Singapore law, workers must obtain jobs prior to arrival in Singapore.

³⁵ There were over 250 private recruitment agencies in Thailand.

³⁶ Other workers from both periods had their first job arranged by employers in Singapore (14.7%), by relatives/friends in Thailand or Singapore (11.2%), or by themselves (4.9%).

³⁷ In an interview on 2nd June 1999

³⁸ In an interview on 23rd September 1999

Manpower¹⁹ in Singapore that significant achievement was made on the skills upgrading. In 1998 the number of workers tested by the Construction Industry Training Institute, the BCA's training arm, reached an unprecedented high of 27,761 workers (foreigners and locals). Of this figure 16,835 passed the test and were certified as skilled. This number was 54 % higher than that in the previous year. Even though this number included the local workers, considering the fact more than 60% of total employees in the construction industry are foreign workers, this number implied a tremendous increase skilled foreign labor.

However our data showed that there were workers who expressed skepticism about the skill training and the skill test. Some workers who received training in Thailand complained that their jobs in Singapore did not correspond with the training they received. For example, a worker complained that he received training for metal work, but was employed in cable work; another worker was trained as a carpenter but was working as an electrician.

c) The Contract and the Work Permit

Although Singapore law did not require written contracts between workers and employers, in order to safeguard the interest of workers, the MOI.SW in Thailand made it compulsory for workers to have work contracts. A majority of workers (87.9% and 80.8% in the pre and mid crisis period respectively) said they had contracts signed, most often in Thailand. The length of contract was generally for two years. For both periods, 41.7% of these contracts were in Thai, 32.6% in English, and 15.2% in both languages. Most workers claimed that they had read and understood at least the general points of the contract. 13.8% claimed that they did not understand anything in the contract at all. This was closely related to the language the contract was written in. Many workers had sought help from relatives and friends to interpret the contract. There were 8.3% workers who were not sure if they had work contracts. Some said they had signed many forms but were uncertain if these forms constituted work contracts. Many signed contracts with the labor agents and not with the company. This reflects the nature of the *kepala* system of labor organization in Singapore⁴⁰.

The signing of contracts did not necessarily guarantee workers the benefits and protection stated in the contract. In many cases, workers said they had never seen the contract as the employers/agents kept the contract. As such when there was a dispute, they would have no proof of the contract being signed in order to safeguard themselves.

As there are no visa requirements in Singapore, the legality of the employment is based mainly on the existence of the work permit. Only 9 workers revealed that they were working without work permits (these workers are labeled as "illegals" in this study.) For the legal workers, the work permit was generally processed by the employers (84.4%) prior to workers' arrival in Singapore. Others sought help from recruitment agents in Thailand or Singapore. According to Singapore law, workers can only work for employers whose name appears on their work permit card and they are not allowed to change employers. Most workers were aware of this regulation.

All female workers working in the domestic sectors reported that they did not sign a contract. Many did not know if they had work permits. The interview with these workers revealed however that it could be assumed that all domestic workers are legal workers in Singapore although they did not report to the MOI.SW.

Jobs in Singapore (table 5)

As mentioned earlier, the data was gathered from 99 workers in construction, 34 workers in the industrial sector (shipyard and petroleum plant), 10 workers in the service sector, one reported to work as a general office worker and one was unemployed at the time of the survey. Besides the service sector,

¹⁹ In an interview on 8th July, 1999

⁴⁰ This is the system whereby workers are employed by the labor-only contractor. These "kepala" own small pool of workers who are supplied and rotated to different construction companies/sites. They are the main employer of labor in the construction industry.

more than half (54.7%) were employed in medium to large sized enterprises⁴¹.

Workers in both periods were concentrated in the construction sector (59.4% and 76.3% in the pre and mid crisis periods respectively). In this sector, they worked in various types of trades ranging from wood (15.3%), cement (11.1%), metal work (6.7%) drainage systems (5.6%), welding, electricity, paint, and pipe work (3.1% each). The rest were mechanics, gardeners, or glass workers. 15.6% of workers reported to do different kinds of construction work as they were deployed by agents to different sites. There were more workers coming during the crisis engaging in general work (30.6% as compared with 17.1% in the pre-crisis years).

Workers who entered Singapore before the crisis, and that were in the country long enough, found better opportunities in industrial sector (29.7% as compared to 17.5% workers coming during the crisis). Reflecting the nature of the industry, workers in shipyards and petroleum plants tended to enjoy slightly higher skilled jobs than in other sectors. Almost half the workers in the industrial sector worked as welders (48.3%). Others were mechanics (17.2%), metal workers (13.8%), painters (6.9%), and a few were electricians and cement workers.

Although workers were generally optimistic about their working conditions, there were more discrepancies regarding the actual job secured and the expectations among the recent comers. While the pre-crisis workers claimed they got the job they expected (85.9%), only 58% among the more recent workers thought so. Those who did not get the jobs they expected complained of lower pay and of the different nature of the job than what they expected. More commonly, workers who expected to work as skilled workers ended up doing general work. Some workers found themselves working overtime at a rate lower than the overtime rate or without receiving any overtime wage at all. The worst scenario was when a worker found himself without work during his stay in Singapore when he claimed he had signed a two-year working contract. Since the workers were paid on a daily basis, they received no wages at all on days when no work was available for them.

More than half of the workers used Thai as the common language at work. 46.2% mentioned Thai as the only language used while another 17.2% used it in combination with other languages. Many workers mentioned that their foremen could speak Thai. As a result, workers did not have many problems communicating within work sites. Other languages used included English and Chinese.

Thai workers generally came to Singapore to save a sufficient amount of money in a short period of time and planned to return home when their contracts expired. This objective was articulated clearly among the more recent workers. Those who came during the crisis were more definite about their decision to return to Thailand when their contracts ended or not stay more than 2 years (76.9% as compared to 69.8%). This time frame allowed them time to save enough money to cover the cost of migration and to have savings. The sojourning nature of Thai workers was further confirmed by 84.5% workers responding that they did not want to become Singapore citizens. The temporary nature of migration among Thai workers corresponds to the policy of the Singapore government to have unskilled construction workers working in Singapore on a "transient" basis.

⁴¹ The question about the size of the company was difficult to establish among construction workers since most workers were employed by the "kepala" and deployed to different work sites. This caused confusion in how the "company" should be defined. For our research purpose, we were more concerned with the size of the construction companies. Because most workers did not know how large the companies were, the interviewers asked for "the size of the present work site". The size of the work site was categorized as follows:

less than 10	=	very small site
11-50	=	small site
51-100	=	medium site
more than 100	=	large site

Cost and Benefit of Migration (Table 6)

The Initial Cost

The amount of money Thai workers paid to obtain work in Singapore varied significantly among workers coming before and during the crisis years. The economic crisis made it more costly for workers to migrate. Before the crisis, workers paid an average of 50,177.49 baht. This coincides with the average cost for recruitment of Thai workers being 50,000 baht (for unskilled workers) reported in the 1996 survey by Wong. The amount rose to an average of 65,077.92 baht during the crisis when competition for jobs became intense and when the baht was weak relative to the Singapore dollar⁴². These amounts were much higher than the recruitment fees allowed by the MOLSW (of about 23,000 baht). Recruitment agencies claimed that the high fees were partly used to pay the "reservation" fee to employers to secure the work. Although this practice was illegal as it was against Singapore law that limited the maximum fee which agencies could charge, the representative from the MOM being interviewed⁴³ expressed the difficulties in controlling the fee as long as there was still high competition among agencies as well as among workers. Moreover, Thai partners often collected the fees in Thailand before workers arrived in Singapore.

Almost half workers could not give a breakdown of the amount they had paid. Those who were able to provide details said that most expenses went to the recruitment agents in Thailand. In order to cover the expense, workers took loans. While half of the workers took loans before the crisis, almost 70% found it necessary thereafter as personal funding withered. Regarding the source of the loan, moneylenders emerged as the main source (40.4%) during the crisis, replacing labor recruiters who were the main lenders before the crisis (37.5%). These money lenders charged the high interest of 5% to 10% per month. Surprisingly, loans from banks remained relatively stable (29.2% and 23.4%).

Work Hours and Earnings

Normal working hours according to the Singapore Labor Law are 8 hours per day and 6 days per week (or an average of 44 hours per week). The day-off could be any day of the week. Working beyond this constitutes overtime and workers are entitled to overtime compensation. The variation in work hours is therefore determined by the amount of over-time work. About 90% of workers from both periods reported that they worked over-time at an average of 2 hours per day. This gave an average of 10 hours per day. Many workers reported that over-time work was compulsory and that they earned over-time wages.

Most workers (55.7%) were paid daily, 20.7% were paid bi-monthly, 15.7% monthly and 7.9% weekly. Although the Thai Labor law fixes the wage of Thai workers in Singapore at S\$20 for the unskilled workers and S\$25 for the skilled, workers in our sample generally received lower wages than the guidelines. Unskilled workers received about S\$16-\$18 and those holding the Skill Evaluation Certificate (SEC) received about S\$23 per day. The rate of overtime payment was 1.5 times that of normal pay on weekday and 2 times on weekends. However workers reported that if they asked for extra work, they might only get the rate for normal pay. Since workers were generally eager to do extra work and earn extra income, which was especially true during the crisis, they often received the normal pay for over-time work. Some companies made workers sign the request for over-time work as evidence. Despite being illegal, some employers lumped the overtime pay with the normal pay when negotiating wages with workers.

In terms of income, workers who came during the pre crisis years were generally happier with their incomes. These workers earned an average income of S\$1,051 per month and as such only 12.1% rated their earning in Singapore as dissatisfactory. This was rather different from the experience of workers who came during the crisis and who earned much less at an average of S\$674.7 per month. More

⁴² The exchange rate of the Thai baht v.s. Singapore dollars during the crisis varied from 26 to 28 baht which was much higher than an average of 18 baht before the crisis.

⁴³ The interview took place on 8th July, 1999 as per appendix 2.

of these new comers rated their income as being dissatisfactory (32.9%)⁴⁴.

One would have expected that the economic crisis that intensified the competition for jobs would explain the difference in job and earning experience among workers in the two periods. With tougher competition during the crisis, new workers found fewer options for jobs and could only accept lower pay. However, this explanation alone could prove limited. Many other factors contributed to the job and earning discrepancies of workers between the two periods. First, the length of time that workers had stayed in Singapore has to be considered. Workers who had worked in Singapore for a period of time had time to adjust the unrealistic expectations they previously had about the job and earnings. They had also gained familiarity with the job market as well as acquired job experience and skills that came largely with on the job training. Second, the recruitment agencies could also provide the more recent workers with misleading information about the nature of work and wages that workers were to receive in order to lure them into the Singapore job market. Lastly, there was also an increasing competition from workers from other countries like those from Myanmar, India and Bangladesh (countries little affected by the crisis) many of whom held skill certificates. These workers were willing to accept lower wages (about S\$5-S\$8 less). Workers from Myanmar were praised for their discipline and tolerance as often as the Thais were.

The expenditure

The average monthly expense of workers from the overall sample was S\$133.40 on food, S\$12.00 on transport and S\$49.70 on recreation.⁴⁵ With higher income, the pre-crisis workers could afford higher expenses across the categories, with the widest variation being in recreation (S\$63.20 compared to S\$36.20). Those who smoke, drank, and frequented prostitutes incurred much higher recreation costs.

The skill

Besides the hidden benefits in terms of socialization into Singapore work ethics and environment, 65% of workers (78.8% pre crisis and 51.3% during the crisis) claimed that they learned a new skill while they worked in Singapore.

Workers' skill upgrading is beneficial to all parties involved. For employers, skilled workers reduce the costs through the huge levy reduction (from S\$450 to S\$30). For the Singapore government, it helps accelerate the restructuring of the industry, increases productivity, reduces accidents at work sites, and reduces the crime rate commonly associated with a low skilled workforce. For workers, skilled work leads to wage increases, better and more secure work and a possibility to work up to 10 years in Singapore. Thailand will also benefit in terms of higher remittances and the upgrading of the Thai workforce in general.

Most workers interviewed, however, did not express particular interest regarding skill training and said they underwent the training only to comply with the companies' regulations. This was understandable in the light of the fact that workers who passed skill tests tended not to benefit in monetary terms. Employers generally encouraged workers to take the test in order to cut down on the levy payment. Most employers promised to raise daily wages (from S\$17-20 to S\$25) after workers passed the test. However, if the Thai workers had signed contracts in Thailand as unskilled workers, they often failed to benefit from the wage increases if they passed the test in Singapore. There was no law or clear regulation to ensure that the employers had to abide by their promises. From our sample, 80.4% of workers (75% pre-crisis and 85.7% mid crisis) claimed that the training did not lead to any promotion or improvements. Only 11.7% (17.3% pre-crisis and 6.1% during crisis) said they had their pay increased after the training. As such, all the monetary benefits tended to go to the employers. Skill tests could be perceived as a cost-cutting measure for the employers rather than benefiting the workers in terms of pay

⁴⁴ Many workers found it difficult to compare the income in Singapore with that in Thailand since they were farmers in Thailand. When trying to compare income in monetary term, 10.3% could not indicate, while many tended to evaluate income in Singapore as higher since they did not earn "income" in Thailand.

⁴⁵ As the rent was provided by the employers, it was not an item of expense.

or promotion.

Another reservation workers had about skill training and skill tests came from the cost involved which could add to the recruitment cost incurred by the workers. According to the Labor Counselor at the Office of the Thai Labor Affairs in Singapore, fierce competition among recruitment agencies during the crisis had sometimes resulted in agencies offering to pay for workers' booking test fees (a fee of S\$575)⁴⁶ on behalf of the companies/contractors. According to BCA regulations, employers are responsible for paying the fee. These agencies might then charge this fee to the workers.

Other benefits

Foreign workers enjoy the same benefit as local workers according to the provision in the Employment Act and the Workmen Compensation Act. However, only 32.1% respondents were aware of that provision. Besides the earnings and the upgrading of skills, other benefits could be seen in terms of medical benefits. About 80% of workers (86.4% pre-crisis and 80.3% during crisis) received free medical benefits often provided by the company clinic. However, qualitative information from a NGO revealed that there were instances when Thai workers did not receive any health or medical benefits stated in the contract even when they were sick. Some employers delayed medical care. Others might deduct the medical treatment fee from the workers' wage.

According to the Workmen Compensation Act, all employers of foreign workers are mandated to activate an accident insurance policy for their workers. However, only 54.2% of workers (60.7% pre crisis and 48.7% during crisis) knew that they had life insurance. Since the insurance only provided for coverage during working hours, when mishaps occurred outside working hours as in the case of the Sudden Unexplained Death Syndrome (SUDS), workers were rarely compensated.

The Remittances

Almost all workers claimed that they sent remittance home through remittance agents, usually on a monthly basis, at an average of S\$550 per month, or about S\$6,600 per year. With better earnings, the pre-crisis workers could afford sending more money home at an average of S\$609 per month, about S\$100 more than the amount the more recent workers remitted. Most did not send remittance in kind. Multiplying the annual average by an estimate of 65,000 workers in Singapore gave the remittance sent by these workers as S\$430 million per year. This amount was inspiring during the crisis, as it was comparable to the amount remitted from Singapore during the boom time in the 1980s (as shown in the table D below). Moreover, as the value of the Singapore dollar rose sharply against the Thai baht during the crisis (to as much as 28 baht per 1 Singapore dollar), the inflow of Singapore dollars from these workers had been beneficial to Thailand during the crisis.

Table D

Remittances by Thai Migrant Workers in Singapore, 1976-1988 (in million baht)

1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988
8.1	12.1	25.0	37.5	107.3	111.7	211.6	382.4	553.9	609.0	368.6	352.4	420.33

Source: Bank of Thailand, cited in Wong (1996). The remittances are used according to the order of priority for paying family debts, daily expenses and for the purpose of saving. However, many workers were not certain what the family did with the remittances they sent.

Relationship with Spouse and Relatives

The majority of workers perceived that migration had no bearing on the relationships with their spouses. About half felt that their relationship was even better than ever, 45.5% felt that there was no change while a minority of 4.6% felt that the migration had a negative impact on the relationship with their spouse. Two workers reported having new Filipino girlfriends in Singapore, and two other workers

⁴⁶ Of this amount \$225 is charged by BCA and \$350 by the testing center

claimed that their spouses had new boyfriends in Thailand. Similarly, the relationship with relatives in Thailand remained unchanged. 35.4% of workers felt they had closer ties with relatives while 2.3% saw a decline in the relationship. The breakdown by time of arrival showed no major differences between workers arriving before and during crisis as far as the relationship with spouse and relatives was concerned.

Subjective Evaluation of Cost-Benefit

The previous sections suggested that the benefits of migration (both in tangible and intangible forms) outweigh costs. Further examination into the subjective evaluation of costs and benefits has provided some useful insights. These subjective aspects were explored with questions like: "Will you encourage your friends to come to work like yourself?" Open-ended questions were also employed: "If you could remake the decision, do you think you would still choose to come to Singapore? Why?"

One third of workers indicated that their decision to migrate was wrong and the same proportion would discourage friends to come. With more favorable work conditions and income as discussed earlier, more workers arriving in the pre-crisis years tended to encourage rather than discourage friends to migrate to Singapore (46.9% encouraged friends to come as compared to 39.1% who discouraged). Being relatively new in Singapore and being uncertain about their own situation and prospects, workers coming during crisis were reserved about expressing their opinion. This resulted in 34.7% of workers saying that they would be neutral in their advice to friends (as compared to 14.1% pre-crisis workers). Among others who arrived during the crisis, the proportion encouraging and discouraging was almost equal (32% and 33.3% respectively).

Workers who assessed their migration outcome negatively cited more frequently the psychological impacts like homesickness (45.2%). Others complained of income and hard work. The advantages were seen in material terms especially in saving money (37%). Workers expressed their pride when disclosing that working in Singapore enabled them to own houses and property (20%) as well as other "luxury" goods for the family (28%). As one respondent said: "Before I had nothing but now I can buy anything my family wants." Some workers felt that their work in Singapore had provided better education opportunities for their children (5%), and as one worker said: "If I didn't come to Singapore, my children might end up like myself (being poor and uneducated)."

The Labor Relations and Labor Problems (Table 7 and 8)

It was surprising to find that despite the increasing competition for jobs, only a few workers experienced problems relating to colleagues of the same or other nationalities. None had problems getting along with other Thai colleagues and only a few from both periods had problems with local and/or foreign colleagues. Regarding the problems at work, a majority of workers (88.2%) in both periods stated that they did not encounter any problems at work. The minority (10%) complained of wage problems (partial or delayed payment of wages) and a few cited conflicts with supervisors/foremen. These problems were solved on an informal and personal basis.

The workers generally had little interest in organizing collectively to safeguard their shared interests. This was due to the temporary nature of this migration discussed earlier.

The Role of the Thai Embassy (Table 9)

Workers in our sample seemed to have little contact with Thai government recruitment offices in the process of migration. Most workers received information on migration and job prospects from friends and relatives in Thailand and in Singapore, while travel and job arrangements were taken care of by private recruitment agencies. Workers perceived their personal and "unofficial" network to be more efficient and effective than the government units. However, this might have more to do with the "perception" of the bureaucratic procedures rather than with the actual experience with the government agencies. This was exemplified by the experience of workers with the Thai embassy in Singapore. A majority of workers (73.6%) had no contact with the Thai embassy. However, a few workers who often sought help from the embassy rated the service as satisfactory. The opinions about the services workers

thought they needed from the embassy were very diverse, and surprisingly these services were hardly job-related. Only 7.7% of workers thought that help with wage increases should be prioritized. The top priority in services needed was for recreation. 21.3% of workers mentioned that they hoped the embassy could organize social gatherings and excursions. The recreation service was sought after because workers often found themselves being segregated within the construction sites. The only experience they had outside was generally with the Thai provision shop and the Golden Mile Complex. With limited language proficiency workers were reluctant to venture beyond their ethnic community and familiar locations. However, they also had a desire to explore what Singapore had to offer. Another service indicated was related to workers' legal status and rights (18.4%). 6.5% of workers said they hoped to obtain more information about happenings in Thailand. The reason why workers did not seek help from the embassy for job related problems might be as expressed by one respondent who said: "It is risky. I had a friend who had a problem with his employer. He reported it to the Thai officer. The officer called the boss. The next day, this friend got fired". There were a few workers who were concerned with the problems of prostitution and amphetamine abuse. Others urged the government to help reduce commission fees and to have better control over the employment agencies.

Conclusion and Discussion

The comparative analysis of the numerical data from the sample of periods before and during the economic crisis, supplemented by the qualitative and interview data from people involved in the migration of Thai workers to Singapore, revealed very little change in the important indicators related to migration. This tends to suggest that the Asian economic crisis had minimal impact on the migration of Thai workers to Singapore. This was contrary to what was previously hypothesized. There was little change in the demographic characteristics of workers between the two periods, in terms of education, age, marital status, household status and characteristics, and occupation in Thailand. The proportion of workers migrating from the villages appeared rather constant between the two periods which could imply that contrary to previous beliefs, the Asian economic crisis did not result in the internal migration of jobless town workers back to the villages.

The only obvious variation was observed in the regional origin of workers. There was an increase in the number of workers from the North. However, it is difficult to argue that the crisis had caused such change since the increase in the number of workers from the North had already been observed in previous research as well as by experts in the field since the mid 1990s.

The economic factor which had always been the major determinant of migration in the pre-crisis years continued to exert its dominant "push" and "pull" roles during the crisis. Social networks acted as facilitating agents during both periods.

The recruitment of Thai workers in Singapore remained in the hands of the private recruitment agencies, as previously established before the crisis. Few workers arranged for their own migration. This did not support the trend of increasing self-recruitment among the Thai workers observed since the early 1990s. During the crisis, the need for skill training intensified for those preparing to enter Singapore. It would be misleading to argue that this was the direct impact of the crisis. This was because Singapore government policy to upgrade the construction industry had been initiated long before the crisis. The crisis merely made it evident that this upgrading had to be carried out with greater urgency. A changing trend is therefore the emphasis on workers' skill as an important recruitment factor.

Some impact of the crisis was observed in terms of recruitment cost, jobs and earnings. The crisis had made it more expensive for workers to secure jobs in Singapore as the result of a scarcity of jobs. This was aggravated by the rise in the value of Singapore dollar against the Thai baht which inevitably pushed up the reservation or "kick-back" fees paid to the Singapore employers. At the same time, as personal and family funding dried up, workers depended on money lenders who charged high interest rates for loan. All these factors meant that the workers who came to Singapore during the crisis had no choice but to pay more to come. Having less experience with the employment market, these workers also had to accept lower skilled and lower paid job which translated into lower monthly income, lower spending power and lower remittances sent back home.

The cost-benefit analysis tended to suggest that the benefit of migration outweighed cost. Recruitment cost can be seen as the main cost of migration. There was no major social cost observed. The data revealed no bearing of the crisis on the relationship with spouses and relatives in Thailand. Problems with local workers and workers from other countries were seldom reported. The benefit came mainly in terms of earnings and remittances. At the macro level, remittances sent to Thailand were substantial and comparable if not more than during the pre-crisis years, in part because the Singapore dollar appreciated greatly against the Thai baht. Besides loneliness which was common among workers and was expected, there was no evidence that this had led to other psychological costs. Medical benefits and upgrading of skill were not valued so highly among workers since they were not seen to directly translate into income. The subjective evaluation revealed that three quarters of the workers from both periods viewed their migration as the right decision.

In order to explain the little change in the migration pattern during the crisis, two major factors need to be considered. First, the relatively short time frame within which the economic slowdown took place did little to alter the migration conditions. Although the construction industry in Singapore was badly hit by the crisis, it was not until a year after the start of the crisis in Thailand that the employment in this sector was hurt. At the initial stage of the crisis in 1997, the construction sector expanded rather than contracted. This was the result of the effort of the Singapore government in cushioning the impact of the crisis in this initial period by allocating more spending for public construction projects. Although the construction industry was hit in late 1988 and emerged as the worst victim of the crisis, most interviewees, especially government officers, perceived the impact not to be severe, especially in comparison to the 1985 economic recession. During the second half of 1999, the construction sector started to pick up again. During the crisis, many workers who were generally on the two-year contract managed to stay on, knowing that they would face tougher times at home. A major out-flow of Thai workers back to Thailand therefore did not take place. Second, the Singapore government had not changed any of its policies related to foreign workers in response to the recent recession. There was no policy to repatriate workers unlike in the 1985 recession when 60,000 workers were repatriated. The only serious effort implemented during the crisis was to control the illegal workforce.

Employers in Singapore generally welcomed Thai workers due to their diligence, productivity, skill level, as well as their ability to learn new skills, and to adjust to a new work environment. They also caused fewer problems for the employers, less arguments and complaints (probably because they could not speak English). However, the abundance of relatively cheaper workers from other countries made it appear that Thai workers were increasingly more expensive. The Singapore Contractors Association was negotiating with the Thai government for a reduction of the daily wage of Thai skilled workers to S\$22, down from S\$25. If this happens, the wage reduction might offer a short-term solution for Thai labor competitiveness. However, it would not be sufficient to help promote the Thai labor export to Singapore. A longer-term perspective would have to focus on the upgrading of the skills of Thai workers to meet the demand for skilled labor required in Singapore.

Appendix 1**Evolution of Singapore Foreign Labor**

Year	Legislative/Policy Framework	Administrative Measures	Provisions
1965	- Regulation of Employment Act		- Introduction of one-year work permits
1975	- Amendment to Employment Act		- Provision for introduction of levy - Extension of 1 year work permit
		- Extension of source countries to NTS for manufacturing sector	
		- Introduction of Foreign Domestic Workers Scheme	- Domestic workers can be employed from NTS
1980		- Implementation of Foreign Worker Levy Scheme for NTS	- Flat levy of \$230 for NTS workers in construction
1981		- Extension of workers from NTS to other sectors	
	- Policy announcement that all foreign workers were to be phased out by 1991		
1982			- Levy extended to all NTS workers in all sectors - Levy raised to 30% of wages or minimum of \$150 for all sectors (no minimum for domestic sector) - CPF waived for unskilled
1984			- Levy raised to flat rate of \$200 for all sectors and \$120 for domestic sector - NAS sources made available
1985/86 Recession		- Repatriation of 60,000 foreign workers	
1987		- Implementation of comprehensive levy system	
		- Introduction of Dependency Ceiling	- 1:2 dependency ratio, except for domestic and marine sectors
1988	Immigration Amendment Act	- Amnesty for and repatriation of illegal workers	- Canning for overstayers - Levy for manufacturing & marine sectors raised to \$170
1989		- Levy extended to Malaysians	- Levy raised twice to \$220 and \$250 for all sectors, once for domestic sector to \$160 - Dependency Ceiling lowered to 40%
1990	Employment of Foreign Workers Act (EFWA)		- Work permit holders no longer covered by Provision of Provision of Employment Act

Year	Legislative/Policy Framework	Administrative Measures	Provisions
			<ul style="list-style-type: none"> - Liberalization of Dependency Ceiling for service sector - Levy raised twice to \$280 & \$300 for all sectors and for domestic sector to \$230 and \$250
1991		<ul style="list-style-type: none"> - Introduction of two-tier levy scheme for construction and marine sectors 	<ul style="list-style-type: none"> - Levy of \$250 for skilled & \$350 for unskilled in construction and marine sectors - Dependency ceiling for construction sector doubled
1992		<ul style="list-style-type: none"> - Substantial liberalization of Dependency Ceilings 	<ul style="list-style-type: none"> - 5:1 dependency ratio in construction - 2:1 dependency ratio in marine sector
		<ul style="list-style-type: none"> - Two tier levy extended to manufacturing sector 	<ul style="list-style-type: none"> - 1:1 dependency ratio in manufacturing sector - 3:1 dependency ratio in marine sector - 1:4 dependency ratio in service sector
1994		<ul style="list-style-type: none"> - Further liberalization of Dependency Ceiling 	<ul style="list-style-type: none"> - 3:1 dependency ratio in construction sector - Gap of levy between skilled & unskilled widened in construction sector to \$200 & \$440 and marine sector to \$200 & \$385 - Levy for domestic sector raised to \$330
1995	Amendment to EFWA	<ul style="list-style-type: none"> - Introduction of Overseas Testing Scheme 	<ul style="list-style-type: none"> - Work permit for skilled worker can be extended to 10 years
1996	Amendment to EFWA		<ul style="list-style-type: none"> - \$2,000 bond per worker
1998		<ul style="list-style-type: none"> - Introduction of additional security bond on levy payment 	<ul style="list-style-type: none"> - Gap of levy between skilled & unskilled in construction sector further widen to \$100 & \$470 - Levy for domestic sector raised to \$345
		<ul style="list-style-type: none"> - All matters pertaining to the employment of foreign workers are under the purview of the Ministry of Manpower 	<ul style="list-style-type: none"> - 3 types of work pass: P pass for professionals Q pass for skilled workers R pass for unskilled workers
		<ul style="list-style-type: none"> - Implementation of new Work Pass Framework 	

Source: Updated from Wong (1997) and Yeh (1995)
Ministry of Manpower, Singapore

Appendix 2**List of Expert Interview**

1. Mr. Wang Chiang Han, Sandor, Assistant Director Operational Policy
Foreign Manpower Employment Division, Ministry of Manpower
Interview date: 8th and 14th July 1999
2. Mr Eng Chooi Choon
Building and Construction Authority
Interview date: 16th July 1999
3. Pastor Giadisak, Christian Community Service Society
NGO's Adam Road, followed by three site visits at the workers dormitory in Choa Chu Kang,
owned by Sun Kyong Pte Ltd, Singapore
Interview date: 13th June, 15th July and 20th July 1999
4. Mr. Khoo Swee Kok, Group Personnel Manager
Woh Hup Pte Ltd, 03-01 Guthrie House, Singapore 268801
Interview date: 10th June 1999
5. Mr. Daniel Pang
Tonga Agency, 6 Boon Teck Road, Singapore
Interview date: 14th June 1999
6. Mr. Hawazi Daipi, Labor M.P. representing NTUC.
Trade Union House, Shenton Way, Singapore
Interview date: 19th July 1999
7. Dr. TC Chao
Department of Cardiology, Singapore General Hospital
Interview date: 14th July 1999
8. Mr. Adisak Phanuphong, Thai Ambassador to Singapore
Thai Embassy
Interview date: 2nd June 1999
9. Mr. Supat Gukun, Labor Counselor
Office of the Thai Labor Affaires, Singapore

Interview date: 23rd Sept 1999

Appendix 3

Tables

Table 1
Time of Arrival in Singapore

	After 1/99	6-12 /98	1-5 /98	6-12 /97	1-5 /97	6-12 /96	1-5 /96	6-12 /95	1-5 /95	6-12 /94	Before 5/94	Total
N	30	23	21	16	6	9	4	11	-	5	13	138
%	21.7	16.7	15.2	11.6	4.3	6.5	2.9	8.0	-	3.6	9.4	99.9

Table 2 (a)
Selected Socio-Demographic Characteristics by Time of Arrival

	All		Before 1/98 (Pre-crisis)		1/98 & after (During crisis)	
	(N)	(%)	(N)	(%)	(N)	(%)
Marital Status:						
Never married	28	19.3	13	19.7	15	19.0
Married	110	75.9	50	75.8	60	75.9
Separated	1	0.7	-	-	1	1.3
Divorced	5	3.4	2	3.0	1	1.3
Widow	1	0.7	1	1.5	3	3.8
Head of Household:						
Self	78	53.8	38	57.6	40	50.6
Mother	9	6.2	5	7.6	4	5.1
Father	42	29.0	17	25.8	25	31.6
Father in law	5	3.4	2	3.0	3	3.8
Mother in law	1	0.7	1	1.5	-	-
Spouse	4	2.8	1	1.5	3	3.8
Other	6	4.1	2	3.0	4	5.1
Social Origin:						
Below average	19	12.6	5	7.5	14	17.7
Average	108	75.0	53	80.3	55	69.6
Above average	18	12.4	8	12.1	10	12.7
Occupation in Thailand:						
Farming	91	62.3	43	65.1	48	60.0
Industry/manufacturing	18	12.3	6	9.1	12	15.0
Construction	15	10.3	4	6.1	11	13.8
Service	9	6.2	6	9.1	3	3.8
Others	8	5.5	4	6.1	4	5.2
Have not worked in Thailand	5	3.4	3	4.5	2	2.5

Table 2 (a)
Selected Socio-Demographic Characteristics by Time of Arrival (cont.)

	All Mean	Before 1/98 (Pre-crisis) Mean	1/98 & after (During crisis) Mean
Age	34.7	36.4	32.9
Years of Education	5.8	5.9	5.7
Number of Children	1.6	1.7	1.6
Number of Persons in Household	5.0	4.8	5.1
Household Income per Month	5,566.80	5,935.00	5,194.50
Number of Economic Active in Family	1.9	1.8	2.0

Table 2 (b)
Other Socio-Demographic Characteristics

	N	%
Gender:		
Male	139	95.9
Female	6	4.1
Other Occupation in Thailand:		
Yes	51	35.2
No	94	64.8
Worked in Other Country Before Singapore:		
Yes	58	40.3
No	86	59.7
Regional Origin: Central	2	1.4
North	29	20.4
Northeast	111	78.2

Table 3 (a)
Selected Determinants of Migration & Related Factors by Time of Arrival

	All		Before 1/98 (Pre-crisis)		1/98 & after (During crisis)	
	(N)	(%)	(N)	(%)	(N)	(%)
Main Reason for Coming to Singapore:						
No job in Thailand, come to find job	41	34.7	20	36.4	21	30.4
Want to find a better job	4	3.4	1	1.8	3	4.3
Good income	36	30.5	14	25.5	21	30.4
Poor, have debt, no money	19	16.1	7	12.7	12	17.4
Want to save money	2	1.6	1	1.8	-	-
New experience/environment	11	9.3	4	7.3	7	0.3
Have relatives, friends working here	2	1.6	2	3.6	-	-
To pay for children education	2	1.7	-	-	2	3.0
Lower living expense than other country	2	1.7	2	3.6	-	-
Less commission	1	0.8	1	1.8	-	-
Close to home	1	0.8	-	-	1	1.5
Others	2	1.6	1	1.8	1	1.5
Length of Time Spent Making Decision to Migrate:						
Longer than a year	25	17.4	14	22.6	11	14.3
About half a year	16	11.1	6	9.7	10	13.0
Shorter than half a year	48	33.3	21	33.9	27	35.1
Very short, shorter than one month	50	34.7	21	33.9	29	37.7
Friends/Relatives in Singapore Before Coming:						
Yes	84	57.9	39	59.0	45	57.0
No	61	42.1	27	41.0	34	43.0

Table 3 (b)
Other Determinants of Migration & Related Factors

	N	%
Reasons for Leaving Thailand:		
Not satisfied with income in Thailand	97	50.5
Cannot find job in Thailand	35	18.2
Not satisfied with work environment	20	10.4
Adventure	17	8.9
Need money to pay debt	7	3.6
Personal problem with relative, friend, Thai community	4	2.1
Reunion with relative/get married	3	1.5
Other	9	4.7

Table 3 (b)
Other Determinants of Migration & Related Factors (cont.)

	N	%
The Economic Crisis Influences Decision:		
Definitely, would have stayed in Thailand if otherwise	24	32.4
Yes, probably would have stayed in Thailand if otherwise	17	23.0
Not sure, probably would have looked for work abroad anyhow	19	25.7
No, definitely would have looked for work abroad anyhow	6	8.1
Cannot say, no comment	8	10.1
Get Help from Friends/Relatives in Singapore When First Arrived:		
Yes	56	65.9
No	29	34.1
Type of Help from Friends/Relative		
Housing	23	29.5
Food	15	19.2
Material support	16	20.5
Find job	22	28.2
Others	2	2.5
When Obtain Job After Arriving Singapore:		
Immediately, job arranged from Thailand	122	85.3
Immediately, but no prior job arrangement	13	9.1
Less than a month	7	4.9
Have not started work	1	0.7

Table 4 (a)
Selected Factors Related to Migration Process by Time of Arrival

	All		Before 1/98 (Pre-crisis)		1/98 & after (During crisis)	
	(N)	(%)	(N)	(%)	(N)	(%)
Travel Arrangement to Singapore Made by:						
Self	10	7.2	5	7.7	5	6.8
Friends/relatives	15	10.8	9	13.9	6	8.1
Thai government recruitment office	-	-	-	-	-	-
Employer in Thailand	2	1.4	1	1.5	1	1.4
Employer in Singapore	8	5.8	6	9.2	2	2.7
Private recruitment agent in Thailand	100	71.9	41	63.1	59	80.0
Private recruitment agent/broker in Singapore	3	2.2	3	4.6	-	-
Others	1	0.7	-	-	1	1.4
First Job Arrangement in Singapore Made by:						
Self	7	4.9	4	6.0	3	3.9
Friends/relatives	16	11.2	9	13.5	7	9.2
Thai government recruitment office	-	-	-	-	-	-
Employer in Thailand	4	2.8	2	3.1	2	2.6
Employer in Singapore	21	14.7	9	13.0	12	15.8
Private recruitment agent in Thailand	81	56.6	40	60.0	41	53.9
Private recruitment agent/broker in Singapore	14	9.8	3	4.5	11	14.5
Skill Training in Thailand Before Coming to Singapore:						
Yes	48	33.1	16	24.0	32	40.5
No	97	66.9	50	75.0	47	59.5
Taking Skill Test:						
Yes	57	39.3	23	35.4	34	43.0
No	87	60.0	42	64.6	45	57.0
Pass Skill Test:						
Yes	55	96.4	22	95.7	33	97.0
No	2	3.5	1	4.3	1	3.0
Contract Signed:						
Yes	121	84.0	58	87.9	63	80.8
No	11	7.6	3	4.5	8	10.3
Not sure	12	8.3	5	7.6	7	9.0
Contract Signed in:						
Thailand	79	61.7	34	54.8	45	68.2
Singapore	49	38.3	28	45.2	21	31.9

Table 4 (b)
Other Factors Related to Migration Process

	N	%
Language of Contract:		
Thai	55	41.7
English	43	32.6
Thai & English	20	15.2
Thai, English, Chinese	2	1.5
English & Chinese	1	0.8
Do not know	11	8.3
Read and Understand the Contract:		
Yes, understand completely	37	31.9
Yes, understand general points	50	43.1
No, barely understand	13	11.2
No, not understand at all	16	13.8
Possession of Work Permit		
Yes	136	93.8
No	9	6.2
Person Help Obtain Work Permit:		
Thai relatives in Singapore	1	1.0
Recruiter in Thailand	6	4.4
Recruiter in this country	14	10.4
Employer, company	114	84.4

Table 5 (a)
Selected Factors Related to Employment in Singapore by Time of Arrival

	All		Before 1/98 (Pre-crisis)		1/98 & after (During crisis)	
	(N)	(%)	(N)	(%)	(N)	(%)
Job in Singapore						
Industrial/manufacturing	34	23.4	19	29.7	14	17.5
Construction	99	68.3	38	59.4	61	76.3
Service (driver)	2	1.4	2	3.1	-	-
Service (cook)	2	1.4	2	3.1	-	-
Domestic maid	5	3.4	2	3.1	3	3.8
General office work	1	0.7	1	1.6	-	-
Unemployed	2	1.4	-	-	2	2.5
Type of Job at Shipyard:						
Mechanic	5	17.2	18	58.1	-	-
Metal	4	13.8	2	6.5	2	18.2
Welding	14	48.3	10	32.3	4	36.4
Electricity	1	3.4	-	-	1	9.1
Cement	1	3.4	-	-	1	9.1
Paint	2	6.9	1	3.2	1	9.1
Petroleum plant	2	6.9	-	-	2	19.2
Type of Construction Job:						
Mechanic	1	1.1	-	-	1	1.6
Wood	12	13.3	4	11.4	8	13.1
Metal	6	6.7	2	5.7	4	6.6
Welding	3	3.3	1	2.9	2	3.3
Electricity	3	3.3	3	8.6	-	-
Construction	15	16.7	5	15.3	10	16.4
Cement	10	11.1	3	8.6	7	11.5
Gardener	1	1.1	1	2.9	-	-
Paint	3	3.3	1	2.9	2	3.3
Driving cement truck	1	1.1	1	2.9	-	-
Pipe work	3	3.3	1	2.9	2	3.3
General work	25	27.8	6	17.1	19	31.1
Drainage system	5	5.6	3	8.6	2	3.3
Glass work	2	2.2	2	5.7	-	-
No specified	6	6.3	2	5.7	4	6.6
Get Job as Expected:						
Yes	95	71.4	55	85.9	40	58.0
No	38	28.6	9	14.1	29	42.0

Table 5 (b)
Other Factors Related to Employment in Singapore

	N	%
Size of the Company		
Large or medium	75	54.7
Relatively small	53	38.7
Very small	5	3.6
Others	3	2.2
Does not apply	1	0.7
Why Not Get Job as Expected:		
Work was different from expected	23	41.1
Salary was lower than expected	31	55.4
No job with the employer after all	1	1.8
Did not receive housing as expected	3	5.4
Did not receive food as expected	3	5.4
Did not receive other benefits as expected	1	1.8
Other	1	1.8
Compared to the Start, Present Work Condition is:		
Much better	5	3.5
Better	47	32.9
The same	76	53.1
Worse	12	8.4
Much worse	3	2.1
Language at Work:		
Thai	67	46.2
English	37	25.5
Chinese	8	5.5
Malay	1	0.7
English & Thai	14	9.7
Chinese & Thai	5	3.4
English & Chinese	5	3.4
English, Thai & Chinese	6	4.1
Malay, English, Chinese	2	1.4
<u>Plan to Return to Thailand:</u>		
When contract ends	88	61.1
Within a year	8	5.6
Between 1-2 years	10	6.9
Longer than 2 years	7	4.9
Not sure	31	21.5
Want to be Singapore Citizen:		
Yes	15	10.6
No	120	84.5
Not sure	7	4.9

Table 6 (a)
Selected Factors Related to Costs and Benefits of Migration by Time of Arrival

	All Mean		Before 1/98 (Pre-crisis) Mean		1/98 & after (During crisis) Mean	
Recruitment Cost:	57,627.70		50,177.49		65,077.92	
Income per Month:	862.85		1,051.00		674.70	
Expenses:						
Food	113.40		150.00		116.84	
Transport	12.00		13.10		10.81	
Recreation	49.70		63.20		36.20	
	All		Before 1/98 (Pre-crisis)		1/98 & after (During crisis)	
	(N)	(%)	(N)	(%)	(N)	(%)
Loan Taking:						
Yes	87	60.0	33	50.0	54	68.4
No	58	40.0	33	50.0	25	31.6
Take Loan From:						
Labor recruiter	19	26.8	9	37.5	10	21.3
Employer, owner	5	7.0	2	8.3	3	6.4
Bank in Thailand	18	25.3	7	29.2	11	23.4
Money lender	24	33.8	5	20.8	19	40.4
Others	5	7.0	1	4.2	4	8.5
Satisfied With Income:						
Yes, it is very high	17	12.0	11	16.7	6	7.9
It is a good wage	62	43.7	33	50.0	29	38.2
It is OK	30	21.1	14	21.2	16	21.1
Not so good	31	21.8	8	12.1	23	30.3
Bad	2	1.4	-	-	2	2.6
Medical Benefit:						
Yes	114	83.2	57	86.4	57	80.3
No	10	7.3	4	6.1	6	8.5
Not sure	13	9.5	5	7.6	8	11.3
Life Insurance:						
Yes	78	54.2	40	60.7	38	48.7
No	44	30.6	16	24.2	28	35.9
Not sure	22	15.2	10	15.2	12	15.4

Table 6 (a)
Selected Factors Related to Costs and Benefits of Migration by Time of Arrival (cont.)

	All		Before 1/98 (Pre-crisis)		1/98 & after (During crisis)	
	(N)	(%)	(N)	(%)	(N)	(%)
Learn New Skill in Singapore:						
Yes	92	63.9	52	78.8	40	51.3
No	39	27.1	12	18.2	27	34.6
Not sure	13	9.0	2	3.0	11	14.0
Promotion after Skill Training						
Higher payment	12	11.9	9	17.3	3	6.1
Higher position in work place	4	4.0	3	5.8	1	2.0
Others	4	4.0	1	1.9	3	6.1
No promotion	81	80.2	39	75.0	42	85.7
Relationship with Spouse Compared to When in Thailand:						
Much better	22	20.3	13	26.0	9	15.5
Better	32	29.6	12	24.0	20	34.5
Same	49	45.4	24	18.0	25	43.1
Worse	3	2.7	-	-	3	5.2
Much worse	2	1.9	1	2.0	1	1.7
Relationship with Relatives Compared to When in Thailand						
Much better	13	9.0	9	13.6	4	5.0
Better	38	26.4	17	25.8	21	26.3
Same	90	62.5	39	59.1	51	63.8
Worse	2	1.4	1	1.5	1	1.3
Much worse	1	0.7	-	-	3	3.8
Encourage Friend to Come & Work in Singapore:						
Yes, strongly	7	5.0	5	7.8	2	2.7
Yes	47	33.8	25	39.1	22	29.3
Neutral	35	25.2	9	14.1	26	34.7
No	45	32.4	24	37.5	21	28.0
No, discourage strongly	5	3.6	1	1.6	4	5.3

Table 6 (b)
Other Factors Related to Costs and Benefits of Migration

	N	%
Breakdown of Recruitment Cost:		
Travel expense	14	9.4
Recruitment agent in Thailand	44	29.5
Recruitment agent in Singapore	3	2.0
Medical screening	6	4.0
Others. Specify	11	7.4
Cannot remember	6	4.0
Do not know/No information from recruiter	65	43.6
Mode of Wage Payment:		
Daily	78	55.7
Weekly	11	7.9
Monthly	22	15.7
15 days once	29	20.7
If You Can Remake the Decision, Will You Still Choose to Come to Singapore?:		
Yes	93	65.0
No	50	35.0
Reasons for Viewing the Decision to Migrate as Right:		
Family is better off	26	28.0
Have saved enough money	34	37.0
Manage to clear debt	5	5.0
Able to provide better education for children	5	5.0
Able to own houses and other proper	19	20.0
Others	4	4.0
Reasons for Viewing the Decision to Migrate as Wrong:		
Miss home/ psychology impact	19	45.2
Too hard work	6	14.3
Too low income	4	9.5
Income does not worth hard work	7	16.7
Income not worth commission	3	7.1
Too risky (work related)	1	2.4
High living expense	2	4.8

Table 7
Selected Factors Related to the Labor Relations by Time of Arrival

	All		Before 1/98 (Pre-crisis)		1/98 & after (During crisis)	
	(N)	(%)	(N)	(%)	(N)	(%)
Get along with Thai Colleague:						
Very well	45	32.4	22	34.4	23	30.7
Well	80	57.6	34	53.1	46	61.3
OK	14	10.0	8	12.5	6	8.0
Not so good	-	-	-	-	-	-
Bad	-	-	-	-	-	-
Get along with Local Colleague:						
Very well	6	6.3	4	7.7	2	4.5
Well	58	60.4	30	57.7	28	63.6
OK	27	28.1	17	32.7	10	22.7
Not so good	4	4.2	1	1.9	3	6.8
Bad	1	1.0	-	-	1	2.3
Get along with Foreign Colleagues:						
Very well	10	7.5	6	9.8	4	5.6
Well	70	53.0	29	47.5	41	57.8
OK	47	35.6	23	37.7	24	33.8
Not so good	3	2.3	1	1.6	2	2.8
Bad	2	1.5	2	3.1	-	-

Table 8
Problems at Work

	N	%
Ever Have Problem at Work:		
Yes	17	11.8
No	127	88.2
How Company Solves Problems:		
Never have problem	5	3.5
With formally organized union	2	1.4
With employer	57	39.9
Between supervisor and worker	60	42.0
Workers solve by themselves	2	1.4
Solved by manager	7	4.9
Do not know	10	7.0
Types of Problem at Work:		
Did not receive wage in time	5	35.7
Did not receive full amount of wage	4	28.6
Did not receive benefits as promised	1	7.1
Company terminated job with reason	1	7.1
Problems with colleagues	1	7.1
problem with supervisor/foreman	2	14.3
Member of Labor Union:		
Yes	1	0.7
No	133	99.3
Not sure	9	6.7

Table 9
The Role of the Thai Embassy in Migration

	N	%
Ever Seek Help from Thai Embassy:		
Yes, several times	2	1.4
Yes, but seldom	34	23.6
Only when I had to get some papers	2	1.4
Never	106	73.6
Satisfy with Help From the Thai Embassy:		
Very much	-	-
Much	15	39.5
It is OK	17	44.7
Did not get much help	4	10.5
Did not get help at all	2	5.3
The Most Needed Help from the Thai Embassy:		
Organize (more) social gathering	36	21.3
Inform (more) regularly about happening in Thailand	11	6.5
Inform (more) regularly about workers' rights in Singapore	15	8.9
Take a more active stand against officials in Singapore	4	2.4
Improve workers' legal status	16	9.5
Help increase pay	13	7.7
Help look for job	1	0.6
Help with safety	1	0.6
Help improve living condition	1	0.6
Lower commission fee	5	3.0
Take general care of workers	8	4.7
Provide consultation	4	2.4
Solve drug problem	4	2.4
Does not apply, have no suggestions	42	24.9
Others	8	4.7

Appendix 4

Other relevant tables

Table 7: Social Origin of Thai Workers

Year of survey	Below average	Average	Above average	Total
1996	41.4% (N=48)	42.3% (N=49)	6% (N=7)	100% (N=116)
1999	12.4% (N=19)	74.5% (N=107)	13.1 (N=18)	100% (N=144)

Year of survey	Central	North	Northeast	Total
1989	7% (N= 10)	32% (N=42)	60% (N=77)	100 (N=129)
1996	1% (N=1)	1% (N=1)	98% (N=112)	100 (N=114)
1999	1.4% (N=2)	20.4%(N=29)	78.2% (N=111)	100 (N=142)

Table 19: Source of Information on Singapore and Job Opportunity:

Relatives/friends living in Thailand	27	14.8%
Relatives/friends living in Singapore	50	27.3%
Newspaper/magazines	3	1.6%
Television	1	0.5%
Radio	1	0.5%
Labor recruiter, contractor	32	17.5%
Private employment agencies in Thailand	51	27.9%
Government employment agencies in Thailand	5	2.7%
Employer	8	4.4%
Organization in Thailand that helps people to work abroad	2	1.1%
Organization in Singapore that helps people to work here	1	0.5%
Others	2	1.1%

Table 24 Who helped to get job?

Parent/sibling	1	0.7%
Friend	7	4.9%
Singapore agent	10	7.0%
Boss in Singapore	2	1.4%
Had made job arrangement before leaving Thailand	122	85.9%

Table 54: Compare to the start, how is your expense?

Much higher	5	3.5%
Higher	53	37.1%
No change	78	54.5%
Lower	5	3.5%
Much lo	2	1.4%

Table 55: Do you have the same benefit as local worker?

Yes	27	32.1%
No	57	67.9%

Table 59: How did you learn that new skill?

Formal training course	37	36.6%
On the job training	42	41.6%
Learn skill from colleagues/supervisor	22	21.8%

Table 60: What made you go for such training?

Because of company regulations	60	96.8%
Others	2	3.2%

Table 62: Send remittances to Thailand

Yes	139	97.2%
No	4	2.8%

Table 63: How often do you send remittances home?

Every month	117	83.0%
Every 2-3 months	13	9.2%
Irregularly	7	5.0%
Does not apply, respondent does not send remittances	4	2.8%

Table 64:

	Amount of money sent home each month	Amount of money sent in last 12 months
Mean	S\$538.46	S\$6546.15
S. D.	S\$168.52	S\$2362.41

Table 65: By what means were remittances sent?

Bank	5	3.4%
Remittances agent	133	91.7%
Recruitment agent	3	2.1%
Does not apply, respondent does not send remittances	4	2.8%
Does not apply, respondent does not send remittances	4	2.8%

Table 66: What do you do with the remittance 1st priority

buy house/land	17	12.6%
repair house	2	1.5%
pay debt	53	39.3%
Saving	33	24.4%
buy pick-up/motorcycle	3	2.2%
invest in agriculture	4	3.0%
buy gold and valuables	1	0.7%
sent children to school	8	5.9%
Daily expense	9	6.7%
Others, specify	1	0.7%
Does not apply, respondent does not send remittances	4	3.0%

2nd priority

buy house/land	5	6.4%
repair house	4	5.1%
pay debt	3	3.8%
Saving	15	19.2%
buy pick-up/motorcycle	2	2.6%
invest in agriculture	6	7.7%
invest in commerce	1	1.3%
buy electrical appliances	3	3.8%
buy gold and valuables	4	5.1%
sent children to school	5	6.4%
Daily expense	30	38.5%

3rd priority

buy house/land	1	3.3and
Saving	12	40.0%
buy pick-up/motorcycle	3	10.0%
invest in agriculture	2	6.7%
buy electrical appliances	5	16.7%
buy gold and valuables	1	3.3%
sent children to school	1	3.3%
Daily expense	5	16.7%

Table 68: New boy/girlfriend in Singapore

Yes	2	1.4%
No	141	98.6%

Table 69: Your partner has new boy/girlfriend

Yes	2	1.4%
No	105	72.9%
Does not apply	37	25.7%

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Analytical Report of Expert Interviews on Issues of Thai Labor Migrants in Singapore

Woon Young Hong

The Singapore government has not changed any of its policies relating to foreign workers in response to the current recession. Even though Singapore has gone through an economic down turn since late 1997, most interviewees, especially government officers, perceived the situation to be less severe than the 1985 economic recession. In fact, Singapore is one of countries that was not affected by the Asian economic crisis.

1. Singapore Government's General Policy on Domestic Labor

Manpower is Singapore's only resource. It is also a major limiting factor in its growth and could become an impediment to new investments and business expansion. The Singapore government must therefore fully develop its manpower resources so as to hone its competitive edge. Singapore needs to constantly develop new capacity and competency.

One critical area is the development of a globally competitive knowledge-based (skilled) workforce. To achieve this vision of a knowledge-based workforce Singapore has a comprehensive manpower strategy that will contribute to the enhancement of its economic competitiveness. The Singapore government and all political leaders look at manpower issues from an entirely national perspective and adopt an integrated and comprehensive strategy for meeting the national manpower needs in terms of quantity and quality. An integrated approach ensures that manpower planning, development and management remains well coordinated and relevant to the needs of this evolving economy.

By adopting an integrated approach, the Singapore government intends to develop a world-class workforce with capabilities and skills to succeed in the globalized knowledge economy. The development of a world-class workforce requires total commitment and effort on the part of government, trade unions, workers and employers. The Ministry of Manpower (MOM) particularly draws on the resources and participation of partners in the formulation and implementation of manpower policies. This further strengthens this tripartism and achieves greater synergy.

There are two main government agencies related to most Thai workers' interest. Since 90% of Thai workers are working in construction industry in Singapore these agencies are the Ministry of Manpower and the Building and Construction Authority.

1.1 Ministry of Manpower

The Ministry of Manpower works closely with other ministries and government agencies at the national level. The mission of the Ministry of Manpower is to develop a globally competitive workforce and foster a highly favorable workplace environment. This is in partnership with workers and employers in order to achieve sustainable economic growth for the well being of Singaporeans. It performs both promotional and regulatory roles in balancing national manpower needs. The Ministry of Manpower's roles include: manpower planning to maintain Singapore's competitive edge, continuous upgrading of workers to be a knowledge based workforce, ensuring harmonious labor relations, attracting foreign talent to augment the local workforce, regulating the admission of foreign workers and managing them while they are working in Singapore, and providing a welfare structure conducive to the workforce.

While the Ministry of Manpower undertakes manpower planning, development, management and promotion at the national level, agencies such as EDB, PSB will continue to administer their respective programs within an overall manpower framework and directions set by the Ministry of Manpower.

1.2 Building and Construction Authority

The BCA is a statutory board under the auspices of Singapore's Ministry of National Development. It was established on 1 April 1999 as a result of the merger between the Construction Industry Development Board (CIDB) and the Building Control Division of the Public Works Department

(PWD). The primary role of BCA is to develop and regulate Singapore's building and construction industry. Its mission is "to develop a technologically advanced construction industry which serves Singapore's economic needs, and to ensure safe buildings and infrastructure". The role of the BCA is to enable the industry to deliver world class buildings and infrastructure with the most cost effective and productive methods. The BCA's four key thrusts are:

1. Improving quality and productivity through high standards of excellence and the use of innovative construction technology raising skills through training and testing to develop a professional construction workforce
2. Ensuring building works are designed to comply with regulations and built to high safety standards
3. Supporting industrial growth through resource and information management.

One of the important roles of the BCA related to foreign workers is controlling and conducting training courses and the skill test. The training covers various skills: civil and structural, architectural, building services, plant and related trade, and other trades such as metal scaffold erection. In fact, some of the skills are quite advanced and are useful for the trainees in any country.

Skills Evaluation Certificate Tests

Applicants must be Singapore citizens, permanent residents or holders of valid work permits or employment passes. Skills Evaluation Certificates issued under the National Construction Trade Test Program are recognized by Ministry of Manpower for lower foreign worker's levies.

2. Foreign Labor Policy

It is Singapore's policy to change the structure of the economy to emphasize higher value added occupations, moving away from labor intensive to capital driven manufacturing, and knowledge-based industries.

The Singapore government recognizes the reluctance of Singaporeans to undertake manual labor, and so encourages importation of foreign workers. They apply a quota system of 1:5 where 5 foreign workers are allowed for every single local worker.

The Singapore government does not have a specific policy for Thai workers. It does have strict regulations which apply to all foreign workers and there are severe penalties for failure to observe them. These penalties apply to the employers for failure to observe mainly health, safety and welfare requirements both on site and in the dormitory. The workers themselves are expected to observe the relevant regulations. These apply more to immigration requirements and length of stay. Of course, as temporary residents they are required to act as law-abiding citizens and their employers and agents are expected to encourage them to avoid antisocial behavior which could lead to legal prosecution.

The government takes no position on to the individual health of the workers and their general welfare other than in the provision of normal civic amenities. The legislation in Singapore requires all employees to be covered by workers' compensation insurance. This applies equally to foreign workers as well as local workers.

The Singapore government does however have a policy to encourage skilled rather than unskilled workers. All foreign workers are required to take a SET- Skill Evaluation Test. This test is also conducted in their home countries after training, and is evaluated by a Singaporean officer who travels to that country to conduct the test. If this test is passed before they get a job in Singapore they have a better chance of obtaining a higher paid job upon arrival in Singapore. Also the employer pays a much lower levy for hiring skilled workers (S\$ 30 as opposed to S\$ 470).

In fact, in order to smooth out the fluctuations of any recession the Singapore government has attempted to moderate the boom/bust effect. Since the onset of the current recession the government has

attempted to cushion the effect by implementing new construction projects. These include upgrading of HDB blocks, new schools, and extension to the MRT. These are not projects *per se* which form part of a migration policy, but they do have a direct effect. It should be noted that these are not purely philanthropic acts on the part of the government.

By creating major public works projects during a downturn they can secure very attractive construction costs, to which contractors can be held even in better times. This could have the effect of workers being locked into contracts when they are desperate and held to them during better times.

The Singapore government and Singaporeans are aware of the country's need for foreign workers. As Singapore becomes more developed and Singaporeans receive a higher education, very few locals want to work in construction sites, shipyards, and other manufacturing sectors. At the same time however, the Singapore government is willing to reduce its industry's dependency on foreign workers who are not highly educated through upgrading its level of industry in terms of technology, efficiency, and a better working environment.

To achieve this the Singapore government implements several policies: Levy Scheme, Dependent Ceiling, and Skill Evaluation Certificate Test.

2.1 Dependency Level and Levy Scheme based on the Skill Evaluation Certificate Test

To regulate the employment of foreign workers, companies are allocated a dependency level based on their local workforce. The companies are also required to pay the foreign worker levy.

The foreign worker levy scheme is applicable to all work permit holders, except 3-year work permit holders. The levy commences once a temporary or permanent work permit is issued to the worker. It is payable as long as the work permit is valid. The levy liability ends when the work permit is cancelled.

In effect from 1 Jan. 1999, the Levy Rates are as below –

Sector	Dependency level	Category of Foreign Workers	Levy Rates (S\$)	
			Monthly	Daily
Manufacturing	Up to 40% of total workforce	-	240	8
	Between 40% to 50% of total workforce	-	310	11
Construction	1 Local Worker to 5 Foreign Workers	Skilled	30	1
		Skilled	30	1
		Unskilled	470	16
Marine	1 Local Worker to 3 Foreign Workers	Skilled	30	1
		Unskilled	295	10

In fact the levy was designed for pricing control of local workers as well as to control the number of foreign workers. If the price of foreign workers were cheaper than local workers, no one would hire locals. Therefore the employers who wish to hire foreign workers ought to pay their salary plus the levy for hiring each foreign employee every month. As most Singaporeans become more educated, particular industries such as the construction industry have fewer locals who are willing to work in them. Hence there is no actual need for the pricing control for the locals. In that sense the Singapore government has changed the function of the levy from price control to upgrading of the particular industry. In this way one skilled worker's work with better machines is more efficient than four unskilled workers' work. In addition to this, Singapore cannot allow those unskilled workers to continue working with old skills in this new technology based economy.

Previously there was no significant difference between the skilled workers and unskilled workers' levy. However, nowadays the gap between the two groups is S\$430 per person every month. In that sense, even though the employers pay less salary for the unskilled workers (S\$16-19 per day) compared to the skilled workers (S\$25) they still pay a much higher salary for the levy per head every month. It costs more than the gap in salary between two groups.

This levy system works adequately to meet the goal of the government's policy since the particular industries prefer to hire more skilled workers than before. The skilled worker means those who have passed the Skills Evaluation Certificate Test (SECT), and unskilled means those who passed only the Basic Skills Test (BST) or even those who haven't taken a test.

Mr. Sandor from the Ministry of Manpower, explained the reason Singapore implements quite strong restrictions on foreign workers who are R pass holders. The Singapore government cannot open its economy to a perfectly free market in terms of labor, since the government has to protect the locals and keep its cultural values and social security. In addition to this Singapore wants those foreign workers to be faithful to the primary purpose, that is earning money for a certain period and not staying or settling down. In Singapore's case, the government is very keen to control the quality of people in the country. Hence the government prefers to keep highly skilled or highly educated laborers, but does not desire to keep low skilled or uneducated people in the country due to the highly competitive economy and lack of land space.

The Singapore government rules that when employers hire foreign workers they have to select at least 50% of the needed workers from those who passed either SECT or BST, although the BST does not mean the workers are skilled after they pass the test. It does mean however that the workers have basic building skills which means they have work experience in a construction site. The government is not in favour of recruiting people who are farmers, or jobless in their own countries because that means they do not have any skills to contribute to Singapore's industry. The Singapore government will increase the ratio of certificate holders from 50% up to 100% by April of next year. It has indicated that anyone who does not take the SECT or BST cannot work in Singapore any more, although they can offer cheaper prices from April 2000.

3. The Future Direction of Singapore Policy

Three major directions in policy making and implementation by the Singapore government could be found with regard to domestic foreign workers' issues. First, all policies have been made or are going to be made and changed to upgrade the whole of Singapore industry's productivity and quality. Particularly in relation to the manpower development including the foreign workforce, the Ministry of Manpower will plan and design most policy consulting with EDB, BCA and other related government agencies.

3.1 Skills Upgrading

The construction industry has been known as the most unproductive and inefficient industry. The PSB reported that the output per person employed in the Japanese and South Korea construction industry was about two to three times higher than in Singapore. To achieve higher productivity of the construction industry, the BCA is playing an important role, which can affect the foreign workers. The BCA controls and conducts the skill test. As mentioned, all foreign workers who want to come to Singapore and want to work in construction sites will need to pass the skill test from next year. But it is not only the function of the BAC towards the foreign workers. In the BAC, there is "Technology Development Division". This division assesses the value of the construction project as well as the technology which a contractor should apply. According to the assessment, the contractor will gauge the number of employees, kinds of skills, and amount and size of facilities for the employees, that he/she will need for the project. This assessment obviously will affect the demand for the foreign workers in Singapore.

Already, as the result of the efforts by the government, on the skills upgrading front, significant outputs were achieved during 1998. The number of workers tested by the Construction Industry Training Institute, the BCA's training arm, reached on unprecedented high of 27,761 workers (total number of

foreigners and locals), of which 16,835 (in total) were certified as skilled. Even though this number included the local workers, when we consider the fact more than 63% of total employees in the construction industry are foreign workers; this number shows a tremendous increase in terms of foreign skilled labor. The number was 54 % higher than that in the previous year.

Thai workers are not an exception. In the past, the proportion of skilled and unskilled Thai workers in Singapore used to be 1:9. But recently, the ratio has been reversed to 9:1. Since the heavy levy scheme on unskilled workers, most employers want and even force their unskilled workers to go to the training course and take the skill test.

Although good progress has been made in quality and skills upgrading, the rapid surge in construction work the last couple of years has put a spotlight on some recurrent weaknesses in the industry. It has shown the industry is still dependent on unskilled foreign workers, its practices are still labor intensive and wastage is still high. Therefore, the Singapore government strongly perceives that the industry still lags considerably behind those in developed countries. It clearly means that the government will continue to push the industry to hire more skilled workers and train them to learn updated skills through various incentives or restrictions.

Secondly, there has been a consistent move towards an integrated manpower planning

3.2 The Integrated Approach of Manpower Planning

As mentioned earlier, the Singapore government and all political leaders look at manpower issues from a totally national perspective and adopt an integrated and comprehensive strategy for meeting the national manpower needs in both quality and quantity. In the past the foreign labor issues were dealt with by many different agencies such as Immigration, Construction Industry Development Board, EDB, and Ministry of Manpower. However, the trend of policy change has shown a different approach.

First, the Ministry of Manpower has handled all matters pertaining to employment of foreign manpower since 1st September 1998. Until April 1998, the CIDB handled the issuing of work permits to foreign workers and the Immigration handled the issuing of employment passes to professionals. This year the MOM announced 3 types of work pass holders under the new Work Pass framework and implemented it from September this year. The 3 types are P, Q and R Pass. The P and Q passes holders are professionals or technicians (who earn more than S\$ 2,000) per month while the R pass holders (who earn below S\$2,000 per month) are mostly unskilled or semi skilled labors.

The reason for this new type of work pass is that the MOM integrated all matters from different government agencies and then the MOM wanted to redesign the old framework into a clear and simple form for the convenience of all clients including foreign workers. Obviously, this detailed and narrower work pass framework could shorten the time taken to issue passes. It helps in the strengthening of manpower planning by responding to demand and supply in the industry. In addition to this, it enhances monitoring of the in and out flows of foreign labor.

There is another important factor in the work permit procedure. The MOM classifies foreign laborers who want to apply for the work permit into three categories: Traditional Sources (TS), Non-Traditional Sources (NTS), and North Asia Sources (NAS). The traditional source means only Malaysian workers. NAS includes various countries such as India, Bangladesh, Thailand and so on. NAS usually means only workers from China since most East Asia countries' workers (Japan, South Korea, Hong Kong and Taiwan) are highly paid and they will not come to Singapore for a salary below S\$ 2,000.

The MOM explained that this classification is based on the matter of repatriation when the work permit is cancelled. When the work permit is cancelled or the contract expires for any reason, the employer must be responsible for the repatriation of the worker. Yet, if the employer can not handle the matter properly, then the government should take action. In the TS case, to repatriate the worker does not cost much in terms of money or effort from the government agencies (such as the police and Immigration department) because Malaysia is the closest country. The two countries also have a lot of understanding and common ground regarding long historical migrant labor issues. But, the NTS and NAS' case is very

different to the case of the TS. Due to the long distance from Singapore to the worker's home country, the Singapore government should expend more and put more effort into understanding the different cultural and legal systems of the worker's country of origin in order to build good diplomatic relations with that country.

Of course, without doubt, the classification shows that the labor migration history followed by the economic situation in the region and it might help planning of secure supply of foreign labor from various places.

As we see, the MOM is the main government agency to deal from beginning to end with matters relating to foreign domestic workers in Singapore. Regarding the trend of the current policy, I strongly believe the Singapore government would focus on the integrated approach for manpower development. It seems that the Singapore government perceives the labor migrants as imported human resources issue rather than immigration issue. Thereby the government makes the MOM deal with total procedure of the foreign workers' matters whilst The Immigration controls only illegal entry of the foreign workers.

3.3 Improving Social Awareness

The Singapore government and Singaporean are fully aware of the necessity of foreign workers. Since fewer locals want to take dirty and dangerous jobs, the government should allow the industry to import foreigners to keep the industry operating. However, there is usually a double standard in Singapore government policy. Towards those holding a P or Q pass (that is a professional or at least a technician) the Singapore government has a very flexible policy and attitude. Due to a lack of highly skilled workers, the Singapore government usually encourages them to work and even settle down in Singapore. In their case, they can work in any industry without restriction.

On the other hand for those who are skilled, semi-skilled, or unskilled workers under the R pass, the Singapore government implements very restrictive regulations and laws and does not encourage them to stay beyond their contract period. Apparently even though Singapore has administrative control over foreign talent, it puts stricter control and puts restrictions on the semi-skilled, the skilled or lower level workers than it does on professionals with P or Q pass. R pass holders can work only in certain permitted areas such as construction, marine engineering, shipyards, and certain manufacturing industries.

Recently however there have been new movements aimed to improve the foreign workers' welfare and recognize them as members of the society. Maybe it's too early to say, but those changes seem to be new yet quite acceptable to Singaporeans.

National Trades Union Congress has already started holding a May Day special program for foreign workers. This year the NTUC invited foreign workers to Jurong Bird Park and hosted an entertainment program on May Day. The NTUC deeply believed that it was impossible for Singapore to achieve successful economic performance without the contribution of foreign workers. Since the end of this year the NTUC has proposed to set up a better environment for the foreign workers. Even though the NTUC is a union body for the national workers in Singapore, it is actually a government body, which controls job security and the welfare of workers. The head of NTUC is one of the ministers without a portfolio in the Cabinet. In this way, its policy always reflects the will of the government.

4. Impact of Singapore Policy on Thai Workers

4.1 Wages

Recently most employers have wanted their unskilled workers to take the skill test to reduce their cost by paying a lower levy. If the worker passes the test, their daily wage is supposed to be increased from S\$17-20 to S\$25 per day. Most employers promise to raise the salary before they send a worker to the test. However, if the Thai worker has signed a contract as an unskilled worker, even if they pass the test after they arrive in Singapore, they don't necessarily receive the salary increase that the employer has promised. There is no law or clear regulation to ensure that the employer will increase their salary up to that of a skilled worker.

Therefore, the workers may help to reduce production costs of the construction project, but they themselves don't get any visible benefit from the test. To secure the higher salary enjoyed by skilled workers, Thai people who want to come to Singapore to work have to hold the certificate before they agree to the contract.

4.2 Renewal of Work Permits

Workers who earn less than S\$2,000 per month are classed as unskilled or semi skilled and are given an R pass. This is valid for 2 years and is renewable but is not allowed to exceed 4 years.

But if workers pass the skill test and become skilled workers, they can renew the work permit up to 5 times and they can work for 10 years in Singapore. If a worker has a long-term plan to stay in Singapore, they should apply for the skill test to secure their stay is more than 4 years.

4.3 Welfare

Even though Thai workers become skilled workers as the Singapore government wishes, this in fact comes with no significant welfare benefits for them. The levy system, dependence ceiling, and the skill test have been implemented to regulate the employment of foreign workers because of the possible social and economic implications in the long run.

Yet, there is no clear incentive for Thai workers who are the subject of the policies. The Singapore government can expect skills upgrading of workers and productivity increase in the industry. Employers can reduce costs through hiring more skilled workers or sending employees to take the test. However, there is no corresponding increase in wage for the workers by law or in clear government policy.

Not only with regard to wages but also concerning an increase in welfare, the policies do not consider any improvement.

4.4 Skills Upgrading

The Singapore government's policy such as the skill test can benefit Thai workers in terms of skill learning. Some of the training courses set by the BCA are quite up to date and useful in any country. The skills they learn will help further employment in other countries after Singapore.

If Thai workers can attend the training course in Thailand and take the Skill Evaluation Certificate Test they can learn new skills and obtain a higher level of expertise, therefore securing higher salaries as skilled workers via a contract. While in Singapore, Thai workers have less chance to attend the training courses due to their heavy workload.

5. Illegal Thai Workers in Singapore

5.1 Definition of Illegal Thai workers

Illegal Thai workers are both skilled and unskilled workers who work in Singapore without either employment passes or work permits.

5.2 Background

There is a high demand for foreign workers in Singapore because of the continuously expanding industrial development, as well as a labor shortage in the country. Hence, the government allows local agencies to import foreign workers in the ratio in 1:5 (one local for every five foreign workers). Basically, workers in Thailand who would like to work abroad can apply through three channels:

1. Through the government, using the Department of Employment Services (DOE);
2. Through private agencies;

3. Through contacting employers in person. In this case employees contact the employers who agree to hire them directly.

There are at least 50,000 legal Thai workers in Singapore (including more than 10,000 illegal ones). Some of these illegal Thai workers are cheated by Thai or Singaporean brokers, while others come on a voluntary basis with the pretext of visiting Singapore via the Special Social Visit Pass, which is valid for 30 days.

5.3 Main Problems of the Illegal Thai workers

1. Workers are cheated and brought in illegally by unscrupulous Thai or Singapore agents.

They are instructed to lie to the Immigration Department that they are in Singapore as tourists on social visit passes which are valid for 14 days if they arrive by land or 30 days if they arrive by air. During this period, the Thai brokers conspire with the Singapore counterparts to find jobs for these workers. Since there is always a shortage of workers in Singapore, smaller construction companies are willing to take the risk of employing these illegal workers. Also those small-size companies are trying to not pay the levy through hiring the illegal workers. To avoid being caught, workers are transferred very frequently from company to company. Some also use fake work permits.

Often these workers are stranded in Singapore when employers disappear with their passports upon the expiry of their social visit passes. Very often, the workers will turn to the Royal Thai Embassy for help to send them back to Thailand with the issuance of the Certificate of Identity.

2. Some are voluntary workers who are fully aware of their illegal employment status.

In Singapore, the agent's fee is deducted from their daily wage. After the completion of three months of work, such workers often come to the Office of Labor Affairs (OLA) for help pretending that they have been cheated into coming to Singapore. They know that as long as they do not exceed the three month period they will be fined but not caned. Some illegal workers will go to the extent of selling their passports for S\$500 and then go to the Office of Labor affairs or the Royal Thai Embassy to report their passports lost.

Apart from these two main problems, some criminal activity has been connected with illegal workers. It was reported that the rate of robberies in construction sites had doubled to 31 cases in 1993 compared to the 1992 figures. (03/03/1994 *The Straits Times*). Also the number of killings at work sites leaped from 6 to 21 cases in the same period. The government, especially the Ministry of Home Affairs warned that construction sites should not become havens for criminals, illegal immigrants and overstayers.

Currently, there are many illegal Thai workers in Singapore due to the current economic recession but no exact numbers have been documented. Since these workers come to work illegally, they may be taken advantage of and gain neither benefits from their employers or protection from the Singapore government under the labor law. The nature of their entry into Singapore affects their access to social welfare such as medical services and life insurance. It is therefore a particular concern of the Home Affairs Minister of Singapore that if the problems surrounding illegal workers are not resolved they may affect the bilateral relations with the illegal worker's country of origin.

5.4 Process of Being Illegal Workers

1) Illegal Thai Workers

Basically the problem of illegal Thai workers is caused the "push and pull factor".

Push Factors

The unemployment situation is serious in Thailand, especially for unskilled workers. Most of

these workers are farmers or farm workers who have no job after the harvest period. Some of them have debts as a result of their farming. Given the low wages these unskilled workers earn in Thailand, they cannot afford to improve their standard of living.

Pull Factors

1. Workers can earn higher wages in Singapore than they can working in Thailand, even though the cost of living abroad is higher than in Thailand.
2. The deceptive agents have access to these illegal workers and effectively motivate them with descriptions of attractive benefits gained from jobs abroad.
3. Workers who use illegal agents pay lower service charges and get jobs immediately compared to those applying through legal private recruitment agencies or government agencies.
4. Workers do not need a skill test for job placements abroad.
5. Some workers are deceived or they have no idea about the penalties of being illegal workers in other countries.
6. Some workers are willing to take the risk of being illegal workers, a situation that they perceive is better than being unemployed.
7. There is a demand for illegal workers from overseas employers, since they do not have to provide for their welfare or pay levy taxes, and as they can also take advantage of these illegal workers.

A combination of the above factors has thus persuaded workers to become illegal workers in Singapore.

2) People who are eligible to bring workers into Singapore

1. Main contractor

Basically, they provide jobs for legal workers, but some of them have dealings with illegal recruitment agencies in Thailand providing vacant positions for illegal workers.

2. Sub-contractor

Some of them are named as construction companies, but their business is really to recruit workers for a main contractor. Usually, the names of such companies end with terms like "Builders", "Building", "General Contractor", and "Civil Eng."

Other sub-contractors are both construction and recruitment companies. Usually they will ask for a worker quota, which exceeds their demands, but the Work permit Department usually grants the requested quota. Therefore, they will transfer their workers to the other companies that cannot ask for a foreign worker quota.

5.5 The benefit of employers in hiring illegal workers

Even though Singapore has heavy penalties for both illegal immigrants and their employers, there are still many lawbreakers. The reason is that both illegal workers and employers can gain more advantages than applying to work legally or hiring legal workers.

1. Employers need not pay the levy tax. Small and medium size companies gain real benefits from this especially.
2. Contractors deduct from the employees' incomes, S\$1 per day for income tax paid to the government.

However, in hiring illegal workers' case, contractors can keep the revenue from this income tax.

3. Employers have no responsibility for their employees' welfare in case of an accident at work.
4. Employers have no responsibility for provisions under Labor laws, such as medical services and the compensation fund.
5. Illegal brokers have to pay employers for taking the risk of hiring illegal workers, so employers' financial risks are very small.
6. Employers can pay lower wages because there is no contract to enforce payment of agreed wages.

5.6 Problems experienced by illegal Thai workers

Contractors usually hold the illegal workers' passports claiming that they need these to apply for work permits. In fact these passports are sometimes changed and sold to overstayers. Usually passports can be sold for S\$300 to S\$500. Most of the illegal workers do not get their passports back and therefore cannot return to their homeland. For this reason illegal workers often become overstayers and are punished by Singapore law.

Employers can easily avoid paying wages to illegal workers, since illegal workers know little about their employers and they cannot identify their employers because of their illegal immigrant status. In some cases, employers inform the police and have their illegal employees arrested as overstayers thus having no responsibility for these employees according to labor laws.

Some employers also transfer illegal workers to other companies and then refuse to pay back wages. Most employers who hire illegal workers take advantage of them and threaten to inform the police that they have overstayed if they complain or resist.

6 Problems faced by Thai Workers in Singapore

6.1 Problems caused by employers

These are four types of problems that are caused by employers, and these are related to wages, work hours, health care, and other miscellaneous problems.

Wage

As indicated earlier, workers often have grievances over the fact that they do not receive the wage stated in the contract. Furthermore, workers find themselves working overtime at a rate lower than the overtime rate.

In addition, Thai workers receive their wages late and usually deductions are made from the amount payable. Reasons for deductions are usually provided.

Hours of work

The Employment Act of Singapore states that an employer cannot force an employee to work more than 44 hours a week. However, these are cases when Thai workers find themselves working beyond this stated period of time even without receiving overtime wage incentives.

Health Care

The Thai workers complain that they do not receive any health or medical benefits stated in the contract. In fact some of them are not provided any health care even when they are sick. The interview with a NGO revealed that even when a worker is sick, the employer delays medical care or deducts the medical treatment fee from the worker's wage.

Miscellaneous

One of the most important grievances lodged by the Thai workers is that some of them do not get work according to the terms stated in the contract. More seriously, some Thai workers find themselves without work during their stay in Singapore when they have actually signed a two year working contract. Since the workers are paid on a daily basis, they receive no wages days when no work is available for them.

6.2 Problems caused by Employees

Behavioral Problems

There have also been cases when Thai workers disturb the peace with their activities. These workers are fond of drinking and gambling. Their activities can sometimes get out of hand, resulting in unwanted violence and trouble.

Breaking the expiry clause in the contract

Having found that work in Singapore is not what they had expected and being disappointed with the work and living conditions in Singapore, some workers decided to transgress their set period work contracts and return to Thailand leaving the employers in the lurch.

Language barrier

Unlike Indian-origin workers, the Thai workers who come to work in Singapore are usually not fluent in the languages spoken and used in Singapore. The employers usually have no working knowledge of the Thai language. Hence, it is not surprising that misunderstandings take place. This only serves to worsen the working environment for both parties.

Lacking of information

Many problems faced by Thai workers in Singapore because they lack necessary information. Some Thai workers in Singapore could have avoided the problems that they encountered if they had a more extensive knowledge of the basic laws and culture existing in Singapore.

Not only must this information address the problems that workers may expect to encounter in Singapore, but this information should also clearly explain the rights of Thai workers in employment contracts and the available support structures should they meet with problems in their work place.

6.3 Problems resulting from the Singapore government policies

High levies and taxes in comparison to wages

There is a tendency for the Singapore government to increase the levies and taxes imposed on foreign workers. However, there is no commensurate increase in wages for foreign workers.

Inadequate checks on negligent employers

One of the reasons why transgressions of employment contracts by employers are so prevalent is the inadequate measure available to keep the employers in line. The Singapore government seems not to be committed to penalizing employers who refuse to abide by the terms of the contract.

Also there is a channel for Thai workers to sue a bad employer or complain about being abused by an employer, however, in reality this hardly ever happens. Employers readily terminate the work contract without reason. If they find that their worker have gone to MOM or OLA to report their malpractice they usually fire the worker, terminate the work permit and finally repatriate the worker in a few days. Therefore, most Thai workers never dare to think of asking for any formal help from the government.

Problems regarding insurance coverage

All Thai workers are covered by insurance only during working hours. These workers have no idea over coverage outside working hours and hence, cannot demand compensation or monetary assistance if any mishap occurs outside working hours. Thai problems are magnified especially with the deaths of Thai workers in Singapore from the mysterious ailment (The Sudden Unexplained Death Syndrome). Some employers do not protect the interest of the workers. When a death or an accident occurs outside working hours, the employee is rarely compensated.

6.4 Problems caused by recruitment agencies.

Misinformation

Most Thai workers who are working in Singapore feel that they were cheated by recruitment agencies. Some of these agencies resort to lying to the Thai workers in order to expedite the employment process. Hence, the workers are provided with misleading information about the nature of work and wages that they are to receive. Once they arrive in Singapore, these Thai workers discover that their expectations cannot be met. Therefore, there is a need to exclude unethical private recruitment agencies from serving the Thai workers. In order to do, there is a need to legislate a law that penalizes agencies.

"Kick Back"

It is possible for employers to hire Thai workers directly through the Department of Employment in the Ministry of Labor and Social Welfare in Thailand. However this is a very bureaucratic process and despite being free, employers tend not to use it, preferring to deal with private recruitment agents. Also Thai workers who want to go abroad to work believe that if they go through the DOE it will take years to get a job. Most Thai workers go to private agencies or the private agencies visit provinces to search people to go to abroad.

Thailand has over 250 private recruitment agents who recruit workers required by foreign employers. The Thai law allows payments to agents. Normal fees are a month's wage, typically 8,000 Thai Baht, plus expenses of some 15,000 TB. This amounts to around 23,000 Thai Baht.

Agents claim that this is too low and charge a fee of around TB 50,000 up to 80,000. Agents claim that this is partly to pay a "reservation" fee to employers to secure the work. That is to say, the employer offers the contract to supply a number of workers to one agent, the agent agrees and commits to provide that number of workers, the fee is agreed upon and the employer reserves the work for that agent's group of workers. A fee is paid to the agent who pays a "fee" back to the employer. This is essentially a corrupt practice.

The Singapore government think it is immoral for employers to take some this fee from agencies. Clearly the interview with MOM express the government's position on this. The interviewee said that even though it is malpractice of labor relation, still it happens due to high competition among agencies as well as workers. There is more demand than supply for work in Singapore. The MOM thinks it is difficult to control as long as people are willing to come to Singapore although they have to pay high fee. Actually Singapore has a law to regulate the range of fee which agencies can charge. However, most fees are collected in Thailand before they come to Singapore through Thai partners. Then the money transaction is obviously difficult to trace back by any authority. In this case there is a need to make a bilateral agreement between two countries to reduce these malpractice of the market which make poor workers bear the entire burden.

6.5 The Sudden Unexplained Death Syndrome (SUDS)

SUNDS is Sudden Unnatural Death Syndrome. It causes the death of over 50 Thai workers a year. Medical practitioners in Singapore have conducted considerable research into SUNDS. The findings are summarized in several published papers but essentially there is in fact no mystery. The effect is due to a chronic shortage of potassium in the body of the Thai workers, exacerbated by stress and poor diet. The

research is being conducted jointly with the Thai medical authorities. As employers tend to only insure workers for accidents within working hours, a victim of SUNDS can impose a heavy financial burden on his family for repatriation of the body and funeral costs.

6.6 Low Standard of living

Some of the employers do not provide standard accommodation as stipulated in law. Visits to work sites have shown that Thai workers in Singapore have put up with very poor housing conditions. The housing conditions are deplorable, and the standard of living housing of these workers is a far cry from that enjoyed by the local workers. Thai workers live in overcrowded conditions that sometimes lack even the basic amenities. There have been instances when Thai workers find themselves living in cargo containers where ventilation is poor and living conditions are intolerable.

Identifying and categorizing existing problems in the Thai workers situation helps establish contextual frameworks for analysis and resolution.

7 Competitiveness of Thai Workers

Recently, the number of labor from Myanmar, India and Bangladesh are increasing. They are also holders of certification by the skill test, especially workers from Myanmar are very well disciplined and tolerant as much as Thais are. However, the daily salary for them are relatively lower than Thai. Now Thai skilled workers receive 25 S\$ per day while those national workers receive from 20 to 22 S\$ per day. Apparently, in the free labor market, Thai workers already are not competitive to other nationals.

If the other nationals have a same level of skill as well as good work attitude with the lower price, the Singapore contractors would recruit them more than Thais, which is more economical decision to be able to save the production cost for the contractors. Moreover, Singapore government never intervenes in the free market. Even through any diplomatic channel, therefore, this is not the problem can be solved at the government level without making effort to lower the price of Thai workers.

Thai government can maintain its labor competitiveness in terms of price in the world labor market. Moreover, already the Singapore Contractors Association has proposed the daily wage of \$22 to the Thai government. The Contractors Association explained that the price of Thai skilled workers is considered expensive when compared to other nationals with the same certified skill level. If they consider the current economic recession, they need to reduce costs to realize benefits through their business. If the Thai government cannot reduce the price of the skilled workers, the contractor will drop the Thai labor market and find better-priced sources of labor elsewhere.

However, it might cause deterioration in the Thai workers welfare especially those who are already working in Singapore, because they may receive less salary whilst having the same welfare conditions. In such cases, they would be worse off rather than better off.

To make things worse, in near future, the lower price itself cannot promote increased Thai labor export. Singapore needs skilled workers, not cheap and unskilled workers. Therefore, if Thai government does not encourage more workers to take the skill test, even though they are cheaper now, the Thai government can not adequately meet the demand for the skilled workers from Singapore. Reducing wages will be a short-term solution or "quick fix."

Singaporean contractors will be better off. They normally prefer Thai workers to others. They will save on their costs, and can still keep a well disciplined work force. If the policy is implemented, they can enjoy the preferred workers at a lower price. Due to the well disciplined attribute of Thais, if they can hire more Thais or at least keep same number of Thais, they might be able to avoid many problems or arguments with workers. In fact, Indians can and do argue since they have less communication problems in English and are more outspoken and demanding. Thais are usually more tolerant and less demanding.

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Part II

Legal Papers

Introduction

Recent globalization has brought many foreign workers to Japan. How to guarantee these foreign workers their rights is presently a very important legal issue. The Immigration Control and Refugee Recognition Act (hereafter referred to as the Immigration Control Act) regulates the fair administration of immigration control and the Alien Registration Law regulates the relationship of residence and social position of foreigners living in Japan.¹ The Immigration Control Act was enacted in 1951 and the Alien Registration Law was enacted in 1952, but both were revised many times.² The American Immigration and Nationality Law was the model for the Immigration Control Act. Japan, however, unlike its model, does not have a system to accept immigrants with permanent resident permits at the time of entry. Some people who have entered the country with limited residence status can become permanent residents after a certain period of residence. In this regard, the Japanese system rather resembles the European immigration systems.

The Immigration Bureau in the Ministry of Justice is the central office in charge of immigration services. The organization of immigration services will be illustrated in Appendix 1. Under this Bureau, there are 8 Regional Immigration Bureaus, 5 District Immigration Offices, 89 Branch Offices (as local executive organs) and 3 Immigration Detention Centers (as accommodation facilities), pursuant to Articles 7 and 12 of the Ministry of Justice Establishment Law. The functions of the immigration control services consist of the following 6 categories of business, and the Immigration Bureau has 6 divisions (General Affairs, Policy, Entry and Status, Adjudication, Enforcement and Registration). Additionally, it has the Refugee Recognition Section and the Data Processing System Development Office. Staffs of 2,374 concerned with immigration services were working at various offices in 1999. This number is about 1.5 times than the 1,600 in 1988.

The Japanese government's attitude toward foreign workers is basically twofold: foreign workers who are to be employed for their special skills are admitted as much as possible, while various issues concerning the admission of unskilled labors are to be carefully studied.³ The following three fundamental tenets can be identified as the basis for Japan's current immigration policy:

1. Admitting foreign workers, on whatever basis, should be a last resort;
2. No unskilled workers should be admitted;
3. All foreigners should be admitted on a temporary basis only.⁴

Indeed, Japan is one of the few countries which maintains remarkably strict migration control standards like that of Singapore, and a traditional policy of not opening the labor market to foreign unskilled workers.⁵ However, three detours⁶ were established in recent years. First, it is said that illegal workers⁷ are present in Japan not because they can slip through the government's strict control but

¹ The Immigration Control and Refugee Recognition Act Enforcement Regulations and the Alien Recognition Law Enforcement Regulations etc. stipulate concrete procedural matters. Additionally, the Special Law on Immigration Control relating to Persons and their Descendants who lost their Nationality of Japan in accordance with the Peace Treaty with Japan (hereafter referred to as the Special Law on Immigration Control) and its Enforcement Regulations are important.

² As for the historical regulations, see Yoshio Hagino, 'The Japanese Immigration System- An Introduction' *Nanzan Hôgaku* vol. 7, no. 2 (1983); Yoshio Hagino, 'New Japanese Immigration -Control and Refugee-Recognition Act of 1981' *Nanzan Hôgaku* vol. 8, no. 1 (1984); Shigeki Miyazaki, 'Die Rechtsstellung von Ausländern nach staatlichem Recht und Völkerrecht in Japan' in Jochen Abr. Frowein and Torsten Stein (eds.), *Die Rechtsstellung von Ausländern nach staatlichem Recht und Völkerrecht* (Berlin: Springer, 1987), pp. 727-749.

³ Akio Shimizu, 'Japan' in Dennis Campbell (eds.), *International Immigration and Nationality Law*, vol. 2 (The Hague: Kluwer, 1994), JAP-1-3.

⁴ Wayne A. Cornelius, 'Japan: The Illusion of Immigration Control' in Wayne A. Cornelius et al. (eds.), *Controlling Immigration* (Stanford, Stanford University, 1994), pp. 386-387.

⁵ Hiromi Mori, *Immigration Policy and Foreign Workers in Japan* (London: Macmillan, 1997), pp. 1, 96.

⁶ There is another analysis to mention three programs: (i) Nikkeijin; (ii) trainees; and (iii) part-time "student" labor. Cornelius, *supra* note 4, pp. 395-401; Dietrich Thränhardt, 'Abschottung und Globalisierung. Die japanische Nichteinwanderungspolitik und ihre sozialen und politischen Kosten' *IMIS- Beiträge* 11 (1999), pp. 29-31.

⁷ The term 'illegal workers' as used here refers to persons having engaged in an activity other than that permitted by the status of

because the government turns a blind eye.⁸ The Japanese government is trying to satisfy the labor needs of small and medium-size companies by accepting foreign workers through the "back door".⁹ Since the 1990s a person who encourages illegal workers to engage in illegal work may be punished with imprisonment for up to 3 years and/or a fine of up to 2 million yen (Article 73-2 of the Immigration Control Act). Second, workers of Japanese origin are allowed to work without restriction of activity through the "front door". Third, trainees are also employed as unskilled workers through the "side door". The formal purpose of trainees is to acquire technology, skills or knowledge at a public or private organization; however, the trainee system is seen as functioning as an informal measure recruiting cheap unskilled workers.¹⁰

Historically, Japan experienced a major isolation period from 1639 to 1853. Besides the migration among former Imperial Japan and its colonies,¹¹ immigrants were small in number but about 777,000 emigrants moved to mainly America and Latin American countries (1853-1945).¹² The Supreme Commander of Allied Powers controlled strictly immigration and emigration (1945-1951). During the time of advanced economic growth in the 1950s and the 1960s, the Japanese worked long hours and applied the automation system without admitting foreign laborers into the country. Since the 1980s, however, Japan has been experiencing an unexpected number of foreign residents because high economic growth needs 'newcomers' from various countries. Foreigners staying in Japan for 90 days or more are required to register as foreign residents. According to statistics at the end of 1998, there were 1,512,116 registered foreigners in Japan, constituting about 1.20% of Japan's total population. The major foreign legal residents are Koreans (638,828: 42.2%), Chinese (272,230: 18.0%) and Brazilians (222,217: 14.7%).¹³ Additionally, it is estimated that there were an estimated 271,048 overstay persons at the beginning of 1999.¹⁴ The major irregular foreigners are Koreans (52,387), Filipino (42,547), Thai (39,513) and Chinese (38,296). It is said that in total, around 1,800,000 foreigners live in Japan.

After Japan ratified the International Covenants on Human Rights in 1979 and the Refugees Convention in 1981, many social security laws were amended and social rights were guaranteed for refugees and aliens who settled in Japan. Both treaties aimed for the equality of social rights between nationals and non-nationals. Indochina refugees, the so-called boat people, can be compared with the American Commodore Perry and his frigates, the 'Black Ships', because both of them influenced the opening of Japan to foreign intercourse.¹⁵ The Japanese feudal government had to change its isolation policy in 1853, in the same way the recent Japanese immigration policy was altered in 1982. The citizenship requirement clauses were eliminated from the National Pension Law and the National Health Insurance Law, and so on. This has not solved the whole situation with foreigners, however. There are often remaining problems such as employment as public servants and voting rights for 'settled aliens (*teijū gaikokujin*)'.¹⁶ There is no official definition of *teijū gaikokujin*; therefore, there are several

residence previously granted, as well as the overstay persons continuing such an activity. Kentaro Serita, 'Legal Status of Foreign Workers in Japan' *The Japanese Annual of International Law* 33 (1990), p. 83.

8 Takamichi Kajita, 'Characteristics of the Foreign Worker Problem in Japan', *Hitotsubashi Journal of Social Studies*, vol. 27, no. 1 (1995), pp. 10-13.

9 Takamichi Kajita, 'The Challenge of Incorporating Foreigners in Japan' in Myron Weiner and Tadashi Hanami (eds.), *Temporary Workers or Future Citizens?* (London: Macmillan, 1998), p. 145.

10 Furthermore, college students can work up to 28 hours a week during semester time and 8 hours a day during vacation time. Pre-college students can work up to 4 hours a day during semester time and 8 hours a day in July and August. There were many cases of illegal work. Recently Japanese government is inclined to control Japanese language schools for pre-college students. See Komai Hiroshi, *Migrant Workers in Japan* (London: Kegan Paul International, 1995), pp. 54-70; *Kokusai Jinryū* [The Immigration Newsmagazine] 135 (1998), pp. 19-20.

11 Japan colonized Taiwan in 1895 and Korea in 1910 and established the puppet state of Manchuria (northeast of China).

12 The first emigration started to the Kingdom of Hawaii in 1868, to the USA in 1869, to Peru in 1899 and to Brazil in 1908. See Mitsuru Shimpo, 'Indentured Migrants from Japan' in Robin Cohen (ed.), *The Cambridge Survey of World Migration* (Cambridge: Cambridge University Press, 1995), pp. 48-50.

13 Japan Immigration Association, *Zairyū Gaikokujin Tōkei* [The Statistics of Foreigners in Japan] (Tokyo: Nyūkan Kyōkai, 1999), p. 8.

14 According to the estimate made by the Immigration Bureau, the Ministry of Justice in 1999 *Nihon Keizai Shinbun* (March 28, 1999). According to the other estimate, it is said that the number of illegal entrants and overstaying migrant workers amounted to more than 400,000 in 1999. Catholic Diocese of Yokohama Solidarity Center for Migrants (ed.), *Survival manual: A Guide to Foreigners' Rights in Japan* (Tokyo: JA Corporation, 1999), p. 3.

15 Hiroshi Tanaka, *Zuimichi Gaikokujin* [The Settled Aliens in Japan] New Version, (Tokyo: Iwanami Shoten, 1995), pp. 152-155, 164.

16 The Japanese term for the *teijū gaikokujin* is similar to Tomas Hammar's 'denizen'. See Tomas Hammar, *Democracy and the*

opinions on this terminology.¹⁷ All of them include the descendants of Korean and Taiwanese (approximately 600,000), who were previously subjects of Japanese colonies and also called 'Zainichi' (foreign residents in Japan) or 'old-comers'. These foreigners are guaranteed stable rights of permanent residence, but also shoulder many disadvantages due to their lack of Japanese citizenship.

Some rights are not accorded to foreigners in Japan.¹⁸ This position is grounded in the division of human rights and citizen's rights in the French Declaration of the Rights of Men and Citizens. Also, traditional German status theory presented the negative, positive and active statuses of citizens without granting the third active position to foreigners.¹⁹ Under the Japanese Constitution, there is no special regulation regarding aliens' rights. Therefore, there is a 'Word Doctrine', which accepts aliens' rights as long as the titular of human rights clauses is 'every person' instead of 'national'. However, today's dominant theory was established after the *McLean* case²⁰ (Supreme Court judgment, Oct. 4, 1978), as 'Nature Doctrine', which accepts aliens' rights so long as the nature of rights allows it. This is based on the universality of human rights and the constitutional principle of international co-operation. Furthermore, the distinction between permanent or long-term resident and short-term resident is as important as the distinction between legal resident and illegal resident.

Therefore, permanent resident aliens are guaranteed rights as are citizens, with some small exceptions, but short-term resident aliens are not sufficiently guaranteed their rights, and irregular aliens encounter serious problems living in Japan.

1. Immigration Procedures

First of all, freedom of entry is not guaranteed for foreigners. Article 22-1 of the Constitution prescribes the guarantee of the freedom of residence and movement in Japan, but it does not guarantee the freedom of entry for foreigners. According to international custom law, a state can decide on what kind of conditions to accept a foreigner in its own country, so long as there is not a special treaty (Supreme Court judgment, October 4, 1978: the *McLean* Visa Renewal Case).

There were visa exemption agreements with 58 countries as of April 1, 1999. Yet, in order to prevent frequent illegal overstay persons from Pakistan, Bangladesh and Iran, visa exemption agreements with these countries were suspended.²¹ Generally, the freedom of temporary visitors (for less than 90 days) is guaranteed without a visa. The visa exemption agreement is, however, not applicable to persons who intend to engage in an activity for remuneration or stay for 90 days or longer, and they are subject to strict screening.

The main parts of the immigration service will be illustrated in Appendix 2. Prior to entering Japan, foreigners who intend to work in Japan receive a visa corresponding to the purpose of their visit in their passports from a Japanese embassy or consulate abroad. Since 1989, there are two types of visa procedure. The first traditional procedure has 8 processes and the second new procedure with a certificate of eligibility has only 4 processes (as explained in Appendix 3). For the landing examination by an Immigration Inspector, applicants need to establish that they fulfill the landing conditions. The Ministry of Justice Ordinance provides the landing examination criteria for each residential status.

Nation State (Aldershot: Avebury, 1990), pp. 12-18.

17 One is 3-to 5- year residence based on the standard of naturalization or the standard of the normal 4-year election period. Another is the requirement of permanent residence. The other is aliens whose status is permanent resident, spouse or child of a Japanese citizen, spouse or child of a permanent resident, or quasi-permanent resident.

18 It has been pointed out that the right of entry into the country, social rights and voting rights are only given to citizens. However, the recent situation is changing.

19 Georg Jellinek, *System der subjektiven öffentlichen Rechte*, 2nd ed., 1919 (Tübingen: Scientia Verlag Aalen, 1979), p. 193.

20 An American language teacher, Mr. *McLean* had his request for prolonging his residence permit rejected due to his involvement in the anti-Vietnam War movement. As a consequence, the judgment admitted the decision of the Minister of Justice. This is the leading case of alien's rights. The positive side is to admit human rights to aliens as a rule, with the exception of those rights that by their nature must be limited to Japanese citizens. The negative side is to refuse aliens the freedom of political expression based on its inherent nature. See Lawrence W. Beer and Hiroshi Itoh, *The Constitutional Case Law of Japan, 1970 through 1990* (Seattle: University of Washington Press, 1996), pp. 471-478.

21 Hidenori Sakanaka and Toshio Saito, *Shutsunyūkoku Kanri oyobi Nanmin Nintei Hō Chikujō kaisetsu* [The Immigration Control and Refugee Recognition Act. Commentary] (Tokyo: Nihon Kajo Shuppan, 1994), p. 304.

For the purpose of speed and simplification of the landing procedure, the certificate of eligibility has been introduced. If applicants have it, they are deemed to conform to the requirement that their proposed activity is valid, and must fall within one of the activities of residential status stipulated in the Immigration Control Act.

If landing permission is not granted to the applicant alien, the Immigration Inspector must deliver the applicant to a Special Inquiry Officer for hearing. In the course of the hearing, the alien or a representative may produce evidence and cross-examine witnesses. Furthermore, the applicant may file an objection to the Minister of Justice.

There are 23 types of stay-status under which activities and residential terms are restricted. These are Diplomat, Official, Professor, Artist, Religious activities, Journalist, Investor and business manager, Legal and accounting services, Medical services, Researcher, Instructor²², Engineer, Specialist in humanities or international service, Intra-company transferee, Entertainer, Skilled labor, Cultural activities, Temporary visitor, College student, Pre-college student, Trainee, Family stay and Designated activities.²³ These statuses are called Annex Table I. The former 16 are work visas and the latter 7 are non-work visas.

Furthermore, there are 4 types of stay-status under which activities are unrestricted. Among them, Quasi-permanent resident,²⁴ Spouse or child of a Japanese citizen and Spouse or child of permanent resident require the renewal of residence period. Only Permanent residents are unrestricted regarding both activity and residence. These 4 statuses are called Annex Table II. In order to clarify the difference between the former 23 statuses and the latter 4 statuses, they are categorized as 'permissible intake' and 'permissible establishment' groups.²⁵ I would like to call the former 'Work/Stay restrict permission' and the latter 'Establishment permission'.

In the statistics of foreign labor force made by the Ministry of Foreign Affairs and Ministry of Justice, permanent resident, spouse or child of a Japanese citizen, spouse or child of permanent resident and trainee in the public (14,000) and private (31,500) sectors are excluded. The foreign labor force was estimated as shown in Table 1.

22 Activities to engage in language instruction and other education at elementary schools, junior high schools, senior high schools and so on.

23 Activities that are specifically designated by the Minister of Justice for foreign individuals.

24 Officially, it is translated into the Long-term residents but this status can be given just after arriving in Japan and has to be renewed every 6 months, 1 year or 3 years, even if the renewal is with ease. Its special nature is the possibility to work without restriction in the same manner as permanent residents.

25 Mori, *supra* note 5, pp. 10-11.

Table 1. Estimates of Foreign Workers in Japan by Status of Residence, 1996

Status of residence	Thousand
Foreign workers with permission of employment by category	
Specialist in humanities or international service	27.4
Entertainer	20.1
Engineer	11.1
Skilled labor	8.8
Instructor	7.5
Intra-company transferee	5.9
Investor and business manager	5.0
Religious activities	5.0
Professor	4.6
Researcher	2.0
Journalist	0.5
Artist	0.3
Medical service	0.1
Legal and accounting service	0.1
Total	98.3
Estimates of students engaged in part time jobs	20.0
Estimates of Japanese descendants engaged in gainful activities	211.2
Illegal workers	300.0
Total	629.4

Source: SOPEMI, *Trends in International Migration* (Paris: OECD, 1998), p. 130.

It can be seen that the main foreign labor force consisted of Japanese descendants (*Nikkeijin*) and illegal workers. Since 1990, small and medium-sized enterprises without an overseas presence have been permitted to bring in trainees. A trainee is a non-work visa, whose activity is to learn and acquire technology, skills or knowledge at public or private organizations. Since 1993 however, 'trainees' who pass certain skill tests after a period of training, can become 'technical interns', thereby changing their residence status to come under the 'designated activities' category and so becoming entitled to the same rights as Japanese workers. They are treated equally in terms of labor law such as the Labor Standard Law, the Minimum Wage Law and so on. The Japan International Training Co-operation Organization (JITCO) supervises the Technical Internship Program. In 1997, the maximum period of stay for technical interns was extended from two years to three.²⁶ Only about 10 % of trainees became 'technical interns' in 1996 and most trainees still have the actual function as cheap unskilled workers.²⁷ The wage paid to these trainees by companies is about one-sixth of the normal wage, even if they work an 8-hour day plus overtime.²⁸

2. Labor law

Labor laws apply to foreign workers as well as to Japanese workers. Article 3 of the Labor Standards Law of 1947 (LSL) stipulates that 'employers must not discriminate wages, hours and other working conditions because of worker's citizenship, creed or social status'. The LSL and the Labor Union Law of 1949 (LUL) are basic labor laws. The labor laws such as the Employment Security Law, the Worker Dispatching Law, the LSL apply even to illegal workers²⁹.

The LSL provides minimum standards for working conditions which employers must follow. For example, all employers must state clearly working conditions such as wage, working time and so on (Article 15). Employers are prohibited from offsetting advanced payment against the employee's salary or

26 SOPEMI (ed.), *Trends in International Migration* (Paris: OECD, 1999), p. 167.

27 Hiroshi Komai, *Nihon no Gaikokujin Imin* [Foreign immigrants in Japan] (Tokyo: Akashi Shoten, 1999), p. 62.

28 Katsusko Terasawa, 'Labor law, civil law, immigration law and the reality of migrants and their children' in Mike Douglass and Glenda S. Roberts (eds.), *Japan and Global Migration* (London: Routledge, 2000), p. 228.

29 The Ministry of Labor Memorandum, 26 January 1988

wages (Article 17), and from coercing workers forced savings (Article 18). Wages must be paid: in cash; directly to the worker; in full; at least once in a month; and on a definite date (Article 24). Basically, employers cannot have employees work more than 8 hours a day, 40 hours a week, excluding breaks or mealtime (Article 32). Employers who employ 10 or more employees regularly must prepare the working rules in writing and submit them to the Labor Standards Inspection Office (Article 89). This office provides supervision and guidance for employers to secure the working conditions required by law. In the case of violations which carry criminal liability, this office will report these violations to the Public Prosecutor's Office (Articles 101 and 102). Any part of a contract that falls below minimum standards is considered invalid. The employers may be penalized if they violate this law.³⁰

The LUL entitles workers to organize and form labor unions to negotiate for the improvement of working conditions. Besides the LSL, protective labor laws include the Minimum Wage Law of 1959 (MWL), the Industrial Safety and Health Law of 1972 (ISHL) and the Worker's Accident Compensation Insurance Law of 1947 (WACIL).³¹ The MWL regulates the minimum wages which consist of those according to region and those according to industry. If employers violate these regulations, employees can appeal to the Labor Standards Inspection Office for correction or file a suit in court to demand payment of the unpaid balance. The ISHL aims at establishment of standards for protecting against industrial accidents and for promoting of comfortable working environment. In the case of industrial accidents, the WACIL entitles workers various benefits, such as medical benefit,³² temporary disability benefit,³³ physical handicaps benefit,³⁴ survivors' benefit,³⁵ funeral rites benefit,³⁶ injury and disease pension³⁷ and dependent care benefit.³⁸ Insurance premiums are paid solely by employers, and workers are entitled to benefits whether or not the employer has paid the premiums. In addition to the minimum benefits provided under the WACIL, workers are entitled to additional compensation based on the employer's liability of torts or employment contracts. However, the amount of damages is controversial in several civil lawsuits, especially in the case of illegal foreign workers. As to how many years should be taken into account in calculating the damages is based on the economic level of Japan or of the worker's home country. Furthermore, if trainees are not supposed to 'work' as employees, the WACIL is not applied to them. If there is *de facto* employment instead of training, the WACIL could be applied. In any case, they are entitled to civil law damages against training institutions.³⁹

The Employment Security Law aims to satisfy labor force requirements for the industry by giving everybody an opportunity to take a post of occupation suitable for his/her capability, and to contribute to economic enhancement. This law also prohibits discrimination in occupation introduction and vocational counseling because of the citizenship of workers (Article 3). Under the Worker Dispatching Law of 1986, workers may be sent out to engage in 26 types of expert services or work that needs special management, including information processing and financial processing. As of fiscal year 1998, the total number of legal and illegal foreign workers was estimated to be about 670,000, equivalent to more than 1% of all the employed workers in Japan. The Employment Service Section for Foreign Workers tries to enhance the employment service and counseling available to foreign job applicants. There are interpreters in the Hello Work facilities (formally called Public Employment Security Offices), as well as Employment Service Center for Foreigners to deal exclusively with foreign students and foreigners in professional or technical fields, and the *Nikkeijin* Employment Service Centers provide services to foreign workers of Japanese descent. Considering Japan's fewer births and aging population, harmonizing working life with family life is being comprehensively and systematically promoted by the

30 Osaka Bar Association (ed.), *Human Rights Handbook for Foreigners in Japan in 18 Languages* (Tokyo: Akashi Shoten, 1992), pp. 17-27.

31 Tadashi Hanami, 'Japanese Policies on the Rights and Benefits Granted to Foreign Workers, Residents, Refugees and Illegals' in Myron Weiner and Tadashi Hanami (eds.), *Temporary Workers or Future Citizens?* (London: Macmillan, 1998), p. 224.

32 Actual expenses of medical care.

33 Compensation for lost income as 60% of average basic daily benefit, in principle (the first three days are not paid).

34 This is provided when a worker remains disabled because of the industrial accident. Disabilities are rated at different levels.

35 Pension or lump sum for the bereaved family.

36 Funeral expenses in the case of death occurring at work.

37 If the injury or sickness remains uncured after medical treatment for 18 months and the worker's health condition is assessed to be higher than the third level of injury/sickness, such a worker will receive this pension in place of temporary disability benefit.

38 Amount spent on family care costs (maximum amount: 108,000 yen a month for constant care and 54,000 yen a month for temporary care) or a fixed amount.

39 Hanami, *supra* note. 29, p. 225.

Ministry of Labor based on the Child Care and Family Care Leave Law. However, the Ministry of Labor keeps the basic policy 'to accept foreign workers in professional and technical fields as much as possible. But it deals cautiously with the matter of accepting so-called unskilled workers with thorough deliberation, because such acceptance might have a far-reaching impact on our country's economic and social conditions'.⁴⁰

3. Renewal of Stay

Aliens who wish to change their status of residence or stay longer than the original period of stay determined in the landing permission without changing their status of residence, must apply for permission for a renewal of period of stay (Immigration Control Act, Articles 20 and 21). This permission is granted by the Regional Immigration Bureau at the discretion of the Ministry of Justice. Generally, applications for renewal will not be approved if applicants have attained the purpose of their visit, if there is any problem arising from their residence in Japan or if documents submitted by applicants do not show reasonable grounds for permission to stay.

Under Article 22-2 of the Immigration Control Act, permission for a change of status to permanent residence is granted at the discretion of the Ministry of Justice only when applicants fulfill the following requirements and their permanent residence will be in accordance with the interests of Japan. The first legal condition is that the alien must have demonstrated good behavior and conduct. The second legal condition is that the alien must have sufficient assets or skills to make an independent living. However, in the case of refugees, they may not be required to fulfill the second condition, and in the case of spouses or children of Japanese or permanent residents, they may not be required to fulfill either condition. According to the administrative interpretation of 'the interests of Japan', a 1- to 3- year residential term is required for children or spouses of Japanese or permanent residents. Otherwise, a 10-year residential term is necessary to be allowed a Permanent Residence Permit 104.⁴¹ This long requirement should be amended; however, it shows that the Japanese government traditionally opposes the settlement of foreign workers. Previously, it was reported that the general requirement was a 20-year residence.

It should be added that there are two significant exceptions. First, some Koreans and Taiwanese who lost their Japanese citizenship on the basis of the Peace Treaty and their descendants are considered as special permanent residents stipulated by the Special Law on Immigration Control. They are specially protected from deportation except in instances where they have committed serious crimes or violated vital national interests. Also, second and third generation people of Japanese origin were granted quasi-permanent residence by the amendment of Immigration Control Act in 1990. Most of them, who are Brazilian or Peruvian, can work without restriction and the renewal of their residence permit is relatively easy.

4. Deportation

As mentioned previously, Koreans and Taiwanese and their descendants who lost their Japanese citizenship are protected from deportation, except where they have been sentenced to imprisonment for more than 7 years. Furthermore, their deportation is only where the Minister of Justice has found that the vital interests of Japan have been jeopardized by the act of crime.⁴²

For other aliens, Article 24 of Immigration Control Act stipulates various grounds for deportation. The following aliens may be deported:

1. Those who entered Japan without a valid passport: Illegal entry⁴³;

40 See <http://www.mol.go.jp/english/outline/08-1.htm>.

41 Nobuyuki Koyama, "Zairyu Shikaku Eijyusha Nitsuite" [On the Status of Permanent Residents] *Kokusai Jinryu* [The Immigration Newsmagazine] no. 138 (1998), p. 26.

42 Yuji Iwasawa, *International Law, Human Rights, and Japanese Law* (Oxford: Clarendon Press, 1998), p. 146.

43 There is an amendment bill of the Immigration Control Act to establish an illegal entry crime and illegal entry persons shall be punished with penal servitude or imprisonment of not more than 3 years or a fine not more than 300,000 yen at any time.

2. Those who landed in Japan without any landing permission: Illegal landing;
3. Those who stay over the permitted period of stay: Overstay;
4. Those who violated the activity conditions of their residential status: Illegal activity;
5. Those who violated the conditions of their temporary landing;
6. Those who incited, instigated or aided illegal entry or illegal landing;
7. Those who are sentenced to imprisonment for violation of the Alien Registration Law;
8. Minors who are sentenced to imprisonment exceeding 3 years;
9. Those who are convicted of violation of the Narcotics Control Act and so on;
10. Those who are sentenced to imprisonment exceeding 1 year;
11. Those who engage in any business connected with prostitution;
12. Those who engage in acts of destructive violence; and
13. Those whom the Minister of Justice deems to have committed acts detrimental to the interest or security of Japan.

Statistics show that 49,566 foreigners were deported in 1997. Among the reasons were overstay (41,113), illegal entry (7,117), illegal landing (776), illegal activity (430) and violation of criminal laws, etc (130). Of those deported, 41,606 were illegal workers, and the major groups were Koreans (10,346), Chinese (7,810), Filipino (5,067) and Thai (4,487).⁴⁴ In 1998, 48,493 foreigners were deported, and 7,472 of those deported were illegal entrants. The major groups of illegal entrants by air were Filipino (1,295), Thai (1,181), Chinese (886) and Koreans (228), and the major groups of illegal entrants by sea were Chinese (1,832), Filipino (119), Koreans (57) and Thai (25).⁴⁵ Apparently, most illegal foreign workers enter Japan legally as tourists and so on, and then work illegally and overstay.⁴⁶ More than 95% of those deported left Japan at their own cost.⁴⁷

The Immigration Control Officer will start deportation procedures from the investigation of a violation. Then an Immigration Inspector will investigate the violation and this is the first instance for deportation. If a deportation suspect has an objection to the actions taken, he may orally request a Special Inquiry Officer for a hearing within 3 days from the date of the notification and this is the second instance. Furthermore, a suspect may file an objection with the Minister of Justice by submitting it to a Supervising Immigration Inspector within 3 days from the date of another notification and this is the third instance. Lastly, the Supervising Immigration Inspector shall immediately issue a written deportation order, upon receipt of the notification from the Minister of Justice of his decision that the objection is groundless (Immigration Control Act, Articles from 27 to 49).

If overstay persons are considered as very vicious, they shall be punished with penal servitude or imprisonment not more than 3 years or a fine of not more than 300,000 yen, or shall be punished with both penal servitude or imprisonment and a fine (Immigration Control Act, Article 70). The Immigration Control Act was amended and will be enforced on February 18, 2000. The first significant revision is to establish the new penalty for illegal entrants. Up to now, if illegal entrants have stayed in Japan for 3 years since they entered Japan, and the period of prescription runs out, criminal punishment cannot be imposed on them, even if they are deported in the same manner as overstay persons. The newly established criminal offence is called 'unlawful stay,' so that the government can always impose punishment on illegal entrants.

The second significant revision of the Immigration Control Act in 2000 was the extension of the refusal period of re-entry. Up to now, deported foreigners will not be allowed to re-enter Japan 'for 1 year from the day of their deportation' (former Article 5-1-5). The new Article 5-1-5 of the Immigration Control Act extends the refusal period to 5 years. The Immigration Bureau states that this extension is to prevent the increase of people who re-enter Japan after deportation.

44 Japan Immigration Association, *Statistics on Immigration Control 1997* (Tokyo: Japan Immigration Association, 1998), pp. 84-85.

45 Japan Immigration Association, *Statistics on Immigration Control 1998* (Tokyo: Japan Immigration Association, 1999), pp. 54, 72-76.

46 Helmut Lonskandl, 'Illegal Migrant Workers in Japan' in Robin Cohen (ed.), *The Cambridge Survey of World Migration* (Cambridge: Cambridge University Press, 1995), p. 373.

47 Homusho Nyukoku Kanrikyoku, (ed.), *Heisei 10 Nenban Shurutsumyokoku Kanri* [Immigration Control, 1998 ed.] (Tokyo: Okurasho Imatsukyoku, 1998), pp. 148.

Recently, because of this strict amendment of the law and 5-10 years of living in Japan, a group of 21 overstay persons from Iran, Bangladesh and Burma, made up of 5 families and 2 single persons, visited the Tokyo Regional Immigration Bureau to request the 'special permission for residence'.⁴⁸ Additionally, another group of 17 over-stay persons also requested special permission of residence. They have worked and paid taxes, been injured in industrial accidents, or been to schools in Japan.

The Japanese government has never taken a general amnesty and definitely rejected the mass relief for irregular residents because such a generous measure can serve as a powerful magnet for accelerated flows of new irregular migrants. However, special permission for residence is stipulated in the Article 50-3 of the Immigration Control Act. If 'the Minister of Justice finds grounds for giving special permission to stay' in individual cases of irregular residents, the former decision for deportation shall be cancelled and some kinds of residential status are to be given to them.

5. Re-entry

The third significant revision of the Immigration Control Act in 2000 is the extension of the validity period of re-entry permission. The new Article 26-3 stipulated that 'the Minister of Justice shall determine a period of validity of the re-entry permission (including multiple re-entry permission) which shall not exceed three years from the date of issuance of the permission'. This validity period is extended from 1 year to 3 years. The aim of this amendment is to adjust the age of international migration, and therefore foreign residents will no longer need to bother to visit the Immigration Bureau for the re-entry permission if they take necessary procedures for re-entry at the same time as the renewal of their visas.

Pursuant to the Article 26 of the Immigration Control Act, the Minister of Justice can give permission for re-entry when aliens, with intentions to return, leave Japan before their period of stay expires. However, persons who have been sentenced to imprisonment for 1 year or more, or persons deported within the past one year shall be denied permission to land in Japan (the former Article 5-1-9).⁴⁹ Therefore, re-entry for past irregular residents is restricted for 5 years. As stated above, this refusal period of re-entry has been extended from 1 year to 5 years in 2000 (new Article 5-1-9).

Since 1989, persons who encourage aliens to engage in illegal work by offering employment, who keep aliens under their control for the purpose of having aliens engage in illegal work or who mediate, as a matter of business, in illegal work, will be punished with imprisonment for up to 3 years and/or a fine of up to 2 million yen (Immigration Control Act, Article 73-2). Even a mediating act done abroad is subject to punishment in Japan. The certificate of authorized employment is issued on application to foreign legal workers. By this certificate, the foreign workers concerned can easily confirm to the employer that they are authorized to work, while a bona-fide employer can make a judgment on what type of activities could be authorized to him under the law.⁵⁰

It should be added that the re-entry of a special permanent resident is a significant issue in Japan. The Special Law on Immigration Control provides that re-entry permits should be valid for a maximum period of 5 years (as opposed to 1 year for other resident aliens). However, many Korean permanent residents refused fingerprinting against the requirements of the Alien Registration Law. If they travel abroad, they might be refused re-entry into Japan and lose their special permanent residence qualification after leaving Japan. Indeed, a recent precedent⁵¹ does not recognize the freedom of re-entry for a foreigner, but the overriding opinion states that the freedom of re-entry should be affirmed in the case of a settled alien.⁵²

48 Japan Times (September 2, 1999).

49 Furthermore, paupers and others who are likely to become a charge on the government, or narcotics law or stimulants law violators shall be denied permission to land in Japan.

50 Japan Immigration Association, *A Guide to Entry, Residence and Registration Procedures in Japan for Foreign Nationals*, 5th ed. (Tokyo: Japan Immigration Association, 1998), p. 47.

51 Supreme Court judgment, March 26, 1998.

52 Yoshio Hagino, *Kenpō Kōgi: Jinken* [Lectures on the Constitution: Human Rights] (Kyoto: Hōritsu Bunkasha, 1994), p. 205.

6. Administrative and political attitude

Under the system of alien registration administered by the immigration service, all foreign residents in Japan are required to register themselves at the municipal office of the city, ward, town, or village in which they live. This system is designed to secure fair and equitable control over foreign residents. From the beginning, however, there was strong criticism of the requirement placed on resident aliens to carry at all times an alien registration card bearing their fingerprint as confirmation of an alien's identity.⁵³ Facing a number of cases involving foreigners who refused to be fingerprinted⁵⁴, the Japanese government was forced to amend the Alien Registration Law numerous times. Initially, most foreigners were required to provide fingerprints of all ten fingers at each renewal.

Since 1993, besides permanent residents, foreigners residing for one or more years must provide a fingerprint of one finger at their first registration. The EU, by contrast, does not require fingerprinting, unless a refugee does not have a passport or other forms of identification. Thus, there is also a demand in Japan to abolish the aliens' fingerprinting system. The amendment bill of the Alien Registration Law in 1999 demands the entire abolishment of fingerprinting duties. This abolishment bill has been passed and will be enforced in 2000. Additionally, the obligation to carry a registration card remained in the bill and failure to comply with this duty may result in punishment with a fine not exceeding 200,000 yen. Therefore, the opposition parties proposed to abolish the carrying obligation for permanent resident aliens and change the punishment for other resident aliens from penal fine to administrative fine; government parties agreed with only the latter amendment.⁵⁵

Regarding the acceptance of foreign workers, administrative and political attitude are slowly changing because of the importance of living in harmony with Asia and the tendency of having fewer children and a larger number of aging people in Japan.

The Ministry of Foreign Affairs reported 'the Mission for Revitalization of Asian Economy: Living in Harmony with Asia in the Twenty-first Century' in November 1999. It mentioned the 'acceptance of foreign workers' as follows: '...There are strict restrictions on the immigration of foreign workers, even when they have expertise and skills that Japan could use. Japanese society is aging rapidly and nursing care is becoming a major social issue, but there is currently no visa status for people providing nursing care and similar services. Japan has a shortage of people able to provide nursing care, and many of those who require it do not have the financial means to obtain it. The problems are growing increasingly serious in nature, and it is time to rethink our systems. We should recognize 'nursing care provider' as a visa category, substantially expand our recognition of certifications granted by the governments of other countries, and relax visa requirements and immigration screening criteria. Visa requirements and immigration criteria should be relaxed for nurses as well. These kinds of measures are completely different from allowing unrestricted inflows of foreign workers. It is essential for the vitality of the Japanese economy and society that we think more flexibly about the range of foreigner workers with special expertise and skills that Japan will accept'.⁵⁶

The Ministry of Justice is considering the inclusion of 'nursing care provider'. Consulting with related Ministries, the Minister of Justice published the Second Basic Guiding Plan for Immigration Control which reports on some directions of this plan. There is a discussion to recognize 'nursing care provider' for elderly people as skilled workers. Additionally, it will also enlarge and accept various types of work as 'technical interns'. Up to now, 55 types of work in sectors such as machinery, textile industry, construction, have been admitted as technical interns. The plan is widening to hotel, agriculture and so on. It will be flexible enough to accept the engineers in the Info-com industry and change the status of college students to workable status. The 'establishment permission' such as quasi-permanent residents or permanent residents will be more easily given to long-term residents to make society adjust for living in

53 Yasuaki Onuma, 'Beyond the Myth of Monoethnic Japan', in The Committee to Commemorate the Sixtieth Birthday of Prof. Suh Yong-Dal (ed.), *Asia Shimin to Kan Chōsenjin* [Asian Citizens and Koreans in Japan], (Tokyo: Nihon Hyōronsha, 1993), pp. 576-8.

54 See George Hicks, *Japan's Hidden Apartheid* (Aldershot: Ashgate, 1997), p. 96.

55 *Nishinichi Shinbun* (April 4, 1999), p. 30; *Asahi Shinbun* (May 13, 1999).

56 <http://www.mofa.go.jp/policy/economy/asia/mission99/report/part1.html#part1-II-1>

harmony with them.⁵⁷

There were some questions about future immigration policy in the House of Representatives Standing Committee on Justice on July 30, 1999. One representative of the Liberal Democratic Party (governmental party) asked the Minister of Justice to recognize the situation of Japan in Southeast Asia and manage to accept foreign workers in jobs which Japanese are not willing to engage. The other representative of the Liberal Party (governmental party) pointed out the total fertility rate of Japan (1.4%) and asked the Minister to be more flexible of residence status, adjusting to the period of fewer children and the changes in industrial structure. The Minister replied that the present policy is to accept foreign workers in professional and technical fields as much as possible, but to deal cautiously with the matter of accepting so-called unskilled workers with thorough deliberation. However, he added that it is necessary that adjustments should correspond with the future changes while keeping the basic policy.⁵⁸

7. Welfare

As a result of Japan's accession to the International Covenants on Human Rights in 1979 and the Refugees Convention in 1981, many social rights had to be, and indeed have been, extended to aliens. Citizenship clauses were eliminated from the National Pension Law, the Child Dependency Allowance Law, the Special Child Dependency Allowance Law and the Child Allowance Law, and so on.⁵⁹

Some problems still remain in the welfare system. Generally, persons registered through alien registration between 20 and 60 years of age are covered by the Basic Pension Scheme. However, if foreigners were over 35 years of age at the time of revision of the National Pension Law, and had paid their insurance charge, they could not receive the old age pension because they lacked sufficient premiums period (25 years). Since 1994 foreigners can receive a lump-sum payment on the application within 2 months of leaving Japan.

The Livelihood Protection Law did not clarify the citizenship clause. Then, a notice from the Social Section's chief was issued. This notice limited application to Japanese nationals due to the interpretation of the term 'national'. According to the 1954 administrative guideline of the Ministry of Health and Welfare, however, it applied *mutatis mutandis* to registered foreigners and provided them with medical care. In fact, it was similar to the application of the Livelihood Protection Law because the central government paid the expenses for the local governments. However, the Immigration Control Act was amended in 1990, and at this time the Ministry of Health and Welfare issued a new directive. Now, the *mutatis mutandis* application covers only foreigners of the Annex Table II, namely permanent resident, spouse or child of a Japanese national, spouse or child of a permanent resident and quasi-permanent resident. Foreigners of the Annex Table I are allowed to stay in Japan under the condition of not becoming a burden on the Japanese government, and they often leave their property and family in their home country.

Temporary visiting foreigners are excluded from the National Health Insurance Law. Originally, this Law did not have a citizenship clause, but its enforcement regulation had included one until 1986. Now, Article 5 of this Law stipulates that persons insured are 'those who have a domicile in communes or special wards'. However, according to the administrative interpretation from 1992, these 'domiciles' must have a residence period of one or more years or they have to reside for one or more years via renewal of their temporary visas. Temporary visiting foreigners are also excluded from application of the National Pension Law.

In the case of an irregular resident, she is not covered under the National Health Insurance Law (Tokyo District judgment, Sept. 27, 1995) since an irregular resident is not allowed to have a residence, even if she paid the insurance for her Japanese child covered under the National Pension Insurance. Practically, free maternity leave is guaranteed (Article 22 of the Child Welfare Law), as well as medical treatment for physically handicapped children (Article 20 of the Child Welfare Law) and medical

⁵⁷ *Asahi Shinbun* (January 14, 2000)

⁵⁸ The Minutes of the House of Representatives Standing Committee on Justice, No. 25 (July 30, 1999)

⁵⁹ Iwasawa, *supra* note 40, pp. 167, 174.

treatment for premature babies (Article 20 of the Maternal and Child Health Law) for overstay persons.⁶⁰ Legally, worker's compensation insurance will be paid regardless of citizenship, but in the case of overstay workers, employers and employees are not willing to apply it for fear of the disclosure of the illegal employment. Additionally, if illegal workers are unemployed, they are not considered to be 'unemployed' under the Employment Insurance law of 1974 because they do not have visas to seek work. Furthermore, in the case of an accident involving illegal foreign workers, the accounting of the lost benefit can be a serious problem between the standard of Japan and the country of their citizenship. The Supreme Court based it on the wage standard of Japan only for 3 years and that of the home country for the remainder of years (Supreme Court judgment, January 28, 1997).

In cases involving temporary visitors or irregular residents, some local governments have to pay for the emergency medical costs of foreigners who can be assumed to have fallen down by the roadside while traveling, according to the Law concerning the Treatment of Sick Wayfarers and Wayfarers Found Dead. It is required to have workable residential statuses in order to be covered under the Employee's Health Insurance scheme. Even if a foreigner has working status, small companies (less than 5 persons) and temporary workers are excluded from this insurance system. Additionally, some foreign workers are not willing to join this insurance because they must also simultaneously join their welfare pensions scheme, from which they cannot receive payments in the future. Foreigners who work or reside in Japan, however, do not correspond to the word 'wayfarers'. Temporary or irregular residents are not covered under the public insurance system and they cannot pay for the medical cost; therefore, some local governments and NGOs have to provide for their own expenditures.⁶¹ Since 1996, the state pays one third of the costs of emergency medical care for a condition which is fatal.⁶²

Today, a current problem is war-related compensation, regardless of present citizenship. Korean soldiers and army generals have not been properly compensated.⁶³ The Japan - Korea agreement of 1965 settled the issue of compensation between the people of both countries (Supreme Court judgment, July 15, 1994). Yet, the Japanese government is preparing to solve this problem in the near future.

8. Remittance

If foreign persons send money from Japan, they need to show the identification card such as passport or certification of alien registration. If they send more than 5 million yen, they need to fill in the form regarding the sender and the purpose of sending. This identification proofing was implemented since April 1999 in order to prohibit 'money laundering'. The price of the commission of a bank is 2,500 yen if the amount of remittance money is 5 million yen or less. It will be 0.05% of the remittance in the case of over 5 million yen. The Japanese Government applies no vital institutional restrictions on remittance, which may induce official remittance from persons working overseas, whereas in many countries sending labor, various measures are taken to impose a specified amount of surcharge on legal remittance transaction.⁶⁴ Additionally, formal ways of remittance by transferring through a bank account or telegraphic communication will take several days.

Therefore, many migrant workers are sending their money in secret, quick and cheap unofficial ways. People are fond of carrying money with themselves on boat or asking friends to carry money to North Korea. Recently, some foreign regular or irregular residents have established 'underground banks' without legal permission for the remittance to South Korea, China, Nepal, Thailand and so on. They earn a commission of 0.33-1% of the total remittance and change money in the underground market. It is

60 Emiko Miki, 'Gaikokujin no Iryō [Medical care for aliens]', in *Nihon Bengoshi Rengōkai Henshū Jinkai* (ed.), *Teijūka jidai no Gaikokujin no Jinken* [Aliens' Human Rights in the Permanently Domiciling Time] (Tokyo: Akashi Shoten, 1997), pp. 897-88.

61 Akira Hatate, 'Gaikokujin no kodomo to iryō [Foreign children and their medical care]', in *Jiyū Jinken Kyōkai* [Japan Civil Liberties Union] (ed.), *Nihon de Kurasu Gaikokujin no Kodomotachi* [Foreign Children Living in Japan] (Tokyo: Akashi Shoten, 1997), pp. 87-91, 99-102.

62 Toshi Murata, 'Gaikokujin no rodo kankyo wo meguru horitsu mondai [Legal problems on the aliens' labor environment]', in *Nihon Bengoshi Rengōkai Henshū Jinkai* (ed.), *Teijūka jidai no Gaikokujin no Jinken* [Aliens' Human Rights in the Permanently Domiciling Time] (Tokyo: Akashi Shoten, 1997), p. 109.

63 If the plaintiff, Mr. Sok Song-Ki, had been Japanese, he would have received a cumulative total of 60 million yen for his injury (the loss of an arm). See Hiroshi Tanaka, 'Why is Asia Demanding Post-war Compensation Now?', *Hitotsubashi Journal of Social Studies*, vol. 28, no. 1 (1996), p. 10.

64 Mori, *supra* note 5, p. 83.

reported that the cost of informal remittance to South Korea through these underground banks might be about 7.7% of the cost charged by formal banks.⁶⁵ Underground brokers can send the money to the receiver in about one day from pooled money in the receiving country and sometimes they carry large amounts of money themselves for the supplement of the pooled money. Since 1997, managers of the 'underground banks' have been arrested in 15 cases and it is reported that around 100 billion yen was remitted illegally through these underground banks.⁶⁶ For example a Chinese was sentenced to 2 years' imprisonment and fined 700,000 yen, and another was sentenced for one year and a half and fined 700,000 yen under violation of the Bank Act.

Generally, short-term and single foreign workers intend to return to their home country and are willing to take on extra work and limit consumption to the minimum in order to maximize savings or remittances. In contrast, long-term and 'family re-united' foreign workers intend to settle in the host country and the willingness to send remittances will decrease. Therefore, the average amount of remittances per newcomer has decreased from 830,205 yen in 1980 to 173,329 yen in 1992 with some fluctuations affected by the economic ups and downs in Japan.⁶⁷

Concluding Remarks

In the 1990s, reports on foreign criminals have been increasing in the media. The National Police Agency categorizes foreigners into two types: (1) Newcomers (*Rainichi gaikokujin*), and (2) other foreigners. Newcomers are foreigners in Japan, but are neither settled aliens, US Armed Forces persons nor persons of unknown residential status. Table 2 shows statistics in relation to the numbers of arrested newcomers, excluding traffic violations and serious crimes, such as murder, robbery and so on.

Table 2. Criminal Statistics for General and Newcomers

		1990	1991	1992	1993	1994	1995	1996	1997	1998
Crime	General	293,264	296,158	284,90	297,725	307,965	293,252	295,584	313,57	324,630
	Newcomer	2,978	4,813	5,96	7,276	6,989	6,527	6,026	5,43	5,382
Serious Crime	General	4,723	4,687	4,70	5,190	5,526	5,309	5,459	6,63	6,949
	Newcomer	111	126	18	246	230	201	212	21	251

Source: The National Police Agency, The White Paper on Police; The Research and Training Institute in the Ministry of Justice, The White Paper on Crime.

The number of crimes committed by foreigners started to increase in 1991, mainly due to the increase in crimes committed by visiting foreigners. In April 2000, Tokyo Governor Shintaro Ishihara, co-author of 'A Japan That Can Say No,' indicated the possibility that 'many *sangokujin* (third-country nationals) who entered Japan illegally' would riot in the aftermath of natural disasters, and he has repeatedly emphasized the negative impact of illegal foreigners on public security. Ishihara's comments prompted general denunciations from leading politicians and media, but many residents sent supportive comments to the Governor. The Governor's remarks likely constitute an infringement of the International Convention on the Elimination of All Forms of Racial Discrimination, which stipulates that the signatories 'shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.'

In 1996, the rate of those convicted in foreigner cases with interpreters or translators available was 10.1 % of the total defendants convicted, and 82.9 % of the defendants convicted in foreigner cases. The number of Class F prisoners (those who need different treatment from Japanese) increased between the years 1986 to 1995, but decreased in 1996 to 279.

The problems that need to be resolved are those such as securing a sufficient number of interpreters, and the restraint of sensational reports on 'Foreigner Crime'. The Japanese government had

⁶⁵ *Mainichi Shinbun* (March 1, 1999), p. 7.

⁶⁶ *Nihon Keizai Shinbun* (March 2, 1999), p. 12.

⁶⁷ Mori, *supra* note 5, pp. 80, 84.

been willing to assimilate the old-comers and exclude newcomers. However, the integration policy based on cultural pluralism is gradually being applied in local and national governments.⁶⁸

Ethnic education has not been adequate enough to secure the right to receive an education. The General Association of (North) Korean Residents and the (South) Korean Residents Union run their own schools, which employ a bilingual Japanese and Korean curriculum.⁶⁹ The Japanese government has refused to accredit these schools and therefore these students have not been able to take the entrance examination for national universities. Recently, however, many universities have been opening their doors to these students. There is a serious education problem for newcomers, however. According to the survey of 1993, 10,450 children in compulsory education (elementary schools and junior high schools) needed additional language training.⁷⁰ Under the present conditions, it is difficult for foreign students to learn even the Japanese language. Most schools do not take any measures for their native language education. In a few local governments, Portuguese and Spanish teachers were hired part-time by a city to teach Japanese-origin Brazilian and Peruvian students. Even if these *Nikkeijin* keep moving between Japan and their home countries periodically, both acquisition of the Japanese language and native language maintenance will become difficult for their children.⁷¹ Gradually, through their experiences, there is a growing awareness regarding multi-ethnic education.

Additionally, there has been a problem of ethnic discrimination in employment. About 90% of Korean residents used a Japanese name as an alias in order to avoid discrimination at work and school as recently as 1992.⁷² Fortunately however, Japanese society is changing. A Korean resident using a Japanese name as an alias was accepted for employment but immediately released because of his citizenship. This person brought a lawsuit against this company and won in 1974. In another case, a Korean resident was accepted as a legal trainee to become a lawyer without applying for naturalization in 1977.

It has been difficult for foreign residents to find employment as public servants who 'participate in the exercise of public authority or formulation of public will', although the legal bases for citizenship requirement are not so clear except for Diplomat Law, and so on. Gradually, public service posts, such as public university professorships, doctors, nurses, mail delivery staff workers in post offices, and lectureships in schools are being opened to non-citizens. In 1992, approximately 30% of municipalities abolished the nationality requirement for general administrative officials. In 1996, the city of Kawasaki abolished the citizenship requirement for posts in general office work, the first time this was done in a large city.⁷³ The District Court refused a Korean public health nurse the right to apply for section chief (Tokyo District Court judgment, May 16, 1996). Yet the Appellate Court approved her right and confirmed that the constitutional principle of popular sovereignty⁷⁴ does not prevent foreign residents (especially permanent residents) from being employed in a managerial position if he/she does not have a decisive competence (Tokyo Appellate Court judgment, November 26, 1997).

As for electoral rights of national suffrage, the citizenship requirement is constitutional according to a Supreme Court judgment (February 26, 1993). In the case of local suffrage, the Constitution does not guarantee nor prohibit local suffrage of aliens such as permanent residents. The Supreme Court left it as a matter of legislative adjustment (Supreme Court judgment, February 28, 1995). This decision was an epoch-making one, giving a signal to the Diet that the introduction of local suffrage of permanent residents is possible by statutory legislation without constitutional amendment. There have been more

68 Atsushi Kondo, *From the Monoethnic State to Cultural Pluralism in Japan*, Center for Pacific Asia Studies at Stockholm University Occasional Paper 38 (1998).

69 John C. Maher and Yumiko Kawanishi, 'On being there: Korean in Japan', in John C. Maher and Kyoko Yashiro (eds.), *Journal of multilingual and multicultural development*, vol. 16, 1-2, Multicultural Japan, (1995), pp. 89-90.

70 Mori, *supra* note 5, pp. 203-4.

71 T. Kajita, 'Nature de l'immigration au Japon' *Revue de l'institut de Recherches Politiques et Économiques sur le Japon contemporain* 1 (1996), p. 116.

72 Hanami, *supra* note 29, p. 139. Until the amendment of Nationality Law and administrative guidance on naturalization in 1986, the naturalized citizen has to choose a Japanese name. See further Mitsushi Sugihara, 'The Right to Use Ethnic Names in Japan', *Journal of Intercultural Studies*, Vol. 14, No. 2 (1993), pp. 12-33.

73 However, this effort excludes firemen and prohibits promotion to management positions.

74 All public power emanates from the people defined as all persons who have Japanese citizenship. This principle is called *sovereignty national*.

than 1,400 resolutions in the local assemblies asking for a change in the law to introduce alien's political rights at the local level in Japan. The ruling party was not willing to introduce the alien's vote but after the President of South Korea came to Japan in 1998, the political climate changed. Opposition parties submitted a bill to introduce local voting suffrage for aliens and the Prime Minister expressed a positive opinion on this matter. Public opinion and the opinion of the representatives of the national Parliament appear to be in favor of the denizen vote.⁷⁵ In 2000, two governmental parties submitted the new bill on local suffrage for permanent residents except for Koreans who do not have South Korean citizenship because there are no diplomatic relations between Japan and North Korea.⁷⁶ However, this exclusion has a serious problem of citizenship discrimination.

Furthermore, the citizenship system should be amended for admitting dual citizenship. It is reported that more than 230,000 individuals were naturalized in Japan from 1945 to 1993. Most of them are old-comer Koreans (75.9%) and Chinese (19.4%).⁷⁷ According to the Nationality Law, a possible interpretation is that the Japanese naturalization system does not need assimilation requirements.⁷⁸ Yet strict assessment of assimilation into the Japanese lifestyle and fluency in the Japanese language is required under the administrative guidance on naturalization.⁷⁹ More than 50 application forms have to be submitted⁸⁰ and applicants were forced to adopt a Japanese name. However, an amendment of the Nationality Law in 1985 had eliminated the phrase 'Japanese name only' in the administrative guidance on naturalization. Nevertheless, it is still necessary to write the name with Japanese characters (*kanji*, *hiragana* or *katakana*). Since 1994, there were judgments to admit double names that combine both family names in cases of international marriage.⁸¹ Individuals with dual citizenship are increasing as a result of international marriages (around 4% of the marriages at present in Japan). In recent times, about 80% of Korean residents marry Japanese, and almost 8,000 children are born to Korean and Japanese parents annually.⁸² Under the 1985 revision of the Nationality Law, children with one Japanese parent could have dual citizenship, but they must choose either Japanese or foreign citizenship before they reach 22 years of age. This optional obligation system was introduced as the result of an amendment from the *patrilineal jus sanguinis* to *patrilineal and matrilineal jus sanguinis* principle.⁸³ It has been emphasized that dual citizenship has many disadvantages: friction from different diplomatic protection rights between countries, conflict of loyalties, inefficiency in immigration control, bigamy due to difficulties in establishing personal identity, and confusion of civil international law relations.⁸⁴ In spite of the fact that they have lived more than 50 years in Japan, many Koreans refuse naturalization. The reason is that they do not want to lose their Korean ethnic identity, which is connected with citizenship. It should be added that they do not want to forget the history of Japanese colonization, when they were forced to take up Japanese citizenship and a Japanese name.

Additionally, there are about 2,186 registered stateless persons in Japan.⁸⁵ In the *Andere* case, whose father was unknown and mother was missing after his birth, the interpretation of Article 2 (3) of the Nationality Law, which stipulated that 'if both parents are unknown,' a child born in Japan can acquire Japanese nationality, became a problem. The District Court approved that the child should be

75 Takashi Ebashi, 'Gaikokujin shimin no chiho sanseiken [Local voting rights for alien citizens]', *Nihon Bengoshi Rengokai Henshu Jinkai* (ed.), *Teijika jidai no Gaikokujin no Jinken* [Aliens' Human Rights in the Permanently Domiciling Time] (Tokyo: Akashi Shoten, 1997), pp. 114-5.

76 *Mainichi Shinbun* (January 22, 2000).

77 Kazumi Moriki, *Kokuseki no Arika* [The Whereabouts of Citizenship] (Tokyo: Akashi Shoten, 1995), p. 256.

78 SOPEMI, *Trends in International Migration. Annual Report 1994* (Paris: OECD, 1995), p. 63.

79 Yong-dal Kim, *Zainichi Chosenjin no Kika* [Naturalisation of Koreans in Japan] (Tokyo: Akashi Shoten, 1990), pp. 90-1.

80 Toshiko Ota et al., *Koseki, Kokuseki to Kodomo no Jinken* [The Family Registration, Citizenship and Rights for Children] (Tokyo: Akashi Shoten, 1995), p. 172; Tsuguhiko Yokô, *Kaitei Kika Tetsuzuki no Tebiki* [Revision of the Naturalisation Procedure] (Tokyo: Nihon Kajo Shuppan, 1995), pp. 119-20.

81 Kazuaki Tezuka, 'Gaikokujin Teijû Mondai no Yukue' [The Prognosis of the Problem on Domiciled Aliens], in *Nihon Bengoshi Rengokai* (ed.), *Teijû Jidai no Gaikokujin no Jinken* [Aliens' Rights in a Period of Domiciliation] (Tokyo: Akashi Shoten, 1997), p. 134.

82 John C. Maher and Yumiko Kawanishi, 'Maintaining Culture and Language: Koreans in Osaka', in John C. Maher and Gaynor Macdonald (eds.), *Diversity in Japanese Culture and Language* (London: Kegan Paul International, 1995), p. 170.

83 As for the history of the Japanese citizenship, see Yoshio Hagino, *Recent Development of the Nationality Law of Japan*, *Nanzan Hôgaku*, vol. 8, no.2 (1984), pp. 1-9. As for the guideline of Japanese citizenship, see Ryoichi Yamada and Fumiaki Tsuchida, *An Easy Guide to the New Nationality Law* (Tokyo: The Japan Times, 1985).

84 Kiyoshi Hosokawa, 'Amendment of the Nationality Law' *The Japanese Annual of International Law*, no. 28 (1985), p. 20.

85 Japan Immigration Association, *supra* note 13, p. 6.

granted Japanese nationality, but the Appellate Court refused it on the grounds that his mother probably had Filipino nationality. However, the Filipino government denied it because of her lack of a passport. In the end, the Supreme Court approved that the child be granted Japanese nationality. The reason was because of the clause 'if both parents are unknown' which was interpreted as, 'if both parents are undetermined' (Supreme Court judgment January 27, 1995). In order to eliminate the occurrence of stateless persons, this clause should be revised as 'if a child does not acquire nationality by the Nationality Law of his or her own parents' country'.⁸⁶ Overstay parents are unwilling to go to the civil registration office for fear of deportation. Thus, there is no precise data regarding stateless children.

Lastly, regularization of long-term irregular residents, including children who attend Japanese schools, is a significant problem to be solved. Since the bubble economy in 1980s, many foreign workers came to Japan and overstayed for working in various jobs. It is estimated that Japan needs to accept many immigrant workers because of the shortage of labor force in the next 50 years.⁸⁷ However, the Ministry of Justice does not want general amnesties for illegal workers for fear that Japan will be a magnet for further undocumented immigrants. The Minister has the discretion to give the 'special permission for residence' for long-term irregular residents on humanistic grounds and so on. Most precedents of the 'special permission for residence' by the Ministry of Justice have been given in the case of spouses or parents of Japanese citizens. Historically speaking, the Japanese Government has authorized special permission for residence on humanistic grounds to hundreds of Koreans who entered Japan 'illegally,' recognizing that they established their home base in Japan. Presently, the protection of children's rights is the significant issue for this permission. Hundreds of Japanese and foreign academic researchers have appealed for the Japanese Government to grant special permission for residence to irregular residents including children.⁸⁸ Children should not be held responsible for overstaying and they attend Japanese schools, have close Japanese friends and speak only Japanese. The Minister of Justice must respect the International Convention on the Rights of the Child, which the Japanese Government ratified in 1994. Deportation of these children would be a serious violation of their human rights. The Minister decided to give special permission for residence to families with school children who have learned Japanese for many years and cannot manage the language of their countries of origin, because their deportation would bring hardship to their lives. At last, in February 2000, the Ministry of Justice granted special permission for residence to four long-term irregular resident families with school children.⁸⁹ This precedent will bring many similar requests for regularization, even if it remains the problem of uncertain requirements of special permission. The next significant problem for Japan is to make a rule as to how to accept foreign workers through the front door and how to integrate them into the society.

86 The similar clause is regulated in France, Italy and Spain. See Yasuhiro Okuda, *Kazoku to Kokuseki* [the Family and Citizenship] (Tokyo: Yuhakusha, 1996) p. 61.

87 The UN Estimation of the Population Dynamics. See *Masumichi Shimbun* (January 13, 2000).

88 *Asahi Shimbun* (November 11, 1999).

89 *The Japan Times* (February 3, 10 and 15, 2000).

Labor Code on the Employment and Management of Foreign Nationals in Taiwan

*Ching-lung Tsay
Pi-yuan Tseng*

The Employment Service Act

Chapter 5: The Recruitment and Supervision of Foreign Persons

Article 41

To protect the rights of nationals for work, the employment of foreign persons shall not interfere with the job opportunities and labor conditions of nationals, economic development, or social stability.

Article 42

A foreign person who has not obtained a work permit shall not be recruited to work within Taiwan (ROC).

Article 43

Except when there are other provisions in this act, a foreign person recruited by an employer to do a job within Taiwan (ROC) shall be limited to the following:

1. Those performing special or technical services,
2. Chief executive of an enterprise invested or established by an Overseas Chinese or a foreign person approved by the Government,
3. Teachers of public or registered private colleges or universities, or primary schools for foreign residents,
4. Full-time teachers of foreign languages in short-term supplementary schools registered under the act of supplementary education,
5. Athletes or athletic coaches,
6. Work related to religion, the arts or entertainment,
7. Family servants,
8. Work designated by the competent central authorities as necessary to important reconstruction strategies or economic or social development,
9. Other work especially approved by the competent central authorities for which local talent is lacking, necessitating the recruitment of foreign persons.

The competent central authorities together with the competent central authorities for enterprises shall formulate and specify the qualifications of and the investigation procedures for these foreign workers.

Prior to lodging an application for the recruitment of a foreign person for the work prescribed in sub-paragraphs 7 to 9 of paragraph one, the employer shall first advertise locally for such a worker stating reasonable labor conditions. If the advertisement fails to satisfy the need, the employer may apply to rectify the deficiency by employing a foreign worker.

When foreign persons are employed in accordance with sub-paragraphs 7 and 8 of paragraph one, the contract between the two parties shall be in accordance with the terms specified in Periodic Contracts prescribed in the Labor Standards Law.

If the dependents of foreign employees recruited under any of the items prescribed in paragraph one are excluded from the applicable extent of Labor Insurance Program and shall not apply for and receive the insurance pay for the reason of diseases, childbirth, or death.

Article 44

Prior to the recruitment of foreign persons for work prescribed in sub-paragraphs 1 to 6 of paragraph one of the previous Article, the employer shall examine and prepare the related documents and apply for permission for each business objective, except for consultants or researchers employed by the central, provincial (municipal) government and/or subsidiary institutes for academic research.

Such permission and related measures of recruitment and supervision shall be prescribed by the competent central authorities together with the competent central authorities for enterprises.

Article 45

Prior to the recruitment of foreign persons for work prescribed in sub-paragraphs 7 to 9 of paragraph one of Article 43, the employer shall examine and prepare the related documents, and apply for permission from the competent central authorities. Such permission and related measures of recruitment and supervision shall be prescribed by the competent central authorities together with the competent central authorities for enterprises.

Article 46

Embassies, consulates, and other institutes of foreign countries in Taiwan (ROC) may employ foreign persons with the permission of the Ministry of Foreign Affairs. Such permission and related measures of recruitment and supervision shall be prescribed by the Ministry of Foreign Affairs together with the competent central authorities.

Article 47

An employer wishing to employ foreign students attending public or private colleges or universities shall apply to the Ministry of Education for permission. Such permission and related measures of recruitment and supervision shall be prescribed by the Ministry of Education together with the competent central authorities.

The work of these foreign students is not subject to the prescriptions of paragraph one of Article 43. Except for summer or winter vacation, there shall be a ceiling of 12 working hours per day.

Article 48

If an employer hires any of the following foreign persons, he is not subject to the prescriptions of paragraph one of Article 43, Article 49, Article 50, Article 52, and paragraph two of Article 54. He is also exempt from paying the employment stabilization fee and the security deposit prescribed in Article 51 and Article 55.

1. One who marries a national of Taiwan (ROC) with domestic residence and a permit to reside,
2. Refugees permitted to reside,
3. Persons of exemplary behavior who have been permitted to be continuously employed within Taiwan (ROC), and have resided for 5 years in their dwellings.

For employing such persons, the employer shall apply for permission in accordance with the prescriptions of Article 44 to Article 46. For employing persons to do work outside of that denoted in paragraph one of Article 43, the employer shall apply for permission from the competent central authorities.

Article 49

The maximum duration for employing foreign persons is 2 years. At the end of this period, the employer may apply for an extension of 1 year, if necessary. However, the maximum duration for employing foreign persons for work specified in sub-paragraphs 7 and 8 of paragraph one of Article 43 is only 1 year, but the employer may apply for an extension of another year.

Article 50

Any employed foreign person who needs to change his employer or work within the permitted duration must request the original employer to apply jointly with the prospective new employer for permission to change. However, foreign workers employed for work specified in sub-paragraphs 7 to 9 of paragraph one of Article 43 shall not be allowed to change his employer or work.

Article 51

When employing foreign persons for work specified in sub-paragraphs 7 or 8 of paragraph one of Article 43, the employer shall pay the employment stabilization fee to the bank account of the Special Fund to be established by the competent central authorities. This fund shall be devoted to the promotion of national employment. The amount of the employment stabilization fee, receipts and disbursements, safekeeping, and the use of said Fund shall be prescribed by the competent central authorities together with other relevant agencies.

The competent central authorities may revoke the permission to employ foreign persons in case an employer fails to pay the employment stabilization fee.

Article 52

An employer shall give written notice to the competent local authorities or the competent authorities for enterprises, and the local police in case any of the following events occur:

1. An employee has been continuously absent from work without leave for 3 days and has lost contact,
2. An employee has severed the employment relationship with the employer,
3. The permitted duration of employment has expires.

Article 53

An employer shall not behave in the following manners:

1. Employ or continuously give employment to foreign persons without permission, or when the permission has been invalidated,
2. Employ foreign persons under his own name to work for other people,
3. Employ or continuously give employment to foreign persons for whom others have applied for work permits,
4. Assign foreign persons to engage in work other than that denoted in the permit.

Article 54

In case any of the following conditions prevail, the foreign person's work permit shall be partially or completely revoked:

1. Working for an employer not certified in the work permit,
2. Engaging in work not mentioned in the work permit,
3. The existence of any of the situations specified in Article 52,
4. Refusing to have regular physical check-ups during the period of employment, or if the physical and/or mental competence of the employee is inadequate for the work assigned, or if the employee suffers from an infectious disease stipulated by act or death.
5. Violation of the demands prescribed in accordance with paragraph 2 of Article 44, Article 45, Article 46, or paragraph 1 of Article 47, causing serious consequences,
6. Violation of other laws or regulations of Taiwan (ROC), causing serious consequences.

Any foreign person whose work permit has been revoked as denoted in the previous paragraph, shall be compelled to leave the country immediately and shall not be allowed to seek work in Taiwan (ROC).

Article 55

Any employed foreign person who has been legally deported under the orders of a police agency shall have his traveling expenses and detention fees borne by the employer.

The funeral service of a foreign worker who dies during the period of employment in Taiwan (ROC) shall be the responsibility of the employer.

When an employer recruits foreign persons to do work mentioned in sub-paragraphs 7 or 8 of paragraph one of Article 43, the employment stabilization fee shall be sufficient to cover all expenses denoted in paragraph one. The amount shall be fixed by the competent central authorities.

If an employer fails to pay the fee mentioned in the previous paragraphs, or if the employment stabilization fee paid by the employer is not sufficient to cover all expenses denoted in paragraph one, and the employer has been duly notified but still refuses to pay up, the institution which has paid the expenses for the employer shall request the Court to decide the amount which the employer shall repay.

Such a decision shall be enforceable by act.

Article 56

No one may recommend foreign persons to work for others illegally.

Article 57

The competent authorities, the competent authorities for enterprises, or police agencies may assign certain persons who carry with them the required documents to proceed to the workplace where foreign persons work or where foreign persons may be illegally employed, to conduct inspection.

An employer shall not evade, interfere with, or refuse the inspection mentioned in the previous paragraph.

Chapter 6: Penal Provisions

Article 58

If an employer violates the provisions of paragraphs 1, 2, or 3 of article 53, and the number of workers employed or continuously given employment is one, the said employer shall be penalized with, a prison term of 6 months or less, forced labor-service, or payment of a fine of NT\$90,000 or less, or both imprisonment and payment of a fine of less than NT\$90,000. If the number of persons illegally employed is two or more, the employer shall be liable to a prison term of no more than 3 years, forced labor-service, or payment of a fine of NT\$300,000 or less, or both imprisonment and payment of a fine of less than NT\$300,000.

In case the representative of a corporate person, agent of the corporate person and the natural person, the employees or other staff personnel commit the aforesaid offence in the course of business operations, not only the persons committing the offences, but also the corporate or natural person concerned shall be required to pay the above-mentioned penalties.

Article 59

Any person who violates the provisions of Article 56 shall be penalized with a prison term of 6 months or less, forced labor-service, or payment of a fine of less than NT\$150,000, or both imprisonment and payment of a fine of less than NT\$150,000.

Any person committing the above-mentioned offence with the intention of making profit shall be penalized with a prison term of less than 3 years, forced labor-service, or payment of a fine of less than NT\$600,000, or both imprisonment and payment of a fine of less than NT\$600,000.

Any person who frequently commits the offences prescribed in paragraph one shall be penalized with a prison term of less than 5 years, forced labor-service, or payment of a fine of less than NT\$1,500,000, or both imprisonment and payment of a fine of less than NT\$1,500,000.

In case the representative of a corporate person, agent of the corporate person and the natural person, the employees or other staff personnel commit the offences mentioned in the previous three paragraphs in the course of business operations, not only the persons committing the offences, but also the corporate or natural person concerned shall be required to pay the above-mentioned penalties.

Article 60

Any person who violates the provisions of paragraph two of Article 35 shall be penalized with a fine of no less than NT\$90,000 and no more than NT\$900,000.

Article 61

Any person who violates the provisions of Article 39 or paragraph two of Article 57 shall be penalized with a fine of no less than NT\$15,000 and no more than NT\$150,000.

Article 62

Any person who violates the provisions of Article 5, Article 9, Article 10, paragraph one of Article 29, paragraph one of Article 34, Article 40, Article 42, Article 52, or paragraph 4 of Article 53 shall be penalized with a fine of no less than NT\$3,000 and no more than NT\$30,000.

Any person who violates the provisions of Article 42 may be compelled to leave the country within a certain period by police agencies, with the assistance of the employer. In case of non-compliance with the injunction, compulsory enforcement may be used for this purpose.

Article 63

A private employment institution which violates the provisions of this act or the orders or regulations promulgated therefrom, shall be penalized with a fine of no less than NT\$3,000 and no more than NT\$30,000. Other relevant provisions of this act shall also be applied. In case of serious offences, a part or the whole of its business operations shall be terminated or its permit revoked.

Article 64

Any person who fails to pay fine penalties even after receiving official notice shall be dealt with by the Court for compulsory enforcement.

Chapter 7: Supplementary Provisions**Article 65**

Any person who has engaged in private employment service before the implementation of this act shall apply for the prescribed permission before the deadline decided by the competent central authorities. Any person who fails to apply before the deadline shall be penalized accordingly.

Article 66

Any foreign person already employed in Taiwan (ROC) under relevant acts or regulations shall apply for a permit after the implementation of this act during the rest of the employment duration, provided that the duration has not yet expired. Under such circumstances, the permit application may be sent without following the procedures prescribed in this act.

Article 67

The provisions of this act regarding foreign persons are applicable to those without nationality, Chinese who have foreign nationality entering the country on a foreign passport, or nationals of Taiwan (ROC) who have not obtained a domestic residence permit.

Article 68

The recruitment and supervision of persons from mainland China for employment in Taiwan shall follow the relevant provisions of Chapter Five of this act. The prescriptions or other relevant acts or regulations are also applicable.

Article 69

The enforcement rules of the present act shall be prescribed by the competent central authorities.

Article 70

This act shall take effect on the day of promulgation.

Evolution of Taiwan's Foreign Labor Policy and Management

Ching-lung Tsay

I. Foreword

The 1980's saw substantial growth of foreign trade and sustained prosperity of Taiwan's economy. The need at the grass-roots level for unskilled labor increased substantially as a result of the Government's active promotion of economic development. On the other hand, Taiwan suffered from severe labor shortage due to some economic and non-economic factors, such as the slow growth of young entrants into the labor force, increase of national income, upgrading of the education level, rapid development of service sector and the changing popular notion about jobs. To promote sustained social and economic development, there was need for labor in a large number of major construction projects, as well as the urgent need by domestic enterprises for unskilled labor at the grass-roots level, and thus, the Government opened up the labor market to foreign labor in September 1989. Based on statistics as of 30 April 2000, the total number of foreign workers in Taiwan numbered 298,633. In terms of nationality, Thai workers topped the ranks, accounting for 46.1%. Second to Thai were Philippine workers, accounting for 36.8%. In terms of sectors, topping the ranks was manufacturing which accounted for 59.6%. Social service and individual service (maids and nurses), accounted for 27.0%, followed by construction, accounting for 13.1%. Although the import of foreign labor helps to alleviate labor shortage at the grass-roots level, the import of large numbers of foreign labor has had considerable implications on economic and social development, epidemic control and social security. Particularly when the employment rate is high, the impact of foreign labor (taking away jobs from some local workers, such as aboriginal, middle- and senior-aged labor) is very considerable. Therefore it has become an important issue on the social policy agenda of the new Government to review the appropriate policy on foreign labor and gradually reduce the number of foreign workers.

II. Basic Policy on the Import of Foreign Labor

Clause 11 of the Employment and Service Law adopted on 8 May 1992 stipulates: 'To ensure the working rights of our nationals, employment of foreign labor shall not hinder the opportunities, working conditions of our nationals, nor shall it undermine economic growth and social security.' Under this Law, consideration of the current policy on the import and management of foreign labor is based on the following principles and factors:

A. Ensure employment rights and interests of nationals

The purpose of importing foreign labor is to help alleviate the domestic labor shortage. Foreign labor should play a supplementary role in the labor market and it should in no way replace domestic workers. Under the laws and regulations, therefore, employers should give priority to hiring domestic workers and providing them with reasonable conditions, before they may apply for employment of foreign labor. Only when the workers fall short of their requirements, can the employer apply for employment of foreign labor. Application for employment of foreign labor shall be rejected if an employer refuses to hire domestic workers without providing reasonable excuses. To ensure the employment rights and benefits of our nationals, there are restrictions on the employment of foreign labor, especially regarding the numbers and professions.

B. Prevent foreign labor from becoming illegal immigrants

As Taiwan is a small territory with dense population, it cannot afford to have a large number of immigrants. Various laws and decrees stipulate the time limit of employment of foreign labor in Taiwan. When the permit for stay expires, foreign laborers must go back to their home countries- their stay cannot be extended. In addition, in order to prevent them from becoming illegal immigrants, foreign workers cannot get married and give birth to children when working in Taiwan.

C. Avoid social problems caused by foreign labor

In order to reduce possible social security problems and epidemic control problems, ceilings are imposed on the total number of foreign labor. In the meantime, laws and decrees stipulate that foreign

workers must possess two certificates (non-criminal record certificate by police departments and health certificate by hospitals of their home countries which are designated by the Taiwanese Authority) before they can be allowed to enter Taiwan. Upon entering Taiwan, foreign workers must have a general medical check-up by our designated hospitals and go through the formalities for staying before they can stay and work. Employers should also provide the Government departments concerned with a life management plan for the foreign workers they employ, and be held accountable for the activities of the foreign workers.

D. Must not hamper the industry upgrade and economic development

Import of foreign labor can ease the urgent need of domestic labor shortage at the grass-roots level. However, if we try to maintain the labor-intensive industrial production structure, our industrial production structure upgrading will be delayed. Therefore, to prevent it from hampering or delaying our industrial structure upgrade, import of foreign labor should be carried out gradually, with restrictions on the numbers and professions. Employers should also adopt automation gradually.

E. Limit the number of labor exporting countries

To facilitate the management, the number of countries of origin of foreign labor should not be too many. Up to now, the Government has only approved import of foreign labor from five Southeast Asian countries: the Philippines, Thailand, Malaysia, Indonesia and Vietnam.

F. Illegal foreign labor must not be given legal status by local authorities

A strict ban shall be continuously applied on illegal foreign labor. Illegal foreign labor shall not be legalized locally to protect the effectiveness and fairness of the law. By doing, we can avoid encouraging more legal foreign labor to escape and work illegally in Taiwan.

III. Policy- Making Structures for Foreign Labor Policy and Management

The following are figures of the current policy making structure for foreign labor policy and management:

1. Executive Yuan

2. Governments of Counties and Municipalities as well as Municipalities directly under the Central Government

2A. Responsible for the promotion, management and regulations of the life of foreign workers

3. Council of Economic Constructions of the Executive Yuan

3A. Responsible for the development, coordination and review of foreign labor policies

4. Bureau of Industries, Ministry of Economy

4A. Responsible for the approval of key investment projects and employment of foreign labor; also for the management and guidance on issues concerning the life of foreign workers

5. Vocational Training Bureau, Council of Labor, Executive Yuan

5A. Responsible for the formulation and implementation of foreign labor policies, related measures and regulations; management of human resources brokerage; application and approval of employment of foreign labor; regulation of the life of foreign workers; statistics of dynamic information of foreign labor and management of Fund for Employment Security, etc.

6. Office of Health, Executive Yuan

6A. Responsible for health examinations, epidemic control and immunization of foreign labor

7. Office of Police, Ministry of Internal Affairs

7A. Responsible for the entry and exit of foreign workers, application for stay permits, criminal administration; banning, detention and repatriation of illegal foreign workers

8. Offices Abroad, Ministry of Foreign Affairs

8A. Responsible for the issuance of visa for foreign workers

1. Legislative Yuan

1A. Legislation of laws on foreign labor

2. Executive Yuan

3. Council of Economic Constructions of the Executive Yuan

3A. Responsible for the study, co-ordination and review of foreign labor policies

4. Council of Labor of the Executive Yuan

5. Co-ordination Commission on Foreign Labor

5A. (Members are representatives from related ministries and councils, the aim of which is to strengthen the co-ordination and co-operation among the departments of internal affairs, diplomatic, legislative and health in dealing with the matters concerning foreign labor)

6. Committee on Employment Security Fund

6A. (Members are experts, scholars, representatives from the ministries and councils concerned as well as organizations of labor and employer, the aim of which is to review matters relating to management and use of the Employment Security Fund)

7. Panel for Assessment of Foreign Labor Policies

7A. (Members are experts, scholars, representatives from the ministries and councils concerned as well as organizations of labor and employers. The aim is to assess the supply and demand situation of the labor market; impact of employment of foreign labor on the social and economic development; and matters relating to such policy issues as the review of quota or percentage ceilings on the employment of foreign labor.)

8. Vocational Training Bureau

9. Bureau of Industries, Ministry of Economy

9A. (Responsible for key investment projects, preliminary review of applications for employment of foreign workers)

10. Panel of Foreign Labor Review

10A. (Members are internal personnel of the Council of Labor; it is set up for the specific purpose of reviewing and making decisions on quota and import of foreign labor.)

11. Foreign Labor Consulting Service Centers at various locations

11A. Responsible for preliminary review and application for employment of foreign labor

12. Working Group on Foreign Labor

12A. Responsible for the formulation and implementation of foreign labor policies; management of human resources brokerage; application and approval of employment of foreign labor; management and guidance on matters relating to the life of foreign workers.)

IV. Regulation and Management of Foreign Labor

Import of foreign labor is carried out for the purpose of temporarily filling up the shortage of labor in the domestic labor market. To contain the negative implications on social and economic development, from the beginning of implementation, the Government has taken a very cautious and strict approach in making various regulations and rules in respect of the management of foreign labor. According to the Employment and Service Law promulgated and implemented in May 1992 as well as the related decrees and regulations, Measures for Management of Foreign Labor are stipulated as follows:

A. Limits on number and professions, and opening only selected sectors to foreign labor

In order to promote economic and social development and also meet the urgent need for foreign labor at the grass-roots level in various industries, from the very beginning, the measure of 'limiting the numbers and professions, opening only selected sectors' was adopted to regulate the import of foreign labor, in order to avoid the possible negative implication on social security from the big influx of foreign labor. Apart from maids, nursing workers and construction workers in major public construction projects, professions open to foreign labor are those relating to major sectors of foreign trade, industrial development, and manual jobs. Foreign labor must not exceed a stipulated percentage ceiling in the total national work force in Taiwan. More importantly, import of foreign labor is defined as an expedient short-term measure to supplement the domestic work force.

B. Study and formulate related laws and regulations

At the moment, laws and regulations on the regulation of foreign labor mainly include: 'Employment and Service Law', 'Detailed Rules and Regulations for the Implementation of Employment and Service Law (May 1992)'; 'Measures on Management and Permission of Employment of Foreigners (July 1992)'; 'Measures on the Management and Permission of Private Employment Service Institutions (July 1992)'; 'Measures on the Payment of Security Employment Fees (July 1992)'; 'Measures on the Use and Management of the Payment Balance of the Employment Security Fund (September 1992)'; 'Key Points on the Establishment of the Panel on Foreign Labor Policy Assessment (September 1995)'; 'Key Points on the Establishment of Coordinating Commission on Foreign Labor (November 1994)'; 'Measures on Strengthening the Management of and Guidance for Foreign Labor (June 1994)'; and 'Key Points on Preventing Foreigners from Illegally Working in Taiwan (September 1989)'. In the above-mentioned laws and regulations on foreign labor, the main points include the following:

1. Give priority to safeguarding the employment rights and interests of nationals

To safeguard the employment rights and interests of nationals and protect them from the negative implications of the import of foreign workers, it is stipulated that employers give priority to employment of local workers and provide them with reasonable employment conditions and benefits, before considering the alternative of employing foreign workers. Employers must get a permit for recruiting human resources from the public employment service institutions, before they can apply for recruitment of foreign labor to meet the shortage of workers (Clause 43 of the Employment and Service Law).

2. Restrictions on the duration and sectors of work for foreign labor

To prevent foreign workers from becoming illegal immigrants after working for long periods of time in Taiwan, it is stipulated that the longest period permitted for foreign labor to work in Taiwan is 3 years. When the permit expires, a foreign worker must go back to the home country and shall not be allowed to work again in Taiwan (Clause 49 of the Employment and Service Law). Foreign labor must not change their employers and job once they have reported to and received approval by the Departments concerned (Clause 50 of the Employment and Service Law). Foreign workers shall not bring their dependents to live with them,

nor can they get married in Taiwan (Clause 26 of the Measures on Management and Permission of Employment of Foreigners); foreign workers who have violated the law shall be repatriated immediately (Clause 54 of the Employment and Service Law).

3. Periodical medical check-up

To reduce the negative impact from import of foreign labor on national epidemic prevention, it is stipulated that the foreign labor shall present a health certificate issued by Taiwan-attested foreign hospitals before they are allowed to go through the formalities for entry visa. Within 7 days after entering Taiwan, foreign workers shall have a complete medical check-up at designated hospitals to certify their health conditions before they can start to work. Foreign workers have to have a medical examination every 6 months during working in Taiwan. Those who fail to meet the health requirements shall be repatriated immediately (Clauses 15, 16, 17 and 24 of the Measures on the Management and Permission of Employment of Foreigners).

4. Employers have to carry out considerable management responsibilities

An employer should report within 3 days to the departments concerned in the following situations: when a foreign worker is absent from work for 3 consecutive days without contacting the employer; when the employment relationship has been suspended; and when the work permit expires, etc. (Clause 52 of the Employment and Service Law). When filing for an application for employment of foreign workers, an employer should attach a plan on the management of accommodation arrangement and living conditions for the foreign workers (Clauses 6 and 45 of the Measures on Management and Permission of Employment of Foreigners). Once employment of foreign workers starts, the employer should pay the employment security fee periodically (based on the job characteristics, the fee per foreign worker per month ranges from NT\$ 800 to NT\$2,500) (Clause 52 of the Employment and Service Law). The employer should arrange for periodical health examinations for the foreign workers (Clause 24 of the Measures on Management and Permission of Employment of Foreigners). When the foreign workers employed exceed a certain number, the employer should assign a person to manage the affairs of foreign workers (Clause 8 of the Measures on the Management and Permission of Employment of Foreigners).

5. Management of human resources brokerage

Human resources brokerage was set up as a result of import of foreign workers. Under the law, companies of this kind may deal with employment services (Clause 36 of the Employment and Service Law). To prevent the brokers from overcharging foreign workers and employers, importing illegal foreign workers or conducting illegal activities, there are strict measures on fees and management, as well as punishment for irregularities (Clauses 39 and 60 of the Employment and Service Law; Clauses 16, 17, 30, 31 and 32 of the Measures on the Management and Permission of Private Employment Service Institutions).

C. Other measures for enhancing the regulation and management of foreign workers

1. Regulation and management of foreign labor are the primary responsibilities of the various ministries and councils of the central Government. Pooling the wisdom and joining efforts, the Council of Labor of the Executive Yuan has established the multi-ministries-and-councils 'Co-ordinating Commission on Foreign Labor', in order to strengthen co-ordination and co-operation in dealing with matters of foreign labor among the departments of internal affairs, foreign affairs, law and health (Key Points on the Establishment of Co-ordinating Commission on Foreign Labor). The Panel on Foreign Labor Policy Assessment, which consists of experts, scholars and representatives of ministries and councils concerned, has held periodical meetings to consider policy issues concerning foreign labor, such as demand and supply of labor, social and economic impact of importation of foreign labor, and percentage and quota for foreign workers in different business sectors (Key Points on the Establishment of the Panel on Foreign Labor Policy Assessment). In addition, the 'Panel on Foreign Labor Review', which consists of the internal personnel of the Council of Labor, was set up to review the matter of quota and import of foreign workers.

2. To alleviate the negative social impact from the importation of foreign labor, the Commission on Labor formulated in February 1998 'a program for strengthening the management of foreign labor' after consultations with the institutions concerned. The program aims at pooling the strengths of various

institutions concerned for the better management and regulation of foreign labor, setting up management information systems on foreign labor, enhancing the management of the living conditions and health related issues of foreign workers; strengthening the management of human resources brokerage, administration and prevention of illegal foreign labor.

3. In order to have full and complete information of the population of foreign workers and their location and movement in Taiwan, and to facilitate the institutions of police, health and labor administration towards having more complete knowledge of foreign workers within their jurisdiction, a dynamic system for management of foreign labor has been set up in the institutions concerned. The system has strengthened the management of foreign labor; starting from the point when a foreign worker applies for entry visa into Taiwan, the computerized system can keep trace of dynamic information on foreign workers, such as information on all entries and exits, health examinations, location and period of stay.

4. To strengthen the management of foreign labor and provide for the appropriate arrangement of living and leisure for foreign workers in Taiwan, employers are required to implement a 'management plan on the life of foreign workers'. Improvements have been made to the various services provided to foreign workers by:

- (1) Encouraging small- and medium- sized enterprises (SME) to adopt 'Joint Management of Foreign Labor'.
- (2) Strengthening the functions of the 17 'Foreign Labor Consulting Service Centers' at various locations to form a national and regional network of consultation.
- (3) Leaflets on 'Information for Foreign Labor' in English, Thai, Indonesian are made available to foreign workers.
- (4) Organizing field visits and study activities for managers of foreign workers, as well as Thai language training classes, law and decree orientation meetings, and leisure activities. Radio broadcasts in foreign languages have also been set up.

5. Because of the abundant labor supply in Southeast Asia and adoption of quota in Taiwan, currently foreign labor supply exceeds demand. Brokerage companies of foreign labor keep a high fee level as a means to cover costs. Although there are a large number of brokerages, the quality of their services is varied. Some are overcharging their clients and do not provide good service. In order to strengthen the management of foreign labor human resources, the following measures have been intensified:

- (1) Revising the Measures on Management and Permission of Private Employment Service Institutions. Illegal human resources brokers shall be given severe punishment.
- (2) Establishing a certification system for qualified human resources brokerage to improve the quality and professional expertise of the human resources as a whole.
- (3) Revising 'Fee and Charging Standards for Various Certificates and License of Private Employment Service Institutions', in order to set up a reasonable fee level for human resources.
- (4) Continue to promote 'direct employment' of imported foreign labor. The recruitment and brokerage will be done directly by foreign governments. For example an 'Agreement on Direct Employment of Labor' can be signed after consultation between our Government and the Government of the Kingdom of Thailand.
- (5) Organizing seminars for human resources brokerage personnel. Strengthening communications with the people in human resources brokerage.
- (6) Strengthening inspection on illegal activities in human resources brokerage.

6. There is a restriction that foreign workers shall not be allowed to work again in Taiwan after their employment expires and after they leave Taiwan. Some foreign workers escape because their employer is not responsible, or bankrupt, or because they are badly treated or lured by other high-paying jobs. To prevent foreign workers from escaping and working illegally, the following measures have been strengthened:

- (1) The revised draft 'Employment and Service Law' sent for review by the Legislative Yuan in December 1999 has increased the fine for both the illegal foreign workers as well as for employers who employ illegal foreign workers. For example, the fine for the illegal foreign worker has been increased from the current NT\$3,000 to NT\$30,000 to the higher level of NT\$30,000 to NT\$150,000. However, in order to reduce the cost for employers to train foreign workers and to provide encouragement for foreign workers with good performance, an addition has been put into the revised draft law: 'foreign workers who have not violated the law shall be allowed to work again in Taiwan'. It means the foreign workers with good performance can work again in Taiwan after the 3-year work permit expires and after they leave Taiwan, but the maximum period shall not exceed 6 years.
- (2) Give appropriate reward to those who inform authorities about illegal employment of foreign labor and to the policemen who have investigated and arrested illegal foreign workers.
- (3) Mass media shall stage periodical campaigns against the employment of illegal foreign labor.
- (4) Put a restriction on the number of foreign workers from those labor-exporting countries whose escapees exceed a certain percentage allowed. For example, the import of foreign labor from the Philippines has been suspended recently.

V. Conclusions

Labor shortage is basically a result of the fast economic development and the implementation of the principle of comparative advantage in developing various industries. It should be considered as a 'good phenomenon' that has evolved naturally. It is a 'fact' that many newly industrialized countries and developing countries cannot avoid. Under the pressure, Taiwan has not only achieved the goal of full employment but has also raised the income for its labor force, and her people enjoy better well-being. At the same time, the increasing labor cost pressure is an incentive for quality improvement by enterprises and for making further efforts towards technology upgrading. The aim of industries' upgrade is expected to be achieved in the long term. In the transitional period, import of an appropriate number of foreign workers at appropriate times is obviously conducive to the following goals: alleviating the pressure of labor shortage, improving the operational conditions of export-oriented industries and maintaining the competitive edge abroad, providing for the incentives for domestic investment, slowing down the pace of relocation of industries (from Taiwan to overseas), and speeding up major public construction projects.

As internationalization deepens, the international division and migration of labor has become an irreversible trend. However, importing too many foreign workers (at the moment, there are 300,000 foreign workers working in Taiwan) will result in a 'squeezed-out' effect on the employment of domestic workers (especially aboriginal, middle- and senior-aged workers). If too much effort is made for maintaining the labor-intensive industries, the upgrading of industries can be delayed. Increased dependence on foreign labor can become a long-term problem and cause social disintegration. It has already created pressure on areas such as housing, public health and social security.

Currently, foreign labor accounts for 7.5% of the total work force in manufacturing and construction. The negative impacts from import of foreign labor on the social and economic development of Taiwan have gradually become more tangible. As the current unemployment rate remains high, existence of a large number of foreign workers has created a substitutive effect on the use of domestic workers in similar occupations. In response to the current supply and demand situation of human resources and to reduce the negative impact created by the import of foreign labor on domestic social and economic development, the Government is providing enterprises with the incentives to promote automation and industry upgrade, to carry out vocational training for the domestic workers, and to enhance productivity. The Government has decided to conduct a periodical review and revision of the foreign labor policies, taking into consideration the country's economic development and the rights and interests of labor.

A. Introduction - Development of a legal structure with regard to foreigners

Early history records a tremendous amount of trading activity in the region of the Malay Peninsula (what is now West Malaysia). Part of the reason for the growth of trade has been attributed to the strategic position of the Peninsula. The free flow of trade also brought with it a co-mingling of peoples from different regions, principally China and India and the peoples from the surrounding islands (what is now Indonesia). Prior to British colonization however history does not record a discernible legal system. In particular, there did not appear to be any control over the influx of foreigners and their stay in the Peninsula. The apex of the Malacca Sultanate has been recorded as a golden era in the history of the Malay archipelago. The Malacca court was known to welcome foreigners and to regard their presence with both tolerance and esteem.

British colonization of the Malay Peninsula created an impact on the social structure of indigenous Malay society principally in two ways – (i) a program of systematic labor recruitment in order to maintain the economic progress of the colony which drastically altered the population structure,¹ and (ii) the application of a distinct legal system based upon English common law and rules of equity.

Labor recruitment was not limited to the recruitment of Chinese and Indian labor. Large numbers of Javanese were brought in as coolies on government schemes such as canal or road construction, and migration from Sumatra and other areas such as Minangkabau, Rawa, Mandailing and Aceh were also high. The first generation clustered together in villages, whose names identified with their homeland (*Kampung Jawa, Kampung Bugis, Kampung Kerinci*).² Although these early Javanese migrants were foreigners, the British colonial administrators tended to view them as “Malays” due to basic similarity of appearance, the use of Malay as a common language and the shared religion of Islam. These factors also ensured the easy absorption and assimilation of these migrants into Malay society.

The late 1920's saw the enactment of a legal regime to monitor and control entry into and residence of “aliens” in the Peninsula. Several factors can be said to account for this:

i) The activities of Chinese Secret Societies which resulted in frequent armed clashes had plagued the colonial government since the late nineteenth century;

ii) The “subversive” nature of Chinese labor, who came to Malaya greatly influenced by Communist ideology and sought to put ideas into practice by challenging the authority of the colonial government. Mass organization of workers, principally Chinese, launched many successful strikes which crippled the economic activity of colonial entrepreneurs.³ The strikes eventually gave way to open armed rebellion when the Malayan Communist Party was formed; and

iii) Sharp fall in the prices of tin and rubber during the Depression of the early 1930's favored a colonial government policy of repatriation of alien labor. A restricted immigration policy was in force between 1931 and 1947, and was then relaxed for the next decade as production was restored to pre-

Nationalities	Population	Percentage
European	17,768	0.4
Eurasians	16,043	0.4
Malays	1,644,173	37.5
Other Malaysians	317,848	7.2
Chinese	1,709,393	39.0
Indians	624,009	14.2
Others	56,113	1.3
Total	4,385,346	100.0

Source: Li Dun Jen, *British Malaya – An Economic Analysis* (1982) INSAN, K. Lumpur, p. 5.

² Andaya and Andaya, *A History of Malaysia* (1982) Macmillan, p. 181; *Kampung* means “village” in Malay..

³ See generally, Gamba, C., *The Origins of Trade Unionism in Malaya* (1962) Eastern Universities Press Ltd.

World-War II levels.⁴

The Aliens Ordinance, Cap. 90 was passed for the Straits Settlements (Penang, Malacca and Singapore), followed by the Passengers Restriction Ordinance, Cap. 93, in 1928. Subsequently, the Aliens Enactment Cap. 113 was passed for the Federated Malay States (Perak, Selangor, Negri Sembilan and Pahang), followed by the Passengers Restriction Enactment, Cap. 119 and the Aliens Immigration (Restriction) Enactment, Cap. 115. The Passport Regulations was passed in 1934.

The Unfederated Malay States (Johore, Kelantan, Kedah, Perlis and Terengganu) likewise had their own enactments for the control of alien entry into and residence in their respective states:

1. Johore - Aliens Enactment, No. 121
2. Kelantan - Indigent Alien Immigration Enactment No. 6 of 1914, Immigration Restriction Enactment No. 23 of 1930, Aliens Enactment No. 4 of 1933.
3. Kedah- Aliens Enactment No. 4, Immigration Restriction Enactment No. 52.
4. Perlis- Aliens Enactment No. 9-1351, Immigration Restriction Enactment No. 1-1349.
5. Trengganu- Aliens Enactment No. 6 of 1951.

The above enactments were the precursors to present-day legislation on immigration and passport control in Malaysia.

B. Citizenship Regulations

In 1944, the colonial government first introduced the concept of Federal Citizenship under the Malayan Union Scheme. Under this concept uniform local citizenship was to be granted to all persons born in the Union and all persons resident in the Malayan Union or Singapore for ten out of the fifteen years preceding 1942. There was vehement apposition to the concept from the indigenous Malay population who feared that the Malayan Union concept would in effect allow the enfranchisement of a large proportion of the Chinese population in Malaya.⁵

As a result, the Malayan Union concept was abandoned and substituted by the Federation of Malaya in 1948. The Federation of Malaya Agreement 1948 provided for the acquisition of citizenship through three methods – (i) by operation of law; (ii) by registration, and (iii) by naturalization. In the run-up to independence in 1957, the issue of citizenship again took center stage. The Malays wanted to maintain their special position while the Chinese and Indians clamoured for a more relaxed citizenship provision. A bargain was eventually struck between representatives of the major communities, that in exchange for the relaxation of the conditions for the granting to non-Malays of citizenship, the rights and privileges of the Malays as the indigenous people of the country were to be written into the Constitution. The citizenship concept enacted under the Federation of Malaya Agreement 1948, together with the compromise-bargain struck between the three major component races eventually became the foundation of the current Federal Constitution of Malaysia.⁶

Since 1957, there have been numerous amendments to the Federal Constitution citizenship provisions, and it has been noted that these amendments serve to facilitate restriction rather than relaxation. The amendments operate in three directions – (i) towards making citizenship harder to acquire, (ii) towards making citizenship easier to lose, and (iii) towards enlarging executive discretion in

⁴ Andaya and Andaya, *op cit.*, p. 208

⁵ Isaac Lugen, *Status of Foreign Males in Malaysia* (1980), unpublished project paper of the Faculty of Law, University of Malaya, p. 10. see also, Hickling, R.H. in *Introduction to the Federal Constitution* (1960), K.L. Information Services.

⁶ Citizenship – Part III Federal Constitution, Article 14 – citizenship by operation of law; Art. 15 – citizenship by registration (wives and children of citizens); Art. 16 – citizenship by registration (persons born in the Federation before Merdeka Day); Art. 16A – citizenship by registration (persons resident in states of Sabah and Sarawak on Malaysia Day); Art. 19 – citizenship by naturalization; Art. 22 – citizenship by incorporation by territory.

matters of citizenship.⁷

Citizenship is a sensitive issue. During the national election campaign of 1969, some candidates provoked racial sentiments by capitalizing on the stringent citizenship provisions. This culminated in the race riots of May 13 1969.⁸ Following the outbreak of violence, the Emergency (Essential Powers) Ordinance No. 45 of 1970⁹ was passed which amended the Sedition Act 1948 making it seditious to question provisions of the Federal Constitution relating to citizenship.¹⁰

C. Problems in the administration of foreign labor in Malaysia

The major public institutions that deal directly with legal issues pertaining to foreign labor consist of the Department of Immigration, which is a division of the Ministry of Home Affairs, headed by its Director General (currently, Dato' Aseh Che Mat) and the police. The Attorney-General's Chambers will not be involved with cases pertaining to foreign labor until and unless a case is referred to it by the police regarding the commission of a criminal offence which requires the Attorney-General's decision to prosecute.

In recent years, non-governmental organizations (NGOs) have been playing a prominent role in Malaysian society, highlighting acts of discrimination and poor treatment of migrant workers, including acts of abuse perpetrated by employers as well as the police.¹¹

From the point of view of the legal fraternity, migrant workers is not a priority issue. The cause of migrant workers in Malaysia and their problems are not actively canvassed by the legal fraternity, including its umbrella body, the Bar Council. Lawyers interviewed do not express much interest in handling cases pertaining to migrant workers, due mostly to the low returns from being involved in such cases, most of which are criminal cases. In Malaysia, the rights and interests of migrant workers have yet to be accepted under the broad umbrella of "minority" rights generally. Rights of minorities still refer to rights and interests of minority peoples who are citizens of Malaysia, such as the rights of the minority races, the Indians and the Chinese. It would include the rights of indigenous peoples and tribes, such as the aborigines,¹² but not the rights of migrant workers.¹³

The main problem in the administration of foreign workers in Malaysia is enforcement of existing laws and regulations. In spite of stringent laws, illegal labor-importing syndicates still thrive, and problems relating to undocumented illegal migrant workers escalate into increased criminal activities in the city, including encroachment onto public and private land by illegal workers. Most of the problems relate to Indonesian illegal workers, while with Thai workers, the main problem seem to be focused on

⁷ Sheridan and Groves, *The Constitution of Malaysia* (1979), p. 13.

⁸ Isaac Lugun, *op cit.*, p. 15.

⁹ PU(A) 282 of 1970.

¹⁰ Section 3(1)(f):

"... to question any matter, right, status, position, privilege, sovereignty or prerogative established or protected by the provision of Part III of the Federal Constitution or Article 152, 153 or 181 of the Federal Constitution."

This includes questions pertaining to the granting of Permanent Residence Status, which is not a right but a privilege – *Re Meenal* [1980] MLJ 299. See Ngeh Koo Ham, *The Red Identity Card Holders (Permanent Resident) of Malaysia*, (1984/85) unpublished project paper of the Faculty of Law, University of Malaya: "Government has not spelt out the reasons why certain groups of persons are not granted the Entry Permit (and therefore the red ICs) while others who are under similar or more deserving circumstances are not granted the Entry Permits. As a result, many have alleged that there is arbitrariness in the issue of Entry Permits." – p. 15.

¹¹ Two NGOs deserve mention in this respect – The Womens' Aid Organization, headed by Ms Ivy Josiah and Tenaganita, headed by Mrs. Irene Fernandez. However, the active work of NGOs in this field is limited due to the operation of various laws pertaining to internal security and public order, such as the Internal Security Act. One report of inhuman treatment of illegal immigrant workers detained at the principal detention center of Macap Umbu, Malacca made by Mrs Irene Fernandez of Tenaganita was met with her arrest and eventual charge for making a false report under the Printing Presses and Publications Act. Women's Aid Organization, which operates a shelter for battered women and children, is more successful in getting the authorities to protect their respective employers – see New Straits Times, 8 August 1998, p. 15.

¹² The case of *Adong bin Kuwau and Ors. v Kerajaan Negeri Johore* [1997] 1 MLJ 418; [1998] 2 MLJ (Court of Appeal) – the Court recognized aboriginal rights to land.

¹³ For example, the recently concluded Commonwealth Law Conference in Kuala Lumpur (1999) addressed several issues pertaining to human rights, but the right of migrant workers as part of the broad rubric of human rights was not raised or discussed

vice activities.¹⁴

Problems pertaining to undocumented migrant workers and illegal labor-importing syndicates might result from the fact that Malaysia does not have a comprehensive and systematic policy pertaining to foreign labor. Measures and policies appear to be made or announced by the government on an ad hoc basis.¹⁵ Dr. Syed Abdus Samad, principal secretary of the Prime Minister's office of Bangladesh stressed on the need for everyone concerned with the plight of migrant labor to look at the human dimension of the problem and to empathize with the migrant's needs. He highlighted the problems generally faced by Bangladeshi workers in Malaysia, including retention and loss of passports by employers, levies being doubled without proportionate increment in workers' salaries, manhandling and harassment of workers by gangsters and being victims of extortion and bribery.¹⁶

D. Initiatives or Plans for Reform

One positive development that has taken place recently is the formation of a National Commission on Human Rights (NCHR). However, this government-led initiative has been viewed by lawyers and political activists as "mere window-dressing". Its terms of reference appear to be too narrow – "to protect and promote human rights of all Malaysians, irrespective of their racial, religious or cultural origins."¹⁷ The "human rights" appear to be confined to those fundamental rights enshrined under the Federal Constitution.¹⁸ Among the objectives of the Commission would be the study and verification of human rights infringement and to assist the government to study various international instruments that Malaysia has yet to ratify and make recommendations.

According to the Honorable Foreign Minister, Malaysia has so far ratified five of the 25 conventions on human rights:

- I. convention against apartheid in sports;
- II. convention on the prevention and punishment of the crime of genocide;
- III. convention on the rights of the child;
- IV. convention on the elimination of all forms of discrimination against women, and
- V. convention on the nationality of married women.

One international convention which is directly relevant and of great significance to migrant workers would be the Convention on the Protection of the Rights of all migrant workers and members of their families. There is no indication at the moment of what Malaysia's stand is with regard to this convention.

Recently, the Cabinet Committee on Foreign Workers chaired by the Honorable Deputy Prime Minister who is also Minister of Home Affairs, made a decision to allow the employment of foreign workers in all except 138 designated occupations with immediate effect.¹⁹ Occupation declared off limits to foreigners include the music industry, technicians, motor mechanics, housekeeping staff, street side vendors, waiters and social escorts. Restrictions on the intake of foreign workers is lifted in the light of the higher demand for them, particularly in the manufacturing, construction and plantation sectors, due to the economic recovery.²⁰ Also announced was that the current maximum service for foreign workers, which is 7 years, could be extended by another year.

¹⁴ New Straits Times, 11 October 1999 – "Thailand to help smash vice rings"

¹⁵ See Dr. Azizah Kassim, "Contemporary Labor Migration in Malaysia: An Overview", paper presented at seminar on The Media and Labor Migration in Malaysia, Kuala Lumpur, October 1998 – "a comprehensive and transparent policy on foreign workers, with clear, consistent guidelines which do not change too frequently will help ensure that many of the negative impacts can be minimized and benefits maximized"

¹⁶ New Straits Times, 3 November 1998, 2.

¹⁷ Syed Hamid Albar, Foreign Minister, emphasis added.

¹⁸ Fundamental Liberty, Part II Federal Constitution – Liberty of the person; prohibition against slavery and forced labor; protection against retrospective criminal laws and repeated trials; equality before the law; prohibition of banishment and freedom of movement; freedom of speech assembly and association; freedom of religion; educational rights and rights to property.

¹⁹ New Straits Times, 29 February, 2000.

²⁰ Current figures of foreign workers in Malaysia given by the Immigration Department Director General: *Total: 697,219. Indonesians: 512,766; Bangladeshis: 129,004; Filipinos: 30,510; Thais: 2,885; Pakistanis: 2,380; rest = others.*

The Malaysian Employers' Federation (MEF) estimates that 200,000 workers will be needed in the estate and manufacturing sectors in this year 2000 in view of Malaysia's economic progress. From this, at least 70% will comprise of Indonesians. The MEF welcomed the recruitment of Indonesian workers mainly "due to similar culture and language traits. These foreign workers also find it easy to assimilate with the Malaysian social and cultural environment."²¹

The Malaysian Trades Union Congress (MTUC) on the other hand, was a bit skeptical about the government's new announcement. Several issues raised by MTUC relate to the principal problem of enforcement:²²

- How will the authorities ensure that no foreign workers are recruited in the 138 job categories?
- Action to be taken against employers who deploy their foreign workers in non-permissible job categories after their permits have been approved.
- The status of the 600,000 known illegal workers in the light of the above changes.
- Whether the government will be firm in its decision to deport all illegal workers or whether it will accede to the wishes of employers intending to employ these workers and then grant them work permits.

With regard to the abuse of foreign maids, the Cabinet Committee announced a lifetime ban on the hiring of foreign maids for those found mistreating them. Prospective employers will also be required to specify whether the maids will be required to undertake tasks forbidden by the maid's religion.²³

E. Conclusion

The MTUC has suggested, and perhaps it is timely to do so, that the government draw up a standard contract of service for foreign maids, including such terms as working hours, rest days and termination benefits. A point to note is that although the Employment Act 1955 contains a standard minimum terms and conditions of employment applicable to all employees governed by it, it is made specifically inapplicable to domestic servants.²⁴

Another suggestion which may be worth taking note of, especially by labor exporting countries, is to follow the Philippine initiative.²⁵ Through the Philippines Overseas Employment Administration and legislative measures such as the Migrant Workers and Overseas Filipinos Act of 1995, and the establishment of welfare and trust funds, the country ensures that its migrant workers are not exploited and are able to earn a decent living.

²¹ Datuk Mokhzani Abdul Rahim, President, MEF

²² New Straits Times, 1 March, 2000.

²³ Cases regarding abuse of Indonesian, Muslim maids so far has been at the hands of Chinese, non-Muslim employers.

²⁴ First Schedule.

²⁵ New Straits Times, 3 November, 1998, p. 2; currently, a prominent local businessman is reported to be under investigation by the Philippines employment authorities for alleged mistreatment of Filipino employees and breach of employment contracts – New Straits Times, 10 March, 2000

Singapore: Legal Issues Relating to Thai Migrant Workers

Michael Ewing-Chow

Introduction

The law of Singapore applies equally to all regardless of nationality or residence.¹ As such, foreigners in Singapore have equal access to the courts and to the protection of the law and are similarly subject to the laws as citizens of Singapore. With regards to migrant workers, it should be noted that Singapore is not a party to any relevant multilateral or bilateral international convention.

Major Laws Relevant to Migrant Worker

A. Immigration Laws

However, there is no right of entry to foreigners in Singapore.² Under the Immigration Act (Cap 133) (hereinafter "the Immigration Act"), the Controller of Immigration may prohibit the entry of any persons who is in his opinion in the prescribed prohibited classes - these classes include any person who is unable to show that he has the means of supporting himself and his dependants (if any) or that he has definite employment awaiting him, or who is likely to become a pauper or a charge on the public; as well as any prostitute or any person who is living on or receiving or who, prior to entering Singapore, lived on or received the proceeds of prostitution.³

Recently, the Government of Singapore became concerned that according to the Ministry of Health's statistics, since 1993, more than 2,000 foreigners living and working in Singapore have been found to be HIV-positive.⁴ In response to this, the Immigration Act was amended in 1998, to empower the Controller to require holders of entry permits and passes to undergo medical examination at any time and for the medical records to be disclosed to the Controller.⁵ Those holders of entry permits and passes who refuse to undergo such medical examination can be fined a maximum of \$2,000 and imprisoned up to 6 months, and have their passes revoked.⁶ In addition, anyone with the Acquired Immune Deficiency Syndrome or infected with the Human Immunodeficiency Virus is now deemed to be a prohibited immigrant and liable to be denied entry or repatriated.⁷

With respect to Thai citizens in particular, there are no visa requirements for people holding travel documents issued by Thailand and such travel document holders may enter into Singapore on a 14-day or a 30-day Social Visit Pass. However, if a longer stay is required, an application for a Business Visit Pass or a Social Visit Pass has to be made.

B. Labor Laws

Nonetheless, no foreigner may work in Singapore unless he has been issued with a work permit or an employment pass.⁸ The Employment of Foreign Workers Act (Cap 91A) and the Immigration Act govern

¹ Constitution of the Republic of Singapore, Art. 12(1) provides that "All persons are equal before the law and entitled to the equal protection of the law."

² Immigration Act, s.6.

³ *Ibid.*, s.8

⁴ See Speech for the Second Reading of the Immigration (Amendment) Bill 1998 by Mr Wong Kan Seng, Minister for Home Affairs on 4th September 1998.

⁵ Immigration Act, s.29

⁶ *Ibid.*

⁷ *Ibid.*, s.8(3).

⁸ Employment of Foreign Workers Act (hereinafter, unless otherwise stated, all section references are to this Act), s.5(1).

the granting of a work permit and employment pass respectively. A foreigner is defined in the Employment of Foreign Workers Act as any person who is not a citizen or permanent resident in Singapore.⁹

In addition to the Employment of Foreign Workers Act and the Immigration Act, the following statutes also govern foreign labor issues in Singapore:

- a) The Employment Act (Cap 91);
- b) The Factories Act (Cap 104);
- c) The Central Provident Fund Act (Cap 36);
- d) The Industrial Relations Act (Cap 136);
- e) The Trade Unions Act (Cap 333);
- f) The Trade Disputes Act (Cap 331);
- g) The Skills Development Levy Act (Cap 306);
- h) The Workmen Compensation Act (Cap 354);
- i) The Retirement Age Act (Cap 274A); and
- j) The Criminal Law (Temporary Provisions) Act (Cap 67).

The Employment Act provides for rest days, hours of work, holidays, overtime, bonuses, annual wage supplements and wage increases for all employees covered by this Act.

The Factories Act governs the health, safety and welfare of employees in factories.

The Central Provident Fund Act provides for a scheme of retirement benefits for workers in Singapore from contributions made by their employers and themselves.

The Industrial Relations Act covers the role, procedures and powers of the Industrial Arbitration court, collective bargaining process, arbitration and awards. The main purpose of the Act is to set out the relationship between employers and employees who are or can be represented by trade unions and the resolution of trade disputes by collective bargaining, conciliation and arbitration.

The Trade Unions Act provides the legal framework for the registration and supervision of trade unions.

The Trade Disputes Act governs trade disputes and any industrial action arising from such disputes such as strikes, lock-outs and picketing. It clarifies situations when an industrial action and lock-out are illegal and the penalties arising from such actions. It also provides protection to people refusing to take part in such actions.

The Skills Development Levy Act covers the administration of the Skills Development Fund and the imposition of the levy on employers. It is the aim of the Fund to upgrade the skills of employees and to retrain persons who have been retrenched. Under the Act, every employer must pay a monthly skills development levy for each of his employees whose remuneration is S\$1,000 or less.

The Workmen's Compensation Act provides for compensation to workmen and their dependants where accidents occur during the course of their employment.

The Retirement Age Act provides for a minimum retirement age for employees in Singapore. It covers only certain categories of employees. The minimum retirement age is currently 60 years of age. Contracts of service and collective agreements for employees covered by the Act cannot provide a lower retirement age.

The Criminal Law (Temporary Provisions) Act makes provisions to maintain the public order and to prevent strikes and lock-outs in essential services. It defines essential services and prescribes whether

⁹ S 2: Employment of Foreign Workers (Definition of Foreign Workers) Notification (Cap 91A, NI: S 534/93).

strikes and lock-outs in essential services are allowed and, if so, what conditions must be satisfied before strikes and lock-outs are allowed.

All these laws are applicable to foreign workers as well as to Singapore residents. The Singapore government has set up a center to facilitate labor relations. Complaints against employers may be directed to the following address:

Labor Relations Department
Ministry of Manpower
#04-02 Havelock Road
Singapore 059764
Republic of Singapore
Fax: (65) 5354811

C. Categories of Foreign Workers

A foreign worker who will be employed at a basic salary of more than S\$2,000 per month or has an approved university degree will be eligible for an employment pass.¹⁰ Employment passes are normally issued to professionals such as architects, doctors and engineers.¹¹ A foreign worker who is employed S\$2000 or less a month is eligible only for a work permit.¹² The definition of salary means all monetary remuneration payable to a foreign worker but does not include overtime pay, certain allowances, employer's contribution to the provident fund and or any gratuity payable on discharge or retirement.¹³

As the issues relating to work permits are more complicated, I shall address these issues first.

1. Work Permits

Any person who wishes to employ a foreign worker must apply to the Controller of Work permits for a work permit for the foreign worker.¹⁴ Work permits are issued on a two-year and three-year basis.¹⁵ To be eligible for a three-year work permit, a person must possess a GCE 'O' Level certificate with at least five credits or full GCE 'A' level certificate in one sitting or hold a two-year work permit and a recognized trade certificate.¹⁶ If an applicant does not have the certificate but is on a two-year work permit and has two years of relevant working experience, he may apply to take a skills evaluation test at the Institute of Education to qualify.¹⁷ The additional benefits of a three-year work permit are:

- 1) Eligibility to apply for permanent residence after having worked for one year in a job related to his skill;¹⁸
- 2) Eligibility to rent Housing and Development Board (HDB) flats;
- 3) His children can be admitted to Government or Government-aided schools without having to donate to the Education Fund;

¹⁰ *Supra* fn.9, Immigration Regulations (Cap 133, Reg. 1; S 252/72 as amended by later subsidiary legislation), Reg. 9(1) and RAVI CHANDRAN, BUTTERWORTHS HANDBOOK OF SINGAPORE EMPLOYMENT LAW (1997) at 152-155 describing the practice of the Immigration Department.

¹¹ *Ibid.*

¹² *Ibid.* and Reg. 10(1).

¹³ *Supra* fn.9.

¹⁴ Immigration Regulations, *supra* fn.10, Reg.7(1).

¹⁵ RAVI CHANDRAN, *supra* fn.10, at 151.

¹⁶ SINGAPORE EMPLOYMENT PRACTICE MANUAL (1997) (ed. Linda Ng) at K-12 describing the practice of the Work Permit Department, Ministry of Labor.

¹⁷ *Ibid.*

¹⁸ On completion of five years as a permanent resident, he can qualify for Singapore citizenship. This period is reduced if the work permit holder is the wife of a Singapore citizen.

- 4) Medical treatment in Government hospitals at a subsidized resident rate (his spouse and any children below 18 years of age are also entitled to this rate); and
- 5) His spouse and children (below 21 years of age) are eligible to apply for a "long term visit pass" as the dependants of a three-year work permit holder.¹⁹

a) Application

Upon receiving an application for a work permit, the Controller of Work Permits may issue a work permit in the name of the foreign worker with or without conditions attached.²⁰ The Controller may also refuse to issue a work permit.²¹ Any person aggrieved by the decision of the Controller may appeal to the Minister whose decision shall be final. Applications are made to the Work Permit Department at the Ministry of Manpower.²²

The average processing time for work permits is one working day for electronic submission, three working days if submitted by email and seven working days for all other forms of submission.²³

It should be noted that for foreign construction workers, work permits will only be issued or renewed after they attend a half-day safety orientation course organized by the Ministry of Manpower.²⁴ A Construction Safety Orientation Course (CSOC) certificate will be issued on completion and is valid for two years.²⁵

b) Validity

A work permit is only valid in respect of the employment for which the worker employed and only with the employer specified in the work permit.²⁶ It is not transferable and is only valid for the period stated.²⁷ It is a criminal offence to hire foreigners already employed by others. The offence is punishable by fines and/or a jail term.²⁸

c) Work Permit Identification Cards

Ministry of Manpower has begun to issue new work permit identification cards to work permit holders from 3 May 1999. Foreign workers who are currently holding work permits will be issued with the new work permit cards at the point of renewal of their work permits. The new work permit cards serve as the Work Permit, the Immigration Disembarkation/Embarkation card and the Visit Pass. The 3-in-1 cards have enhanced security features, and carry the photo-images and the fingerprints of the foreign workers for accurate identification.

In the past, to prevent workers from absconding, employers used to hold on to the worker's passport and work permit card leaving the worker with only a photocopy of his work permit card. Photocopies were usually of poor quality and were easily forged. Now, each work permit holder is to carry the new card with him at all times and this card makes it easier for law enforcement agencies to identify whether a foreigner is a legitimate worker or an illegal immigrant as it has many security features to prevent forgery.

¹⁹ *Supra* fn. 16.

²⁰ S.7.

²¹ *Ibid.*

²² *Ibid.*

²³ *Supra* fn. 16.

²⁴ *Ibid.*, at K-13.

²⁵ *Ibid.*

²⁶ S.12.

²⁷ *Ibid.*

²⁸ S.18.

The Immigration Act was amended to provide for new regulations pertaining to the recording, storage and retrieval of fingerprints for this new card.²⁹ These regulations also empower law enforcement agencies when conducting raids to demand finger and thumb prints from persons holding these new cards for verification purposes. A direct online link with the central database at the Ministry of Manpower has been installed in all vehicles of relevant law enforcement agencies. This enables the agencies to immediately verify the identity and record of the card holder.

Where the work permit card has been lost or destroyed, the foreign worker or employer must report to the Controller of Work Permits within 14 days of the loss and a duplicate will be issued on payment of a fee of S\$20.³⁰

d) Termination

Where the Controller of Work Permits has decided to suspend or cancel the work permit of the foreign worker, the employer must terminate the service of the foreign worker within seven days of receiving the notification.³¹ Any employer who terminates the services of a foreign worker must return the work permit to the Controller of Work Permits within seven days of the date of termination.³²

e) Exemption

Employers of the following persons are exempted from applying for a work permit:

- 1) A foreign worker who is a permanent resident of Singapore;
- 2) A foreign worker who holds an employment pass;
- 3) A foreign worker who is employed as an officer or seaman on an international voyage aboard any Singapore ship registered under the Merchant Shipping Act (Cap 179);
- 4) A foreign worker who is a full-time matriculated or registered student of one of the six local tertiary institutions in Singapore and is not required to work more than 16 hours a week; and
- 5) A foreign worker who is 14 years of age and above and is a full-time matriculated or registered student of an approved educational establishment in Singapore and who is on vacation.³³

f) Levies

To control the foreign worker population, the government imposes a levy for each foreign worker an employer engages and also sets a quota so that employers do not employ just foreigners at the expense of local workers. Every employer who employs a work permit holder (except in the case of a three-year work permit holder) must pay a monthly foreign worker levy for each worker.³⁴ The levy varies depending on the type of profession and qualifications of the worker.³⁵ Failure to pay the levy within 14 days after the end of the month results in an accumulating penalty of 2% per month or S\$5, whichever is greater provided that the total penalty will not exceed 30% of the amount of levy outstanding.³⁶

The foreign worker levy scheme is applicable to all work permit holders, except 3-Year Work Permit holders. In responses to the Asian economic situation, the Government reduced Foreign Worker Levies so as to increase the competitiveness of Singapore companies.

²⁹ Immigration (Amendment) Act 1998, s.10.

³⁰ S.14.

³¹ S.9.

³² *Ibid.*

³³ Work Permit (Exemption) Notification (Cap 91A, N 2; S 477/93).

³⁴ Employment of Foreign Workers (Levy) Order (Cap 91A, O 1; S 476/90 as amended by S 186/91, S 246/91, S 306/91, S 577/91, S 103/92, S 251/92, S 387/92, S 143/95, S 22/96, S 193/96, S 410/96 and S 325/97).

³⁵ *Ibid.*

³⁶ S.11(4).

With effect from 1 Jan 1999, the Levy Rates are as follows:

Sector	Dependency Level	Category of Foreign Workers	Levy Rates (\$)	
			Monthly	Daily
Manufacturing	Up to 40% of total workforce	-	240	8
	Between 40% to 50% of total workforce	-	310	11
Construction	1 Local Worker to 5 Foreign Workers	Skilled	30	1
		Skilled	30	1
		Unskilled	470	16
Marine	1 Local Worker to 3 Foreign Workers	Skilled	30	1
		Unskilled	295	10
Process Maintenance	-	Skilled	30	1
		Unskilled	350	12
Conservancy	-	-	350	12
Service	30% of total workforce	-	240	8
Harbor Craft	1 Local Worker to 9 Foreign Workers	Certificated crew	30	1
		Non-certificated crew	240	8
Grass-Cutting	-	Skilled	30	1
		Unskilled	350	12
Domestic Worker	-	-	345	12

g) Dependency Ceiling

The government sets a maximum limit on foreign workers employed in various sectors of the economy.³⁷

Sector	Ceiling
Manufacturing	50% of total workforce
Service	25%
Construction	83% (1 local for every 5 foreign workers)
Marine	75%

2. Employment Passes

As stated before, employment passes are normally issued to professionals who earn a basic salary of more than S\$2,000 per month or have an approved university degree.³⁸

a) Application

Applications for an employment pass must be made to the Immigration Department and must be supported by documents such as certified copies of academic or professional qualifications, working testimonials, photographs of the applicant and endorsement by a local sponsor who would normally be the applicant's employer.³⁹ An undertaking is required from the local sponsor that he will bear the responsibility

³⁷ *Supra* fn 34

³⁸ See *supra* fn 10

³⁹ Immigration Regulations, *supra* fn 10, Reg 9(4)

for the applicant's maintenance while in Singapore and will bear the cost of his repatriation if necessary.⁴⁰ Reasons must also be given as to why a foreigner is required for the job and whether locals are available.⁴¹

Processing of the application normally takes about eight weeks.⁴² Employment passes are valid for between one and three years and may be renewed at the discretion of the Controller of Immigration.⁴³ In addition, his spouse and any children of the applicant below the age of 21 may each apply for a dependant's pass.⁴⁴ Parents and parents-in-law may also be issued with social visit passes.⁴⁵

b) Termination

On completion or termination of employment, the employment pass holder must report to the Immigration Department in person for cancellation of the employment pass.⁴⁶

3. Professional Visit Passes

Foreign artistes and professionals taking up short-term assignments in Singapore must apply for professional visit passes.⁴⁷ Applications must be accompanied by a letter from a local sponsor providing the purpose, venue, duration and programme of the assignment, the applicant's curriculum vitae, the applicant's remuneration, other information relevant to the assignment as well as an undertaking by the sponsor to maintain and repatriate the applicant at the end of the assignment.⁴⁸ A waiver of the requirement of a professional visit pass for foreign speakers and exhibitors participating at conferences and exhibitions may be granted through the Singapore Convention Bureau.⁴⁹

4. Permanent Residence

A permanent resident means a person who holds a valid entry permit or re-entry permit issued by the Controller of Immigration under the Immigration Act.⁵⁰

Permanent residency status is open to professionals or technical personnel and skilled workers who are under 50 years of age and who have been in Singapore for at least six months on employment passes or three-year work permits.⁵¹ Approval of permanent resident status is dependent on the applicant's qualifications, expertise and local employment. Applications for permanent resident status may also be made for the applicant's spouse and unmarried children under the age of 21.⁵² All such applications are made to the Immigration Department.

⁴⁰ *Ibid.*

⁴¹ *Ibid.*

⁴² *Supra* fn.16, at K-31.

⁴³ *Ibid.*

⁴⁴ Immigration Regulations, *supra* fn.10, Reg.11(1).

⁴⁵ *Ibid.*, Reg.12.

⁴⁶ *Ibid.*, Reg.9(5).

⁴⁷ *Ibid.*, Reg.12(1).

⁴⁸ *Supra* fn.16, at K-32.

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² *Ibid.*

The Administrative Structure

A. Singapore Immigration and Registration

The body responsible for immigration issues in Singapore is the Singapore Immigration and Registration (SIR) under the Ministry of Home Affairs. Business Visit and Social Visit Pass applications as well as applications for a Professional Visit Pass and-for Permanent Residency are made to this body. This body also is the main body entrusted with the responsibility of enforcing Singapore's immigration laws and it works closely with the Singapore Police Force which is also under the supervision of the Ministry of Home Affairs. Their offices are located at:

SIR Building 10 Kallang Road
Singapore 208718
Tel: (65) 391-6100

Organizational Chart for the Singapore Immigration and Registration



B. Ministry of Manpower

However, applications for both the Employment Pass and the Work Permit are made to the Employment Pass Department and the Work Permit Department respectively of the Ministry of Manpower.

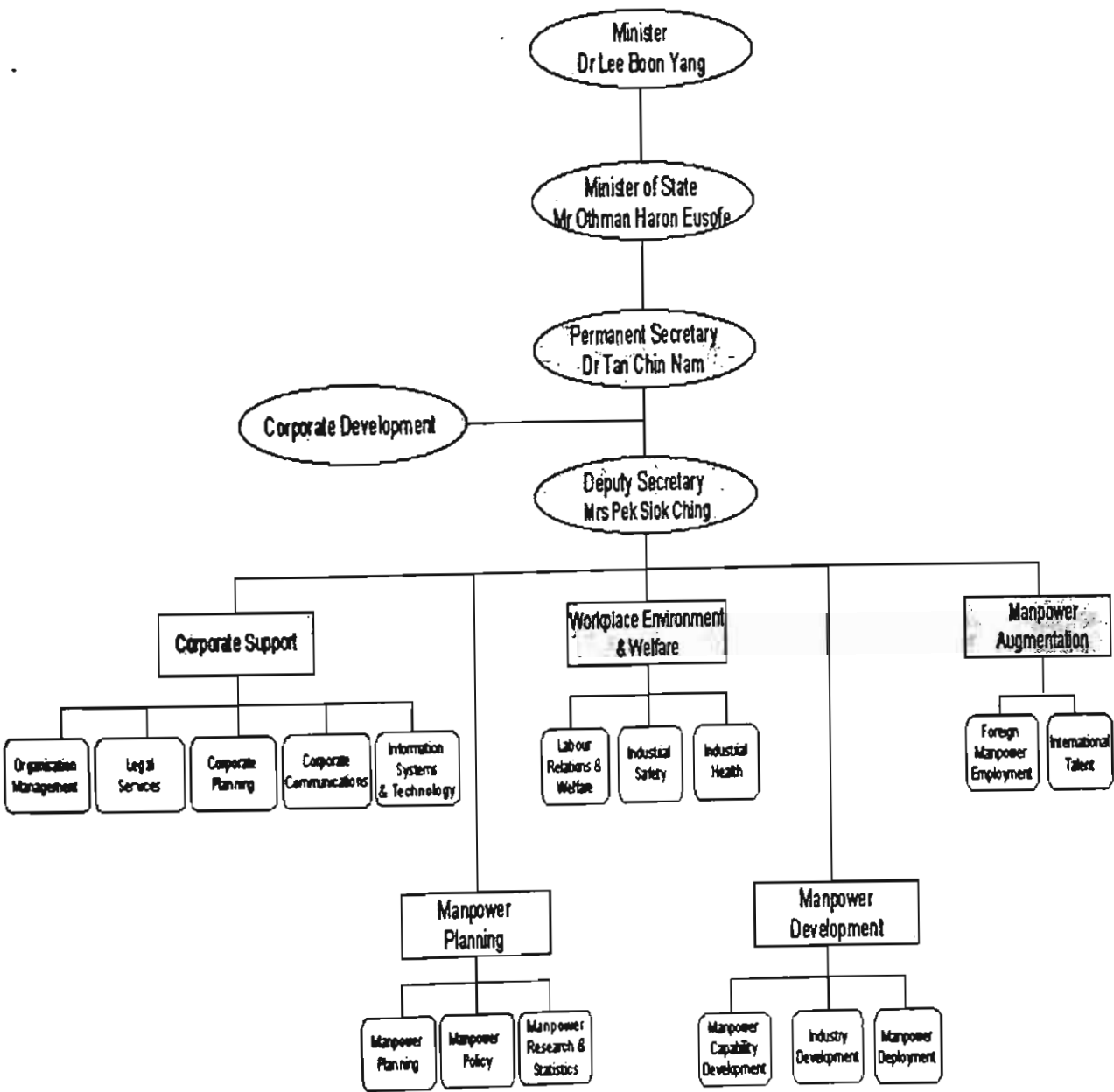
The Employment Pass Department can be contacted at the following address:

Employment Pass Department
Ministry of Manpower
5th Level SIR Building
10 Kallang Rd
Singapore 208718
Tel: (65) 2975443
Fax: (65) 293-2138/296-2086

The Work Permit Department can be contacted at the following address:

Work Permit Department
Ministry of Manpower
18 Havelock Road
MOM Building #03-01
Singapore 059764
Tel: (65) 438 5122
Fax: (65) 5395344

Ministry of Manpower Organizational Chart



Illegality

The Government of Singapore takes a very serious view of illegality especially when it deals with illegal immigration or illegal foreign labor. Mr Wong Kan Seng, Minister for Home Affairs in a speech for the Second Reading of the Immigration (Amendment) Bill 1998 had this to say:

Singapore is a small country with limited resources. The presence of illegal immigrants will pose a serious social and security problem, and compromise the safety and security of Singaporeans. We have therefore taken, and will continue to take, a tough stand against all immigration offenders – be they illegal immigrants, their smugglers, overstayers, or the harbourers and employers of such people – especially given the current regional situation.

A. Immigration

In the same speech, he noted that since early 1998, the Police Coast Guard stepped up its patrols in the waters to deter and arrest illegal immigrants and the Police and Singapore Immigration and Registration have also raided hideouts and haunts in Singapore to flush out immigration offenders. Joint raids were conducted with the Ministry of Manpower in the service and manufacturing sectors, for example, at food courts, hawker centers and factories. These raids resulted in the arrest of 9,449 illegal immigrants and 5,425 overstayers in the first 7 months of 1998 alone, compared to 7,599 illegal immigrants and 6,314 overstayers for the whole of 1997. As a result the new Immigration (Amendment) Bill 1998 was passed to include heavier penalties for some offences.

1. Illegal Entry, Residence and Departure

In the past, attempted illegal entry and departure attract penalties were less severe than those for actual illegal entry and departure. While the penalty for illegal entry was a maximum 6 months' jail and mandatory caning of a minimum 3 strokes, the penalty for the attempted illegal entry offence was imprisonment of between 3 months to 2 years and a fine of \$4,000, but no caning. For illegal departure, the penalty was a maximum \$2,000 fine and 6 months' jail, while the penalty for attempted illegal departure was a maximum \$2,000 fine and 3 months' jail. However, now attempted illegal entry and departure attract a penalty which is equivalent to actual illegal entry and departure.⁵³

In the case of a person who has been previously convicted of any offence punishable with imprisonment for a term of not less than three years but enters Singapore by the use of a passport or other travel document which bears a name different from that stated in the order made against his entry into Singapore, he will on conviction be punished with imprisonment for a term of not less than two years and not more than five years and will also be liable to a fine not exceeding S\$10,000 and to caning.⁵⁴

A person who remains in Singapore after the cancellation of any permit or certificate or any other authorization for his continued stay for less than 90 days will be liable on conviction to a fine not exceeding S\$4,000 or to imprisonment for a term not exceeding six months or both.⁵⁵ If he stays longer than 90 days, he will be liable for imprisonment for a term not exceeding six months and to caning with not less than three strokes.⁵⁶ If the offender is not punishable with caning, he will in lieu of caning be punished with a fine not exceeding S\$6,000.⁵⁷

⁵³ Immigration Act, s.5 and 6.

⁵⁴ *Ibid.*, s.9.

⁵⁵ *Ibid.*, s.15.

⁵⁶ *Ibid.*

⁵⁷ *Ibid.*

It should be noted that the Criminal Procedure Code (Cap 68) provides that women, males sentenced to death and males whom the court considers to be more than 50 years of age are exempted from caning.⁵⁸ In addition, the punishment of caning cannot be inflicted unless a medical officer is present and certifies that the offender is in a fit state of health.⁵⁹ If during the execution of the sentence, the medical officer certifies that the offender is not in a fit state of health, the sentence of caning will be stopped.⁶⁰

2. Abetment of Illegal Entry

Anyone who abets anyone to unlawfully enter Singapore, harbours any person who is in contravention with the Immigration Act or employs any such person is also guilty of offences carrying with them punishments of fines and mandatory jail sentences.⁶¹

Previously, those convicted of engaging in a business of conveying prohibited immigrants into Singapore could be jailed between 2 and 5 years and caned a mandatory minimum of 3 strokes.⁶² Although this penalty was severe, in reality however, many traffickers, boatmen and runners caught smuggling illegal immigrants escaped punishment under this section. Instead, they were charged with abetment of illegal entry. This was because it is, in practice, difficult to obtain evidence showing that the traffickers have engaged in the business of smuggling illegal immigrants. As abettors, they were liable to be jailed between 6 months to 2 years and fined up to \$6,000, but did not receive corporal punishment. However, now the amended Section 57(1) of the Immigration Act provides that abettors of illegal entry under section 6 will be punished with a mandatory minimum of 3 strokes of the cane, in addition to the existing penalty of between 6 months to 2 years' jail.

3. Employment of Immigration Offenders

The Government of Singapore takes a very serious view of employers of immigration offenders. In the speech mentioned above, Mr. Wong Kan Seng said:

Employers of immigration offenders should also be severely dealt with. This is because if employers do not offer them jobs, illegal immigrants will not be attracted to come to Singapore.

Employers of more than 5 immigration offenders could be sentenced to between 6 months to 2 years' jail, fine not exceeding \$6,000 and caned.⁶³ This was amended to increase the maximum fine for employers of more than 5 immigration offenders who cannot be caned because they are females or more than 50 years old from \$6,000 to \$10,000.

Corporate bodies which employ immigration offenders are fined between \$50,000 and \$100,000 in lieu of mandatory jail sentences or caning on conviction.⁶⁴ In addition, an officer of the company who approves the employment is personally liable to be prosecuted for the offence of employing immigration offenders. He is liable, on conviction, to the same penalties for employing immigration offenders. This was also amended to increase the default fines in lieu of mandatory jail or caning for corporate bodies convicted of employing immigration offenders to between \$100,000 and \$200,000 to maintain the deterrent effect.

⁵⁸ Criminal Procedure Code, s.231.

⁵⁹ *Ibid.*

⁶⁰ *Ibid.*

⁶¹ *Ibid.*

⁶² Immigration Act, s.57(1).

⁶³ Immigration Act, s.57.

⁶⁴ *Ibid.*

4. Rebuttable Presumption of Attempted Illegal Entry

Before the recent amendments, illegal immigrants arriving by sea and who were caught in Singapore territorial waters before they disembark from their vessels were not considered to have "entered" Singapore within the meaning of Immigration Act. Although they were charged with attempted illegal entry, there was a problem of proof of intent as the illegal immigrant when caught, usually claimed that he has no intention to enter Singapore.

Added to this was the problem created by the right of transit under international law. These illegal immigrants often claimed that they are exercising their right of transit through Singapore waters as a legal defense. Short of a confession, there was often no way to rebut their claim. By relying on a such a defense, the illegal immigrants created a reasonable doubt as to whether they had intended to enter Singapore illegally. Such evidential difficulties made it difficult for the Police to prove such cases beyond a reasonable doubt as required by law and to successfully prosecute some of these illegal immigrants.

As a result, a presumption clause was added to in the Immigration Act so that any foreigner fitting the profile of an illegal immigrant found in Singapore port waters will be presumed to be attempting to enter Singapore illegally if:

- (a) he does not carry any valid travel document; or
- (b) he has no visible means of subsistence, e.g. inadequate funds or resources for a person's basic upkeep for a week's stay in Singapore; or
- (c) he had taken precautions to conceal his identity or presence from the Police or Immigration officers, e.g. by lying low in the boats or by traveling at night without a light.⁶⁵

The presumption assists the prosecution by putting the onus on the accused to satisfy the Court that it is more probable than not that he was not attempting to enter Singapore, which is a heavier burden than merely raising a reasonable doubt that he was attempting to enter Singapore.

B. Labor

As stated before, no foreigner may work in Singapore unless he has been issued with a work permit or an employment pass. The Ministry of Manpower adopts a serious view against illegal employment in Singapore. It conducts regular inspections at various workplaces and the employers and foreign workers convicted of illegal employment will be dealt with in accordance to the penalties stated under the Employment of Foreign Workers Act. The Employment of Foreign Workers Act was amended in March 1996 to make provisions for the occupiers (normally the principal contractors) of work sites to ensure that there are no illegal workers on their sites.⁶⁶ In addition, a police officer or employment inspector may arrest without warrant any person who he reasonably believes is employed in Singapore without a valid work permit.⁶⁷

1. Employment Inspectors

In addition to relying on the Police, the Ministry of Manpower also uses employment inspectors to run checks on foreign workers.⁶⁸ An employment inspector has the power to enter and search any premises when he has reasonable cause to believe that any person is employed therein or that evidence of the commission of an offense under the Employment of Foreign Workers Act can be found.⁶⁹ In addition, he can require any person to produce identity documents and work permits, take photographs of the premises and relevant persons, retain any documents relevant to carrying out his duties and interview anyone in the course of his duties and to take a written statement down provided that the statement shall be read to the person and

⁶⁵ Immigration Act, s.6.

⁶⁶ Act 37/95

⁶⁷ S.16.

⁶⁸ S.2, 3.

⁶⁹ S.16

if correct, signed by him.⁷⁰ Any person who fails to comply with the requests of an employment inspector shall be deemed to obstruct an employment inspector in the execution of his duties and will be liable to a fine and/or jail.⁷¹

2. Employers

. Any employer who employs a foreign worker without a valid work permit will be charged in court.⁷² The penalty for an employer convicted for the first time is a fine of an amount ranging between 24 to 48 months' foreign worker levy, or to imprisonment for a term not exceeding one year or both.⁷³ For the second and subsequent conviction, the fine amount is the same but imprisonment is mandatory for a term not less than less than one month and not more than a year.⁷⁴

3. Work Site Occupiers

Where a foreigner is found on any premises, the occupier of the premises is presumed to have employed the foreigner unless the contrary is proved.⁷⁵ As a result, occupiers of work places are responsible for preventing illegal foreign workers from entering or remaining at the site. In addition, employers of foreign workers must prove that their workers had valid work permits when they were hired. It is not a defense that the employer did not know that the worker was a foreigner unless he proves that he had exercised due diligence to ascertain the nationality of the worker. "Due diligence" is exercised by checking the worker's passport or other travel documents. The amended Act also requires that occupiers put up adequate security measures and access control systems to prevent illegal foreign workers from entering the site.⁷⁶ Failure to do so will result in a fine if illegal foreign workers are found on the site.⁷⁷ The penalty if convicted for the first time is a fine of an amount between 24 to 48 months' levy for every illegal foreign worker found at the worksite.⁷⁸ In the case of a second and subsequent conviction, the fine is doubled to 48 to 96 months of foreign worker levy or to imprisonment for a term not exceeding two years or both.⁷⁹

4. Foreign Workers

Any foreigner found in the employment of an employer without a valid work permit or employment pass can be charged in court.⁸⁰ The penalty for the foreign worker is a fine not exceeding S\$5,000 or imprisonment for a term not exceeding one year or both.⁸¹

One problem that needs to be addressed is how the repatriation of the illegal foreign worker is to be carried out and who is to bear to the cost of the repatriation. This problem is probably best addressed through bilateral understandings and agreements.

⁷⁰ *Ibid.*

⁷¹ S.18.

⁷² S.5.

⁷³ *Ibid.*

⁷⁴ *Ibid.*

⁷⁵ S.6A.

⁷⁶ Employment of Foreign Workers (Security Measures for Work Place) Notification (Cap 91A, N5; S 73/96).

⁷⁷ S.18.

⁷⁸ *Ibid.*

⁷⁹ *Ibid.*

⁸⁰ S.5.

⁸¹ *Ibid.*

Conclusion

Foreign labor and illegal immigration are sensitive issues in Singapore as they touch on important governmental policies and international relations and to my knowledge, there is no one else doing legal research with regards to migration issues.

It is conceded that the Singapore immigration and labor laws are very strict. However, Singapore is heavily dependent on foreign labor be it in the professional field, the construction industry or even domestic help. Thus, the Government generally takes a pragmatic view towards migrant workers and modifies its laws and regulations in response to changing regional and global situations. While stricter laws were enacted against illegal foreign labor during the Asian Economic Crisis, the Government also reduced the foreign worker levies so as to facilitate the competitiveness of Singapore companies. The pragmatic philosophy behind our immigration and labor policies are probably best summed up in that speech by Mr. Wong Kan Seng in which he said:

Ensuring that we properly manage the inflow, presence and outflow of a large pool of foreign visitors and workers in Singapore, be they legal or illegal, is one of [our] greatest challenges. In managing this foreign population, we need to strike a fine balance between our economic objectives and ensuring that we do not compromise the sense of safety and security of Singaporeans.

Conclusion

Sajin Prachason

Following is the brief summary of the most significant findings of the research on Thai migrant workers in Japan, Taiwan, Malaysia and Singapore. It will be divided into three major sections according to the order of migratory processes; first, background of the Thai migrant workers; second, details of their recruitment procedure; and third, living conditions in the destination countries.

1. Background in Thailand (Table 1)

Education

Our cross-country research data reveals that most Thai migrant workers have finished only primary education, except for those who went to Japan. As Table 1 indicates, only around 30% of our respondents in Taiwan, Malaysia, and Singapore had education beyond primary school. On the contrary, as high as 80% of Thai workers in Japan in our research had at least 9 years of education, and interestingly enough, about 29% of them were university graduates.

The key to explaining the high educational level of those who went to Japan may be the extremely high recruitment cost. This cost limits migrants to Japan to only the people who can earn relatively high income and possess their own land or valuable property because they are the ones who can borrow a large sum of money to pay the recruitment cost. In the areas where the migrants were from, individuals who earn better income tend to be non-farmers, and thus tend to have a higher educational level than others. This applies to those who went to Taiwan, Malaysia, and Singapore in the relationship between respondents' low educational level and low recruitment cost conversely.

Occupation in Thailand

In general, workers who emigrated to Malaysia, Singapore and Taiwan had jobs in the agricultural sector when they were in Thailand, while those to Japan were most in the service industry. The majority of Thai workers in Taiwan and Singapore (72% and 62% respectively) used to be farmers, and some were hired in factories. For Thai workers in Malaysia, they did a large range of activities for their living in Thailand, resulted in dispersed percentages. According to the Japan case, the service sector is a primary part for workers' livelihood before leaving their host country. This includes entertainment services, in addition to services and sales. Though only 14% of workers in Japan did farming before migration, in another question asking "Did you do farming?", 31 percent answered that they had farmed either on land owned by the respondents' family or on someone else's land. Thus, it can be concluded that some of the respondents had been farmers in their hometown, before they moved to Bangkok or other provincial cities, engaged in other non-agricultural occupation, and then migrated to Japan.

Monthly Income in Thailand

Comparatively, before emigrating overseas, those who worked in Japan were likely to be high-income earners while others in Singapore, Taiwan and Malaysia were quite poor. To be more detailed, Thai workers in Japan whose monthly income in Thailand was 15,001 baht up to the maximum of 50,000, totals around 40% while another 20% received income in Thailand between 10,001 baht and 15,000 baht. On average, Thai workers in Japan used to earn 14,708 baht per month (387 US\$). For Singapore, the income of those are clearly concentrated within the range of 1,001-10,000 baht. The mean is 3,651 baht per month (96 US\$), much lower than that of workers who went to Japan. For Workers in Taiwan, they similarly earned fairly low incomes in Thailand. While the majority who went to Japan got paid over 10,000 baht, the majority in Taiwan got paid below 10,000 baht, not to mention that the average income was 3,405 baht (90 US\$). For Malaysia case, our data reveals 33% were paid monthly between 1,001-5,000 Baht; however, as much as 59% of these people did not answer.

It is obvious that there is a relationship between the number of years attending school, the previous occupation, and the previous income in Thailand. In fact, workers whose lives mostly depended

on agriculture are the same group as those who have lower school education and earn lower salary. More importantly, it can be said that educational level, previous occupation, and previous income are good indicators regarding which country Thai migrants are likely to go to work.

Marital Status

In all case, the number of the married outweighs that of single. In particular, a high percentage of workers in Singapore are married workers.

Table 1 Comparative Thai Migrant Workers' Backgrounds in Thailand

	Workers in Japan	%	Workers in Taiwan	%	Workers in Malaysia	%	Workers in Singapore	%
Education	Primary	10.3	Primary	70.5	Primary	56.4	Primary	77.2
	Secondary	17.5	Secondary	22.4	Secondary	26.4	Secondary	13.8
	High	35.0	High	6.0	High	3.6	High	4.8
	University/College	21.6	Others	1.1	University/College	0.9	University/College	2.1
	Graduate and above	7.2			Others	12.7	Others	2.1
Previous Occupation in Thailand	Farming	14.4	Farming	71.6	Farming	22.7	Farming	62.3
	Service Sector	34	Industry	15.8	Unemployment	15.0	Industry	12.3
	(entertainment include other service)	14.4	Others	12.6	Fishery	11.0	Construction	10.3
	Helper in a Family/Company				Business	9.0	Others	15.1
	Industry	9.3			Housewife	6.4		
Last Income in Thailand* (baht per month)	Others	27.9			Factory	4.5		
	1-1,000	1.0	1-1,000	2.2	Others		1-1,000	4.1
	1,001-5,000	10.3	1,001-5,000	40.2	1,001-5,000	4.5	1,001-5,000	35.9
	5,001-10,000	17.5	5,001-10,000	20.7	Others***	32.6	5,001-10,000	24.1
	10,001-15,000	18.6	10,001-15,000	2.2		62.9	10,001-15,000	0.7
	15,001-30,000	26.8	Others	34.7			15,001-30,000	2.1
	30,001-50,000	11.3					Others	33.1
	Others	14.5					(Mean = 3,651 baht)	
	(Mean = 14,708 baht)						(Mean = 96 US\$)	
	(Mean = 387 US\$**)							
Marital Status	Married	51.0	Married	56.8	Married	49.0	Married	76.0
	Single	31.0	Single	41.0	Single	40.0	Single	19.0
	Others	18.0	Others	2.2	Others	11.0	Others	5.0

* "Others" mean no reply, no income or not sure.

** 38 baht per US\$ (the average exchange of 1999)

*** 59% out of 62.9% did not answer.

2. Recruitment Process (Table 2)

Travel Arrangement and Mode of Recruitment

With regard to travel arrangement, private recruitment agencies played an important role for Thai workers who went to Japan, and especially to Singapore. However, to go to Malaysia and Taiwan, this kind of service was less used. For workers employed in Malaysia, relatives and friends, in addition to employers, appears to be the most relevant group arranging traveling services. Surprisingly, almost all Thai migrant workers in Taiwan relied on their Thai employers and Thai government recruitment office for arrangement. In contrast to Taiwan case, private recruitment agencies in Thailand play a decisive role for those going to Singapore. As high as 72% used services provided by agencies while only 11% depended on relatives and friends. Traveling to Japan, Thai migrant workers had three channels, by themselves, by relatives/ friends or by private recruitment agencies.

Regarding mode of recruitment, our data provides a quite similar picture as that for travel arrangements, except for the Japanese case where relatives and friends became the main assistance, suggesting a more developed migration network in Japan. On the contrary, those who went to Singapore largely depended on private recruitment agencies in job search. Once again, Thai workers in Taiwan, and also in Malaysia, found their relatives/friends, Thai government office, and Thai employers in Thailand more helpful in employment management. However, as stated above, it shows a strong tendency in Japanese case that support from friends and relatives became the prime channel for those in Japan, as 73% were facilitated by the informal social network.

Recruitment Cost

The average recruitment cost in Japan topped that in others, closely followed by that in Taiwan. The recruitment fee for working in Malaysia was the lowest. As Table 3 shows, as high as 25% in Japan paid more than 200,000 baht, with a high concentration in the range of 10,001-50,000 baht. Moreover, the average cost is accounted to 145,623 baht (387 US\$). For Thai workers hired Taiwan, the fees paid in order to get a job is around 130,000 baht (3,458 US\$), and although they used the government recruitment for recruitment service, over 70% of the total paid quite high fees between 100,001-200,000 baht. A lower amount of recruitment expenses were required by Thai workers in Singapore as almost all paid amounts in the range of 10,001-100,000 baht for such fees, leading to the mean cost of 57,000 baht (1,516 US\$). Working in Malaysia seems to charge the workers the least cost. All workers paid no more than 10,000 baht, and some paid even no fees because of the arrangement made by their employers. This situation reflects the legal system for migrant workers in each country, in which the stricter the immigration policy is, the higher are the fees that they have to pay.

Occupation in Destination Countries

Once they arrived in destination countries, Thai workers joined various labor segments. Some could work in the same occupation as they did in Thailand, while others were hired in completely different sectors. Generally speaking, only the workers in Japan had their same main work type in both the origin and the destination country. However, in the other three countries, most workers clustered in different segments. As for Singapore and Taiwan, construction and industry absorbed almost all workers despite the fact that many of these people were farmers in Thailand. Many Thai workers in Malaysia became cooks in restaurants while some worked in agriculture and fishery industry. Combined with entertainment, including dancers, singers, and restaurant and food delivery, workers in services ranked the first for those working in Japan, the percentage being as high as about 60%.

Table 2 Comparative Thai Migrant Workers' Recruitment Process

	Workers in Japan	%	Workers in Taiwan	%	Workers in Malaysia	%	Workers in Singapore	%
Travel Arrangement	Oneself	27.8	Thai Government Recruitment	97.3	Relatives Employers	35.0	Private Recruitment Agent/Broker in Thailand	71.9
	Relatives/Friends	22.7	Office/Employer in Thailand		Oneself	32.0	Relatives/Friends	
	Private Recruitment Agent in Thailand	20.6	Employer/Private Recruitment Agent in Taiwan	1.6	Private Recruitment	20.0	Others	10.8
	Others	28.9	Oneself	1.1	Agents Others	3.0		17.3
Mode of Recruitment	Relatives/Friends	73.3	Thai Government Recruitment	96.2	Relatives/Friends	42.7	Private Recruitment Agent in Thailand	56.6
	Employer in Japan	11.3	Office/Employer in Thailand		Employer	38.2	Employer in Singapore	14.7
	Private Recruitment Agent in Thailand	5.15	Employers/Private Recruitment Agent in Taiwan	3.8	Oneself	13.6	Relatives/Friends	
	Private Recruitment Agent in Japan	5.15			Private Recruitment Agent in Thailand	5.5	Private Recruitment in Singapore	11.2
Recruitment Cost* (baht)	Others	5.1					Singapore	9.8
	5,001-10,000	2.1	1-5,000	2.7	1-5,000	75.4	Others	37.7
	10,001-50,000	32.0	50,001-100,000	25.1	5,001-10,000	0.9		4.8
	50,001-100,000	8.2	100,001-150,000	35.5	Others**	23.7		39.3
	100,001-150,000	4.1	150,001-200,000	36.6			50,001-100,000	50.3
	150,001-200,000	9.3	Others	0.1			100,001-150,000	2.8
	>200,000	24.7	(Mean = 131,396 baht) (Mean = 3,458 US\$)				Others	2.8
Occupation in Destination	Service Sector (include entertainment)	58.8	Industry Construction	66.7	Service (cook)	42.0	(Mean = 57,603 baht) (Mean = 1,516 US\$)	68.3
	Industry	28.8		33.3	Agricultural Sector	16.4	Construction Sector	23.4
	Others	12.4			Industry	10.0	Industry	8.3
					Fishery	7.3	Others	

* "Others" means no reply.

** 18.2% were arranged jobs by their employers.

3. Conditions in Destination Country (Table 3)

Legal Status

When Thai workers entered destination countries, most had visas. However, after staying for a period, their legal status tended to be insecure due to overstaying, resulted in invalid visa. For those in Japan, getting into the country with a tourist visa was mainly used at the initial stage of migration. But at the time of interview, it was found that less than half possessed a valid one. Similarly, in the case of Malaysia, most Thai workers obtained temporary working permits at first, but a lot of those later became invalid. With temporary residence permit when entry, almost respondents in Taiwan overstayed, thus losing validity of visa. Regarding Singapore where no visa but work permit is required, 94% of Thai workers owned work permit.

Work Contract

Most workers in both Singapore and Taiwan had signed work contracts. In contrast, a number of those in Japan and Malaysia did not do so.

Income per Month

In general, the Thai worker's income in destination countries is satisfactory, much higher than their former one in Thailand. Those who went to Japan earned a larger income than their counterparts in the other three countries, with the mean income 61,594 baht per month (1,621 US\$). Those in Taiwan and Singapore followed with far less average income, 24,473 baht (644 US\$) and 18,942 baht (498 US\$) respectively, while the rest in Malaysia got no more than 10,000 baht. As illustrated in Table 3, 30% of Thai workers in Japan earned more than 75,000 baht and 4% of them made over 100,000 baht. For Taiwan, all earned between 10,001 and 50,000 baht per month while those in Singapore mostly received around 10,001-25,000 baht. Regarding Malaysia where Thai workers got paid the least, over half earned income in the range of 4,000-6,000 baht only while just a few got more than 10,000 baht.

Remittances

Remittance is another point that can not be ignored since it indicates how much benefit Thai workers acquired from working overseas. According to the figure in Table 3, it is distinct that Thai workers in Japan sent their remittances home in the widest range from 10,001 baht up until more than 100,000 baht each time, while the bulk of their counterparts in other countries of destination remitted mostly up to around 30,000 baht. More specifically, Thai migrant workers in Malaysia seem to remit the lowest amounts; nearly 40% dispatched part of their earning in the range of 1,000-3,000 baht only. The highest concentrated amount remitted by those in Taiwan and Singapore are within the range of 10,001-30,000 and 1-10,000 baht respectively. Though the majority of those in Japan remitted in the range that is not considered far from their counterparts, a number of them remitted 100,000 baht as minimum. The highest amount sent to Thailand from Japan was 317,000 baht per time and the average remittance sent from Japan was as high as 101,994 baht (2,684 US\$).

Intention to be Citizens of Destination Countries

Generally speaking, the numbers of Thai workers who did not intend to be citizens of their destination countries outweighs those who did, except for Taiwan case. In Singapore, as much as 85% did not want to change their citizenship. Moreover, in Japan, despite the fact that many are settled in Japan and it is assumed that becoming a citizen is likely to give them better status and make it easier to gain access to public services, the majority did not want to be Japanese citizens. Interestingly, however, as high as 32% wanted Taiwanese citizenship and nearly half even felt uncertain of becoming the other citizens.

Table 3 Comparative Thai Migrant Workers' Conditions in Destination Countries

	Workers in Japan		Workers in Taiwan		Workers in Malaysia		Workers in Singapore	
	Yes	No	Yes	No	Yes	No	No visa requirement	%
Visa on entry								
Kind of visa on entry	Tourist	Temporary residence permit	Temporary residence permit	Temporary residence permit	Temporary working pass	Others	No visa requirement	
Visa valid*	Invalid	Valid	Invalid	Valid	Invalid	Valid	No visa requirement	
Work Contract Signed	No	Yes	Yes	No	No	Yes	Yes	
	Yes	Others	Others	Others	Yes	Others	No	
	Others				Others		Others	
Income per Month (baht)**	1-10,000	10,001-25,000	1-10,000	10,001-25,000	1-10,000	10,001-25,000	1-10,000	
	25,001-50,000	50,001-75,000	25,001-50,000	50,001-75,000	10,001-25,000	25,001-50,000	10,001-25,000	
	75,001-100,000	>100,000	75,001-100,000	>100,000	Others	>100,000	25,001-50,000	
	Others		Others			Others	>100,000	
	(Mean = 61,594.29 baht)	(Mean = 1,621 US\$)	(Mean = 24,473.04 baht)	(Mean = 644 US\$)		(Mean = 18,942 baht)	(Mean = 498 US\$)	
Remittances each time*** (baht)	1-10,000	10,001-30,000	1-10,000	10,001-30,000	1-10,000	10,001-30,000	1-10,000	
	30,001-50,000	50,001-75,000	10,001-30,000	30,001-50,000	10,001-30,000	30,001-50,000	10,001-30,000	
	75,001-100,000	>100,000	30,001-50,000	75,001-100,000	Others	75,001-100,000	30,001-50,000	
	Others		Others			Others	75,001-100,000	
	(Mean = 101,994.1)	(Mean = 2,684 US\$)	(Mean = 15,157.61)	(Mean = 399 US\$)		(Mean = 12,580.77)	(Mean = 331 US\$)	
Intention to be citizens of destination countries	No	Yes	No	Yes	No	Yes	No	
	Not Sure	Others	Not sure	Others	Yes	Others	Yes	
					Others		Not Sure	

* at the time of the interview, ** at the average exchange rate of 1999, *** "Others" means no remittance sending, no reply or not sure

Conclusion

To draw a conclusion, first of all, all Thai citizens in our research who emigrated to work in Taiwan, Malaysia, and Singapore, have some characteristics in common. The typical profile of those is: low level of education, financially weak, married, and farmers. On the contrary, that of those who moved to Japan is: well-educated, financially independent (most of them can be considered middle or upper middle class), and workers in the service sector.

Second, in terms of travel arrangement and job hunt, private recruitment agencies are very important but only for those who go to Singapore, while social network and the Thai government office are the major facilitators in the other three countries.

Third, it is clear that recruitment fees, income in destination countries and remittances have co-relationship to each other. In other words, our data found that the higher the recruitment cost is, the more benefits Thai workers receive from their work overseas in income, and thus remittance. In this sense, the Japanese case presents a good example; those who go to Japan pay for high recruitment fees but gain high income and send high remittances.

Fourth, Thai workers are less likely to obtain beneficial labor skills from their work in destination countries because after their return most of them were employed in totally different areas, from what they had been in their previous jobs. The exception for this is Japan where Thai migrant workers in Japan tend to work in the similar jobs that they used to do so while they were in Thailand.

Fifth, concerning legal status in destination countries, most of the Thai workers were legal at the first step of entry but because of overstaying, their status tended to be illegal, especially in Japan.

Sixth, as recruited by private or government recruitment agencies, workers in Singapore and Taiwan got work contracts while those in Malaysia and Japan who were assisted by social network, tend not to have such formal contracts.

Lastly, the intention to change to the citizenship of the destination country is less attractive to Thai workers in Japan, Taiwan, and Singapore, while it is more so in Malaysia.

Appendix

ส่วนที่ 1: สภาพเศรษฐกิจและสังคมของแรงงานไทย

1. ประเทศญี่ปุ่น

การเดินทางของคนไทยไปยังประเทศญี่ปุ่นเพื่อทำงานเป็นปรากฏการณ์ที่เกิดขึ้นในทศวรรษ 1980 นี้เอง เนื่องจากความเจริญเติบโตทางเศรษฐกิจของญี่ปุ่นทำให้คนไทยปรารถนาไปทำงานที่นั่น อย่างไรก็ตามรัฐบาลญี่ปุ่นมีนโยบายไม่เปิดรับให้คนงานต่างชาติไร้ฝีมือเข้าไปทำงานในประเทศ ทำให้การเดินทางไปทำงานส่วนใหญ่เป็นการลักลอบเข้าไปโดยอาศัยวีซ่านักท่องเที่ยว และผู้ที่เข้าไปจำนวนมากเป็นหญิงไทยที่ไปทำงานในธุรกิจที่เกี่ยวกับเรื่องเพศและการบันเทิง

ระหว่างปี 1988 ถึงปี 1995 มีคนไทยเดินทางเข้าไปญี่ปุ่นปีละประมาณ 40,000 คนขึ้นไป มีปี 1991 ซึ่งเป็นช่วงที่การเดินทางบูมสุดขีด มีคนไทยเดินทางไปญี่ปุ่นถึง 105,666 คน แต่จำนวนดังกล่าวนี้ก็คิดเป็นเพียงร้อยละ 3 หรือ 4 ของจำนวนชาวเอเชียทั้งหมดที่เดินทางไปญี่ปุ่น เพราะญี่ปุ่นมีคนต่างชาติชาวเอเชียเดินทางเข้าประเทศรวมทั้งสิ้นถึง 2 ล้านคน (ปี 1998) คนส่วนใหญ่เดินทางไปพำนักอย่างผิดกฎหมาย ในปี 1998 กรมตรวจคนเข้าเมืองญี่ปุ่นประมาณว่ามีคนไทยผิดกฎหมายอยู่ในญี่ปุ่น 37,046 คน คนไทยจะกระจายกันอยู่ในหลายเมืองในญี่ปุ่น แหล่งสำคัญๆ ที่มีคนไทยมากได้แก่ นากาโนะ, ชิบะ, อิบารากิ, ชิซุโอกะ คนไทยที่ไปทำงานในญี่ปุ่นแบ่งได้เป็น 2 ประเภทใหญ่ คือ คนที่ไปทำงานเป็นแรงงานต่างด้าว และคนที่ไปทำงานในฐานะผู้ฝึกงาน รายงานในส่วนนี้จะนำเสนอข้อมูลของบุคคลทั้ง 2 กลุ่ม ตามรายละเอียดต่อไปนี้

1.1 คนงานไทยในญี่ปุ่น

ข้อมูลจากการสำรวจและสัมภาษณ์คนงานไทยจำนวน 97 คนในญี่ปุ่นที่ไม่ใช่ผู้ฝึกงานเมื่อเดือนมิถุนายน-กรกฎาคม 1999 เป็นชายร้อยละ 57 เป็นหญิงร้อยละ 43 ในกลุ่มนี้เป็นผู้มีสถานภาพการเข้าเมืองโดยถูกกฎหมาย (เมื่อแรกเข้าประเทศญี่ปุ่น) ร้อยละ 38 และผิดกฎหมายร้อยละ 62 อย่างไรก็ตามผู้ที่เข้าเมืองโดยถูกกฎหมายส่วนหนึ่งเข้ามาในฐานะนักท่องเที่ยวและอยู่เกินกำหนดวีซ่าเพื่อทำงาน สถานภาพในปัจจุบันจึงเป็นการทำงานโดยผิดกฎหมายรวมแล้วมีผู้เข้าเมืองแล้วทำงานโดยผิดกฎหมายร้อยละ 67

แรงงานเหล่านี้กระจายอยู่ในแหล่งพื้นที่ ได้แก่ โตเกียว, ชิซุโอกะ, อาอิชิ, มิเอะ, ชิบะ และโอซากา ซึ่งบางแห่งไม่ใช่แหล่งใหญ่ที่คนไทยในญี่ปุ่นอยู่ เนื่องจากกลุ่มตัวอย่างนี้เป็นกลุ่มตัวอย่างที่ได้จากแรงงานไทยแนะนำให้ผู้วิจัยไปสัมภาษณ์แรงงานที่ผู้ให้สัมภาษณ์รู้จักและช่วยยืนยันความปลอดภัยของผู้ให้สัมภาษณ์รายใหญ่คู่ๆกันไปในลักษณะ snowball sampling เพราะผู้ให้สัมภาษณ์ส่วนใหญ่เป็นผู้ทำงานอยู่โดยผิดกฎหมาย จึงไม่ต้องการเปิดเผยตนเอง

ภูมิหลังในประเทศไทย

ผู้ตอบส่วนใหญ่ (ร้อยละ 45) อายุ 30-39 ปี รองลงมาร้อยละ 28 อายุ 20-29 ปี และกลุ่มที่สามอีกร้อยละ 24 อายุ 40-49 ปี ส่วนใหญ่เดินทางไปญี่ปุ่นตั้งแต่อายุ 20 ปีเศษ ดังจะพบว่าผู้ที่มาก่อนปี 1993 มีรวมแล้วถึงร้อยละ 73, มีผู้เดินทางไปในช่วงปี 1997-1998 เพียงร้อยละ 3 ภูมิถิ่นเดิมเป็นภาคกลางมากที่สุด (ร้อยละ 43) ได้แก่

กรุงเทพฯ, ชลบุรี, นนทบุรี, นครนายก ฯลฯ รองลงมาคือภาคเหนือ (ร้อยละ 30) ได้แก่ เชียงราย, เชียงใหม่, ลำปาง พะเยา และแพร่ ภาคตะวันออกเฉียงเหนือ (ร้อยละ 23) ได้แก่ ขอนแก่น, นครราชสีมา, อุรธานี ฯลฯ นอกจากนั้น ยังมีจากภาคใต้ร้อยละ 4 ได้แก่ ตรัง พัทลุง, สงขลา และนครศรีธรรมราช โดยรวมแล้วจึงมีคนไทยจากทุกภาคเดินทางไปทำงานที่ญี่ปุ่น อย่างไรก็ตามที่อยู่อาศัยก่อนออกเดินทางของแรงงานไทยร้อยละ 58 ออกจากภาคกลางในจำนวนนี้ร้อยละ 44 ออกจากกรุงเทพฯ แสดงว่าแรงงานไทยได้ย้ายถิ่นจากภูมิลำเนาเดิมมาอยู่ในภาคกลาง และกรุงเทพฯระยะหนึ่งแล้วก่อนเดินทางไปญี่ปุ่น

แรงงานไทยร้อยละ 50.5 สมรสแล้ว อีกร้อยละ 31 เป็นโสดและอีกร้อยละ 13 หย่าหรือแยก หรือเป็นหม้าย ผู้ที่สมรสส่วนใหญ่มีบุตรเพียง 1-2 คน มีผู้มาสมรสในญี่ปุ่นร้อยละ 18.5 และอีกร้อยละ 35 ไม่ตอบ ซึ่งแสดงถึงสถานภาพสมรสที่คลุมเครือในญี่ปุ่น ดังจะพบว่าไม่ถึงร้อยละ 26 ที่ทำนบกู้ยืมกับคู่สมรสในญี่ปุ่น โดยปกติแล้วโอกาสที่แรงงานไทยจะนำคู่สมรสชาวไทยเข้าไปทำนบกู้ยืมในญี่ปุ่นร่วมกันมีน้อยมากหรือไม่มีเลย การทำนบกู้ยืมกับคู่สมรส หรือ partner จึงหมายถึงชาวญี่ปุ่นเป็นส่วนใหญ่

ระดับการศึกษาของคนไทยในญี่ปุ่นโดยเฉลี่ยสูงกว่าที่อื่น มีผู้จบมัธยมศึกษาตอนปลาย ถึงร้อยละ 35 จบระดับประกาศนียบัตรชั้นสูงร้อยละ 21.6 และจบปริญญาตรีอีกร้อยละ 7.2 ที่เหลือจบมัธยมศึกษาตอนต้นร้อยละ 17.5 และจบประถมศึกษาเพียงร้อยละ 10.3 ผู้มีการศึกษาสูงกว่ามีแนวโน้มจะเป็นผู้ทำงานโดยถูกกฎหมาย อาชีพเดิมในประเทศไทย เป็นผู้อยู่ในภาคบริการบันเทิง (ร้านอาหาร, บาร์, ไนต์คลับ, ร้องเพลง, โรงแรม ฯลฯ มากที่สุด (ร้อยละ 20.6) รองลงมาคือภาคเกษตร (ร้อยละ 14.4), งานผู้ช่วยในบ้านหรือสำนักงานร้อยละ 14.4, งานบริการอื่นๆ (พนักงานขาย, ทัวร์, ขับรถแท็กซี่, ขายอัญมณี และบริการลูกค้า) รวมร้อยละ 13.4, ทำงานโรงงานร้อยละ 9.3, รับราชการ (ครู, ธนาคารและรัฐวิสาหกิจ) ร้อยละ 7.2, ทำธุรกิจร้อยละ 6.2 และอื่นๆปลีกย่อย เช่น ซ่อมจักรยานยนต์, ครูสอนมวย, ก่อสร้าง ฯลฯ อีกร้อยละ 6 โดยรวมแล้วภูมิหลังทางอาชีพของแรงงานไทยในญี่ปุ่นจึงต่างจากที่อื่น เพราะไม่ใช่เกษตรกร แต่เป็นผู้อยู่ในภาคบริการมากกว่า ในบรรดาผู้ที่เคยเป็นเกษตรกรก็ว่าจ้างให้ผู้อื่นทำงานเกษตรมากกว่าทำด้วยตนเอง

เมื่อพิจารณารายได้ของคนเหล่านี้ก่อนเดินทางไปญี่ปุ่น พบว่าร้อยละ 24.7 มีรายได้สูงกว่า 20,000 บาทต่อเดือน อีกร้อยละ 35 มีรายได้ระหว่าง 10,000 - 20,000 บาท มีเพียงร้อยละ 11 ที่มีรายได้ต่ำกว่า 5,000 บาท แสดงว่าผู้ไปญี่ปุ่นส่วนใหญ่มีรายได้สูง ไม่ใช่ผู้ขัดสน แต่เป็นผู้ต้องการหารายได้ที่สูงกว่าเดิม ส่วนหนึ่ง (ร้อยละ 21.6) เคยมีประสบการณ์ไปหารายได้ในประเทศอื่นมาแล้ว ข้อมูลในด้านเหตุผลที่ตัดสินใจไปญี่ปุ่นยืนยันข้อเท็จจริงนี้ เพราะผู้ไปส่วนใหญ่ให้เหตุผลหลักว่าต้องการได้รายได้สูงขึ้น (บางคนมีหนี้สินต้องไ้) มีส่วนหนึ่งที่ต้องการไปแสวงหาประสบการณ์และไปแต่งงานที่ญี่ปุ่น หรือไปสมทบญาติที่อยู่ที่ญี่ปุ่น ผู้ที่ไปที่มีรายได้สูงระหว่าง 10,000 - 20,000 บาท และมากกว่า 20,000 บาท ส่วนใหญ่ยังคงคิดว่าฐานะของครอบครัวของตนดีกว่าผู้อื่น หรือพอๆ กับผู้อื่น (แต่ไม่ดีกว่า) จึงตัดสินใจไปญี่ปุ่น

เครือข่ายทางสังคมได้แก่ญาติและเพื่อนในประเทศญี่ปุ่นและประเทศไทยเป็นแหล่งข้อมูลสำคัญที่คนไทยใช้ในการเดินทาง (ร้อยละ 86) มีผู้ได้ข้อมูลจากนายหน้าหรือบริษัทจัดหางานเพียงร้อยละ 4 และส่วนใหญ่รู้ล่วงหน้าแล้วว่าตนจะไปทำงานอะไร

กระบวนการเดินทางและการจัดหางาน

กลุ่มตัวอย่างแรงงานไทยส่วนใหญ่ (ร้อยละ 27.8) เดินทางไปญี่ปุ่นด้วยตนเอง อีกร้อยละ 20.6 ใช้บริการของบริษัทจัดหาแรงงานหรือนายหน้า มีถึงร้อยละ 29 ที่ได้รับความช่วยเหลือจากญาติ, เพื่อน, และคู่สมรส ส่วนที่เหลือเป็นนายจ้างหรือบริษัทในญี่ปุ่นร้อยละ 12.7 จะเห็นได้ว่าส่วนใหญ่ไปด้วยตนเองหรือญาติและเพื่อนจัดการให้ ไม่ใช่การไปโดยกระบวนกรนายหน้าเช่นที่คาดไว้ เพราะผู้เดินทางมีข้อมูลเพียงพอสามารถจัดการเดินทางด้วยตนเองได้ แต่ส่วนใหญ่ (ร้อยละ 42) ต้องอาศัยบริษัทจัดหาแรงงานหรือนายหน้าในประเทศไทยช่วยทำวีซ่าให้เพราะเป็นเรื่องยาก รองลงมาคือทำวีซ่าด้วยตนเอง (ร้อยละ 12) และนายจ้างที่ญี่ปุ่นจัดการให้ (ร้อยละ 11) วีซ่าที่ได้มาเป็นวีซ่านักท่องเที่ยวมากที่สุด (ร้อยละ 55.7) แต่ก็มีผู้ที่เดินทางด้วยวีซ่านักเรียน (ร้อยละ 10) และวีซ่าแบบผู้มาพำนักระยะชั่วคราว (temporary residence) ร้อยละ 16.5 อย่างไรก็ตามเมื่อเดินทางถึงญี่ปุ่นและผ่านด่านตรวจคนเข้าเมือง มีกลุ่มตัวอย่างเพียงร้อยละ 11 ที่มีปัญหาในการผ่านแดน แสดงให้เห็นว่าผู้เดินทางรู้ทางที่จะผ่านแดนได้โดยไม่มีปัญหา โดยใช้วิธีการต่างๆ ซึ่งมีรายละเอียดอยู่ในหัวข้อแรงงานผิดกฎหมายในญี่ปุ่น

เมื่อไปถึงญี่ปุ่นแล้ว กลุ่มตัวอย่างส่วนใหญ่ถึงร้อยละ 80 ได้งานทันที แสดงว่าได้มีการเตรียมตัวมาก่อนแล้วในการหางาน โดยเพื่อนหรือญาติทั้งในประเทศญี่ปุ่นและในประเทศไทย คงจะพบว่ากลุ่มตัวอย่างเกือบร้อยละ 80 เช่นกันมีญาติหรือเพื่อนเคยไปญี่ปุ่นมาแล้ว แม้จะเดินทางไปญี่ปุ่นด้วยตนเองหรือโดยความช่วยเหลือของญาติและเพื่อน ก็ไม่ได้หมายความว่าไม่มีค่าใช้จ่ายในการไป กลุ่มตัวอย่างประมาณร้อยละ 34 เสียค่าใช้จ่ายไม่เกิน 50,000 บาท อีกร้อยละ 21.6 เสียระหว่าง 50,000 - 200,000 บาท และอีกร้อยละ 16.4 เสียสูงถึง 200,000 - 400,000 บาท นอกจากนั้นยังมีอีกร้อยละ 8.2 ที่เสียค่าใช้จ่ายมากกว่า 400,000 บาท จะเห็นได้ว่าค่าใช้จ่ายนี้สูงกว่าการเดินทางไปประเทศปลายทางอื่นๆมาก เฉลี่ยแล้วคนละประมาณ 140,000 บาท เมื่อคำนึงถึงปีที่กลุ่มตัวอย่างส่วนใหญ่เดินทางคือก่อนปี 1993 (ร้อยละ 73) มูลค่าของเงินที่จ่ายเพื่อให้ได้เดินทางจึงสูงมาก ผู้ที่ไม่มีทุนรอนหรือหลักทรัพย์ไม่สามารถจะจ่ายเงินจำนวนมากเช่นนี้ได้ คงจะพบว่าผู้เดินทางถึงหนึ่งในสี่ที่เสียเกิน 200,000 บาทขึ้นไป

สภาพการทำงานในญี่ปุ่น

กลุ่มตัวอย่างเกินครึ่ง (ร้อยละ 56.7) เป็นผู้ที่พำนักอยู่ในญี่ปุ่นมาแล้ว 7 ปี (ออกเดินทางในปี 1992 และให้สัมภาษณ์ในปี 1999) ในจำนวนนี้มีร้อยละ 10.3 ที่อยู่มาแล้ว 9-11 ปี แสดงให้เห็นแนวโน้มการพำนักอยู่เป็นเวลานานและไม่กลับประเทศไทย ส่วนที่เหลือร้อยละ 16.5 อยู่มาแล้ว 6 ปี, ร้อยละ 4.12 อยู่มาแล้ว 5 ปี, และ ร้อยละ 14.4 อยู่มาแล้ว 4 ปี สาเหตุที่ไม่ต้องการกลับเป็นเพราะคิดว่าจะหางานทำไม่ได้ที่ประเทศไทย มีปัญหาเพราะสถานภาพผิดกฎหมายในญี่ปุ่น และส่วนหนึ่ง (โดยเฉพาะผู้ย้ายถิ่นหญิง) แต่งงานหรือมีคู่เป็นชายญี่ปุ่นหรือชายไทยในญี่ปุ่นแล้ว จึงเลือกจะตั้งถิ่นฐานในญี่ปุ่น ในแง่อาชีพ กลุ่มตัวอย่างถึงร้อยละ 36 มีอาชีพบริการด้านต่างๆ เช่น เป็นผู้ปรุงอาหาร, ครูสอนภาษาและมวยไทย, ขายอาหารไทย, ทำงานโรงแรมและร้านอาหาร ฯลฯ อีกร้อยละ 22.6 ทำงานบริการที่เกี่ยวข้องกับธุรกิจบันเทิง (ร้องเพลง, เดินระบำ) มีร้อยละ 28.9 ที่ทำงานโรงงาน เช่น โรงงานแปรรูปอาหาร, พลาสติก, ปลา, เบเกอรี่ ฯลฯ และอีกร้อยละ 8.2 ทำงานก่อสร้าง ข้อมูลจากสัมภาษณ์เจาะลึกเพิ่มเติมได้พบว่า ผู้ที่มาทำงานบริการทางเพศส่วนหนึ่งได้พยายามเปลี่ยนอาชีพเป็นงานโรงงาน เพราะมีความขาดขาดแคลนคนงานในโรงงาน โดยเฉพาะในโรงงานขนาดกลางและเล็ก อย่างไรก็ตาม คนเหล่านี้เป็นแรงงานผิดกฎหมายทั้งสิ้น เนื่องจากไม่ได้มีสัญญาจ้างงานถึงร้อยละ 74 สภาพการทำงานจึงไม่เป็นไปตามมาตรฐาน ส่วนใหญ่ทำงานวันละ 8 ชั่วโมง แต่จำนวนวันที่ทำงานในรอบเดือนไม่แน่นอน และไม่มีสวัสดิการมากนัก มีเพียงร้อยละ 26.8 ที่ได้โบนัสจากนายจ้าง

ส่วนใหญ่ไม่ได้สวัสดิการใดๆ รายได้จากการทำงานเมื่อคิดเป็นเงินบาทแล้วร้อยละ 33 ได้เดือนละ 50,000-75,000 บาท ซึ่งเป็นอัตราค่าจ้างตรงกลาง มีอีกร้อยละ 28.7 ที่ได้ต่ำกว่า 50,000 บาท และอีกร้อยละ 28.9 ที่ได้มากกว่า 75,000 บาท แต่ไม่เกิน 100,000 บาท มีส่วนน้อย (ร้อยละ 4) ที่ได้เกิน 100,000 บาทต่อเดือน รายได้เช่นนี้สูงกว่าในประเทศไทยอย่างแน่นอน บางครั้งสูงกว่าที่คนญี่ปุ่นที่ทำงานแบบเดียวกันได้อยู่ เพราะแรงงานไทยมักทำงานล่วงเวลาอย่างหนัก เนื่องจากต้องการรายได้เพิ่ม ด้วยเหตุที่รายได้สูง คนงานส่วนใหญ่ (ร้อยละ 79) จึงพอใจในรายได้ของตน

กลุ่มตัวอย่างครึ่งหนึ่งบ่นว่าตนคิดถึงบ้าน (ร้อยละ 53.6) ปัญหาอื่นๆ ที่มีคือกลัวตำรวจจับเพราะตนมีสถานภาพผิดกฎหมาย, รู้สึกไม่มั่นคงเพราะเป็นคนต่างชาติ, ค่าจ้างยังต่ำไป, ที่พักอาศัยไม่ดี, มีปัญหากับผู้ร่วมงานหรือเพื่อนร่วมงาน, ขาดเพื่อนในการทำงาน, ร้อยละ 35 คิดว่าไม่ได้รับการปฏิบัติโดยเท่าเทียมกับคนงานญี่ปุ่นและไม่ได้รับการเลื่อนตำแหน่ง (ร้อยละ 79) แต่ส่วนใหญ่ (ร้อยละ 87.6) คิดว่าตนได้เรียนรู้ทักษะใหม่ๆ ในการทำงาน

แรงงานไทยที่เป็นกลุ่มตัวอย่างมักใช้เงินอย่างประหยัดและมุ่งเก็บเงินดังจะพบว่า รายจ่ายต่อเดือนไม่เกิน 40,000 บาท (ร้อยละ 73) ส่วนที่เหลือใช้เงินแต่ก็ไม่มากกว่า 60,000 บาท เมื่อเทียบกับรายได้ซึ่งส่วนใหญ่ได้ไม่ต่ำกว่า 50,000 บาท และสูงถึง 75,000 บาทต่อเดือน ย่อมมีเงินเหลือเก็บทั้งที่ค่าครองชีพในญี่ปุ่นสูงมาก

ผลกระทบของการย้ายถิ่นต่อประเทศไทยและประเทศญี่ปุ่น

กลุ่มตัวอย่างแรงงานไทยมีชีวิตที่ค่อนข้างแปลกแยกจากสังคมญี่ปุ่นเพราะมีสถานภาพผิดกฎหมาย อีกทั้งสังคมญี่ปุ่นก็ไม่ใช่ว่าสังคมที่เปิดกว้างสำหรับคนต่างชาติ สิ่งที่คนไทยส่วนหนึ่ง (ร้อยละ 24) อยากทำในเวลาว่าง (แต่ไม่สามารถทำได้) จึงเป็นเพียงการไปเดินซื้อของหรือไปเที่ยว ถึงแม้ผู้ตอบร้อยละ 91 จะเข้าใจภาษาญี่ปุ่นดีพอสมควรถึงดีมาก เพราะพำนักรอมาเป็นเวลานาน แต่ก็ไม่ได้บูรณาการเข้าเป็นส่วนหนึ่งของสังคมญี่ปุ่น เมื่อเทียบกับแรงงานต่างด้าวชาติอื่นๆ แรงงานไทยมีความเข้าใจภาษาญี่ปุ่นน้อยกว่าคนเหล่านั้น ผู้ตอบถึงร้อยละ 86 ตอบว่ารู้สึกเหงา ร้อยละ 78 โทรศัทพ์ถึงครอบครัวที่ประเทศไทยเดือนละ 1-4 ครั้ง แต่ก็มักกลุ่มตัวอย่างร้อยละ 39 ที่มีคู่ใหม่ในญี่ปุ่น และร้อยละ 68 พักอาศัยอยู่กับคู่สมรส, ครอบครัว, ญาติหรือเพื่อนร่วมงาน ภาวะความเหงาจึงเกิดขึ้นแม้มิได้อยู่ตามลำพัง แต่อาจเป็นเพราะความรู้สึกว่าตนมิได้เป็นส่วนหนึ่งของสังคมญี่ปุ่น (เมื่อถูกถามว่าถ้าให้เลือกไปต่างประเทศอีกจะไปหรือไม่ มีเพียงร้อยละ 35 ที่ตอบว่าจะไปอีก และในกลุ่มนี้มีเพียงร้อยละ 4 ที่คิดจะไปญี่ปุ่นอีก และมีร้อยละ 66 ที่ไม่คิดว่าตนมีความจำเป็นจะถือสัญชาติญี่ปุ่น)

ในส่วนของความสัมพันธ์กับประเทศไทย ผู้ตอบส่วนใหญ่ (ร้อยละ 65) เห็นว่าความสัมพันธ์ของตนกับครอบครัวยังคงเหมือนเดิม มีร้อยละ 27.8 ที่ระบุว่าความสัมพันธ์ดีขึ้น แต่ก็มีส่วนหนึ่ง (ร้อยละ 6) ที่ระบุว่าความสัมพันธ์ลดลง แม้จะมองเห็นแง่มุมทางลบของการเดินทางไปญี่ปุ่น แต่ผู้ตอบร้อยละ 67 ก็คิดจะสนับสนุนให้เพื่อนหรือญาติของตนเดินทางไปญี่ปุ่น มีร้อยละ 26 ที่จะไม่สนับสนุน ในจำนวนนี้มีร้อยละ 2 ที่จะคัดค้านไม่ให้ผู้อื่นไป ผู้ตอบเกือบร้อยละ 90 ส่งเงินกลับบ้าน บางคนส่งทุกเดือน (ร้อยละ 43) ทุก 2-3 เดือน (ร้อยละ 29), ทุก 6 เดือน (ร้อยละ 2) และส่งแบบไม่แน่นอนอีกร้อยละ 15.4 มีเพียงร้อยละ 10.3 ที่ไม่ส่งหรือไม่เข้าช่วยเหลือเพราะครอบครัวอยู่ในญี่ปุ่นอยู่แล้ว เงินที่ส่งสูงสุดถึง 120,000 บาทต่อครั้ง ดังรายละเอียดคือ ผู้ตอบร้อยละ 24.7 ส่งไม่เกิน 30,000 บาทต่อครั้ง, ร้อยละ 31 ถึง 30,000 - 60,000 บาท, ร้อยละ 16.5 ถึง 60,000 - 90,000 บาท, ร้อยละ 4.1 ส่ง 90,000 - 120,000 บาท และอีกร้อยละ 7.2 ส่งสูงเกิน 120,000 บาท และเมื่อคิดเฉลี่ยทั้งปีเงินส่งกลับจากญี่ปุ่นจะเป็นดังนี้

ต่ำกว่า 100,000 บาท	ร้อยละ 8.25
100,000 - 500,000 บาท	ร้อยละ 17.53
500,000 - 1,000,000 บาท	ร้อยละ 27.84
1,000,000 - 2,000,000 บาท	ร้อยละ 15.46
2,000,000 บาทขึ้นไป	ร้อยละ 10.31

จะเห็นได้ว่าเงินส่งกลับมีมูลค่ามหาศาล ลำพังผู้ที่ส่งกลับในวงเงิน 500,000 - 1,000,000 บาท ถ้าคิดค่าเฉลี่ยที่ 750,000 บาท จำนวนผู้ส่ง 27 ราย ก็จะมีมูลค่าสูงถึง 20 ล้านบาทถ้วนแล้ว และถ้าคิดเฉลี่ยวงเงินทุกขนาดและจำนวนผู้ส่งในแต่ละวงเงิน ลำพังกลุ่มตัวอย่าง 97 รายก็ส่งเงินกลับประเทศไทยถึงปีละ 97.35 ล้านบาทเป็นอย่างต่ำ คิดเฉลี่ยได้หัวละ 7 แสนบาท เมื่อคำนึงถึงว่ามีคนไทยในญี่ปุ่นอยู่ 50,000 คน เงินส่งกลับทั้งสิ้นจากญี่ปุ่นจะตกประมาณ 35,000 ล้านบาทต่อปีจากการคำนวณอย่างต่ำ ข้อมูลนี้เป็นผลกระทบสำคัญต่อประเทศไทยที่อาจไม่ได้มีผู้ให้สนใจมากเพียงพอ โดยเฉพาะในภาวะที่เศรษฐกิจไทยกำลังถดถอย

เงินส่งกลับส่วนใหญ่ส่งมาให้บิดา มารดา และบุตร มีเพียงร้อยละ 14 ที่ส่งเงินมาให้คู่สมรส และมีการส่งเงินกลับทั้งในระบบและนอกระบบ มีผู้ส่งนอกระบบโดยไม่ผ่านธนาคารร้อยละ 16 เงินที่ส่งมาส่วนใหญ่ใช้ซื้อที่ดินและบ้าน (ร้อยละ 34), เก็บออม (ร้อยละ 27) และใช้หนี้ (ร้อยละ 14) มีเพียงร้อยละ 4 ที่นำไปลงทุนทำธุรกิจ และร้อยละ 1 เพื่อส่งเสียให้น้องหรือบุตรเรียนหนังสือ เป็นที่น่าสนใจว่ามีผู้ใช้เงินนี้เพื่อใช้หนี้เพียงร้อยละ 14 ทั้งๆที่ค่าใช้จ่ายในการเดินทางไปญี่ปุ่นสูง แสดงว่าผู้ตอบได้ใช้หนี้สินไปหมดแล้วก่อนหน้านี้ (โดยเฉพาะในปีแรกๆ ของการมาถึงญี่ปุ่น) หรือ ผู้ตอบมีทรัพย์สินที่จะจ่ายเงินดังกล่าวโดยไม่ต้องกู้ยืมใคร ไม่ว่าจะเป็นแบบใดก็ตาม คนไทยที่ไปญี่ปุ่นมีโอกาสเก็บเงินก้อนใหญ่หรือนำเงินไปก่อให้เกิดประโยชน์อื่นได้มากกว่าคนไทยที่เดินทางไปประเทศอื่นๆ นอกจากนั้นยังมีข้อค้นพบอีกประการหนึ่งว่า ครอบครัวของคนไทยที่ไปญี่ปุ่นถึงร้อยละ 23 ได้รับเงินส่งกลับจากสมาชิกอื่น ในครอบครัวที่เดินทางไปทำงานในประเทศอื่นด้วยนอกจากสมาชิกคนที่ไปญี่ปุ่น แสดงว่ามีครอบครัวเกือบหนึ่งในสี่ของกลุ่มตัวอย่างที่เป็น “ครอบครัวย้ายถิ่น” เพราะส่งสมาชิกออกไปทำงานต่างประเทศมากกว่า 1 คน เงินส่งกลับที่ครอบครัวจะได้รับจึงมีมากกว่า 1 ประเทศ เป็นที่น่าเสียดายว่าเงินที่ได้รับไม่ได้ถูกนำไปใช้เพื่อเพิ่มพูนมูลค่าหรือเป็นทุนเท่าที่ควร ผู้ที่นำเงินไปซื้อบ้านมีถึงร้อยละ 13 ที่ซื้อบ้านราคาเกิน 1 ล้านบาทขึ้นไป ในจำนวนนี้มี 1 ราย ซื้อบ้านราคา 7 ล้านบาท และ 2 รายซื้อบ้านราคา 12 ล้านบาท

ความขัดแย้งและปัญหาของแรงงานไทย

คนงานร้อยละ 56 มีปัญหาในที่ทำงาน แม้จะมีความสัมพันธ์ที่ดีกับเพื่อนคนไทย และเพื่อนร่วมงานชาวญี่ปุ่น ปัญหาส่วนใหญ่เกิดกับตัวนายจ้าง ข้อมูลจากการสัมภาษณ์ผู้เชี่ยวชาญระบุว่า คนงานไทยบางคนก็ถูกนายจ้างญี่ปุ่นหลอก ลักษณะปัญหาที่คนงานพบคือ ถูกนายจ้างหักค่าธรรมเนียมนิยาม (levy) จากค่าจ้างสูงเกินไป, จ่ายค่าจ้างไม่ตรงเวลา, ปลดคนงานโดยไม่บอกล่วงหน้า และไม่บอกเหตุผล ทั้งนี้เป็นเพราะนายจ้างบางคนเห็นว่าคนงานไม่มีทางสู้รบปรบมือได้ นอกจากนั้นฝ่ายคนงานไทยเองก็ไม่มีข้อมูลที่ถูกต้องเพียงพอที่จะตัดสินใจได้ว่าคนถูกหลอกหรือไม่ บางคนไม่รู้แม้กระทั่งชื่อและที่อยู่ของนายจ้าง/บริษัทที่ตนทำงานอยู่ด้วย เมื่อเกิดปัญหาจึงร้องเรียนไม่ถูกว่าใครคือผู้

ถูกร้องเรียน หนังสือคู่มือที่กลุ่มองค์กรพัฒนาภาคเอกชนทำขึ้นเพื่อให้ข้อมูลพื้นฐานเกี่ยวกับสิทธิคนงาน ยังไม่ช่วยให้คนงานไทยช่วยตนเองได้ดีเพียงพอ

ผู้ตอบร้อยละ 55 ระบุว่าไม่ได้รับสวัสดิการรักษาพยาบาลและการประกันสุขภาพ อีกร้อยละ 22 ระบุว่าแม้เข้าถึงบริการได้โดยยาก ทั้งนี้เป็นเพราะสถานภาพที่ผิดกฎหมาย ผู้ย้ายถิ่นหญิงจากประเทศไทยยังมีปัญหามากกว่าชาย โดยเฉพาะปัญหาเรื่องความสัมพันธ์ชาย-หญิง, การสมรส, การหย่าร้าง, ความรุนแรงในครอบครัว, การมีบุตร, และการขอมีสถานภาพที่ถูกกฎหมาย องค์กรพัฒนาภาคเอกชนและเจ้าหน้าที่ของรัฐบาลญี่ปุ่นต่างระบุว่าปัญหาของคนงานหญิงไทยเป็นปัญหาที่สังคมญี่ปุ่นโดยทั่วไปไม่ได้รับรู้ เพราะคนไทยจะพยายามซ่อนตัวเพื่อไม่ให้ถูกตำรวจจับกุม แม้ผู้ที่ได้รับการช่วยเหลือแล้วบางคนก็ยังหลบหนีไปอีก

ภาวะการเจ็บป่วย คนไทยในญี่ปุ่นส่วนหนึ่งที่เป็นหญิง ป่วยเป็นโรคเอดส์และ HIV บางคนเป็นโรคจิตเภทหรือมีปัญหาสุขภาพจิต นอกจากนั้นอัตราการตายของทารกแรกเกิดจากมารดาคนไทยมีสูงถึงร้อยละ 10

ถึงแม้คนงานไทยในญี่ปุ่นจะมีปัญหาหลายด้าน แต่ก็ยังมีผู้มาขอความช่วยเหลือจากสถานทูตไทยน้อยมาก ผู้ตอบร้อยละ 67 ไม่เคยไปติดต่อสถานทูตและอีกร้อยละ 23 ระบุว่าไปติดต่อเพื่อขอเอกสารสำคัญที่จำเป็นเท่านั้น แต่ไม่เคยไปขอความช่วยเหลือ คนงานไทยอยากให้สถานทูตช่วยโดยแจ้งให้คนทราบสิทธิที่ตนพึงมี, ช่วยแก้ปัญหาที่เกิดขึ้น, ช่วยโต้แย้งเจ้าหน้าที่ญี่ปุ่นที่เข้ามาคุกคามคนไทย, ช่วยให้คนไทยมีสถานภาพทางกฎหมายที่ดีขึ้น และช่วยจัดงานพบปะในหมู่คนไทยด้วยกัน อนึ่ง เนื่องจากสำนักบริหารแรงงานไทยในญี่ปุ่นถือว่าคนไทยที่เข้าเมืองโดยผิดกฎหมายไม่ใช่คนงานในการดูแลของตน จึงไม่ได้ให้บริการหรือช่วยคุ้มครองคนเหล่านี้

1.2 ผู้ฝึกงานชาวไทยในญี่ปุ่น

สำหรับผู้ฝึกงานในญี่ปุ่น ระบบการรับผู้ฝึกงานที่ทั้งผ่าน JITCO (Japan International Training Cooperation Organization) ผ่านรัฐบาลญี่ปุ่นโดยองค์กรต่างๆ ได้แก่ JICA (Japan International Cooperation Agency) AOTS (Association of Overseas Training Scholarship) JAVADA (Japan Vocational Ability Development Association) และ ILO (International Labour Organization) ตลอดจนผู้ฝึกงานที่ผ่านกรมตรวจคนเข้าเมืองของญี่ปุ่นโดยตรง ผู้ฝึกงานจากประเทศไทยที่เดินทางไปฝึกงานที่ญี่ปุ่นเดินทางผ่าน JITCO, AOTS, SICA และ JAVADA เท่านั้น

JITCO, JITCO รับคนงานไทยเข้าฝึกงานตั้งแต่ปี 1990 จนถึงปัจจุบัน จำนวนประมาณปีละ 3,000 - 5,000 คน การอบรมมีทั้งโปรแกรมอบรมทั่วไป และโปรแกรมอบรมด้านเทคนิค (TITP หรือ Technical Intern Training Program) ซึ่งผู้เข้าอบรมต้องผ่านการทดสอบฝีมือหรือทักษะ การทดสอบมี 49 ประเภท ประกอบด้วยทักษะทั้งด้านงานเครื่องจักร, เครื่องยนต์, ไฟฟ้า งานอิเล็กทรอนิกส์, งานเย็บ, งานไม้ งานพิมพ์ ฯลฯ ข้อมูลจากกรณีศึกษาในบริษัทแห่งหนึ่งที่เป็นผู้จัดการส่งผู้ฝึกงานมาญี่ปุ่น พบว่าผู้ฝึกงานจากประเทศไทย สมัครมาฝึกงาน โดยผ่านกรมการจัดหางาน และบริษัทดังกล่าว โรงงานที่รับผู้ฝึกงานต้องเสียเงินค่าบริการคนละ 10,000 - 15,000 บาท (ปี 1999) ให้แก่บริษัทนี้ และบริษัทเป็นผู้ออกค่าเดินทางให้ผู้ฝึกงาน อย่างไรก็ตามผู้ฝึกงานบางรายระบุว่าต้องเสียค่าหัวถึง 160,000 บาท (ปี 1996) โดยไม่ทราบว่าจะเสียให้ใครบ้าง ผู้ฝึกงานได้รับเงินเบี้ยเลี้ยงเดือนละ 30,000 บาท (รวมค่าอาหาร) หรือ 33,000 บาท (ไม่รวมค่าอาหาร) โรงงานเป็นผู้ออกค่าที่พัก ผู้ฝึกงานโปรแกรมด้านเทคนิคจะได้เบี้ยเลี้ยงสูงกว่าเดือนละ

40,000 บาท บริษัทจัดหาผู้ฝึกงานนี้จัดเจ้าหน้าที่ชาวญี่ปุ่นไว้เพื่อช่วยดูแลประสานงานและสอนภาษาญี่ปุ่นให้แก่ผู้ฝึกงานชาวไทย ผู้ฝึกงานที่เป็นกรณีศึกษาสามารถส่งเงินกลับประเทศไทยได้ถึงเดือนละ 27,000 บาท ปัญหาสำคัญที่บริษัทจัดหางานพบได้แก่ ผู้ฝึกงานผลัดวันประกันพรุ่งจากงานที่ฝึกไปทำงานโดยผิดกฎหมายเพราะมีรายได้สูงกว่า ปัญหาเรื่องค่าตอบแทนที่บริษัทนายหน้าฝ่ายไทยคิดสูงขึ้นเรื่อยๆ และปัญหาด้านความสัมพันธ์ในกลุ่มผู้ฝึกงานด้วยกัน อย่างไรก็ตาม โปรแกรมฝึกงานของ JITCO นี้ ช่วยผู้ประกอบการรายย่อยของญี่ปุ่นเป็นอย่างมากในการผลิตเพราะคนงานญี่ปุ่นไม่ต้องการทำงานเหล่านี้

สำหรับผู้ฝึกงานชาวไทยในโปรแกรมเทคนิค คนเหล่านี้ได้ฝึกงานในบริษัททาสี, โรงงานผลิตภัณฑจากทะเล และโรงงานผลิตเรือสำราญ (leisure boat) เป็นต้น ส่วนใหญ่มีรายได้สูงกว่าผู้ฝึกงานโปรแกรมทั่วไปและมีการเพิ่มค่าเบี้ยเลี้ยงทุกปี

AOTS คนงานไทยที่ฝึกงานกับ AOTS มีระยะฝึกงานสั้นกว่า JITCO ตกประมาณ 6 เดือนเป็นส่วนใหญ่ ผู้ฝึกงานจะถูกส่งไปฝึกตามโรงงานหรือบริษัทต่างๆ แห่งละ 1-2 เดือน ผู้ฝึกงานมีรายได้สูงถึงเดือนละ 50,000 บาท ส่วนใหญ่จบระดับปริญญาตรีมาแล้ว ใช้ภาษาอังกฤษได้ อย่างไรก็ตามจำนวนคนไทยที่มาฝึกงานที่ผ่าน AOTS มีเพียงปีละ 600-700 คนเท่านั้น

JAVADA การฝึกงานกับ JAVADA จะเน้นด้านอาชีวศึกษาและด้านอุตสาหกรรมโรงงาน คนงานไทยเข้าฝึกในโรงงานทำเครื่องปรับอากาศของมิตซูบิชิ 11 คน มาจากบริษัทลูกในประเทศไทย ปกติจะมีผู้มาเข้ารับการฝึกปีละ 15 คน ตั้งแต่ปี 1991 อุปสรรคสำคัญคือความรู้ด้านภาษาญี่ปุ่น นอกนั้นเป็นปัญหาเล็กๆ น้อยๆ เช่น การปรับตัว อาหาร ที่พัก

JICA ใจกล้าให้ทุนฝึกอบรมแก่ 137 ประเทศ จำนวน 3,958 คน สำหรับประเทศไทยได้รับทุนเพียง 15-20 คน ผู้มาฝึกงานต้องเป็นข้าราชการไทย และมักเป็นผู้มีวุฒิการศึกษาระดับปริญญาตรีขึ้นไป ในปี 1999 มีผู้ฝึกงานไทยเพียง 3 คน จากกระทรวงอุตสาหกรรม, สำนักนายกรัฐมนตรีและทบวงมหาวิทยาลัย มาฝึกงานด้านภาษาญี่ปุ่นระดับหัวหน้าและคอมพิวเตอร์

ในอนาคตรัฐบาลญี่ปุ่นมีแนวโน้มจะรับผู้ฝึกงานในอาชีพใหม่ๆ โดยเฉพาะการดูแลผู้สูงอายุ, งานเกษตร, งานผลิตภัณฑทะเล, งานโรงแรม และงานอื่นๆ ที่ต้องการแรงงานราคาถูก

2. ได้หวัน

คนไทยเริ่มเข้าไปทำงานในไต้หวันตั้งแต่ปลายทศวรรษ 1980 และมีจำนวนเพิ่มขึ้นเรื่อยๆ ในปี 1992 ในจำนวนคนงานไทยประมาณ 5 แสนคนที่ทำงานอยู่ในต่างประเทศ เป็นคนที่ทำงานในไต้หวันถึงร้อยละ 30 หรือประมาณ 166,000 คน ปัจจุบันในปี 1999 มีคนไทยทำงานอยู่ในไต้หวันรวมทั้งสิ้นประมาณ 140,000 คน คิดเป็นครึ่งหนึ่งของแรงงานต่างชาติทั้งหมด คนงานร้อยละ 70 อยู่ในอุตสาหกรรมโรงงาน อีกร้อยละ 30 อยู่ในงานก่อสร้าง

ภูมิหลังในประเทศไทย

จากการสำรวจคนงานไทยจำนวน 183 คน ซึ่งกระจายอยู่ในภาคเหนือ กลาง และใต้ของเกาะไต้หวัน พบว่าแรงงานร้อยละ 78 เป็นชาย มีเพียงร้อยละ 22 ที่เป็นหญิง แรงงานหญิงทั้งหมดทำงานอุตสาหกรรมโรงงาน แรงงาน

ส่วนใหญ่ อายุระหว่าง 25-29 ปี (ร้อยละ 44) และ 21-24 ปี (ร้อยละ 29) ส่วนระหว่างผู้ที่เป็ น โศคและสมรตแล้ว เกือบเท่าๆ กัน โดยมีผู้สมรตแล้วมากกว่าเล็กน้อย ผู้ตอบร้อยละ 70 จบการศึกษาเพียง 6 ปี อีกร้อยละ 22 จบการศึกษา ถึง 9 ปี และเกือบทั้งหมดไม่เคยได้รับการฝึกอาชีพ ผู้ที่มีการศึกษา 9 ปีจะทำงานโรงงานมากกว่างานก่อสร้าง การ เดินทางมาทำงานในไต้หวันไม่ได้ส่งผลอย่างใดต่อชีวิตสมรตของคนงานที่สมรตแล้ว สำหรับคนโศคก็ไม่มีการ สมรตในไต้หวันเช่นกัน

เหตุผลที่คนงานตัดสินใจเดินทางไปทำงาน

เป็นเหตุผลด้านเศรษฐกิจเป็นหลัก กล่าวคือต้องการรายได้สูงขึ้น ได้พบว่ามีคนงานถึงร้อยละ 58 ที่มีรายได้ ของครัวเรือนในประเทศไทยก่อนเดินทางไปไต้หวัน ต่ำกว่า 10,000 บาท ที่เหลืออีกร้อยละ 20 มีรายได้ไม่เกิน 20,000 บาท และร้อยละ 11 มีรายได้ไม่เกิน 30,000 บาท โดยรวมแล้วคนงานส่วนใหญ่มาจากครอบครัวที่มีรายได้ไม่ สูง โดยเฉพาะอย่างยิ่งกลุ่มคนงานก่อสร้าง จึงทำให้เลือกไปทำงานต่างประเทศ นอกจากนั้นคนงานถึงร้อยละ 72 มี ภูมิหลังเป็นเกษตรกร มีเพียงร้อยละ 16 ที่เคยทำงานในภาคอุตสาหกรรม แสดงว่าคนงานส่วนใหญ่มาจากชนบทใน ภาคเกษตรกรรม ซึ่งมีภาวะทำงานไม่เต็มเวลา และการว่างงานสูง เมื่อพิจารณาจากรายได้ของตัวคนงานเองก่อนเดิน ทางได้พบว่าสองในสามของผู้ตอบมีรายได้ระหว่าง 2,000 - 6,000 บาทต่อเดือนเท่านั้น มีผู้ตอบจำนวนถึง 99 คนที่ ไม่สามารถระบุจำนวนรายได้ของคนได้ จำนวนรายได้ที่ระบุแสดงให้เห็นว่าในแต่ละครัวเรือนมีผู้ที่มีรายได้หลายคน ช่วยกันทำงาน

คนงานไทยส่วนใหญ่ไม่เคยไปทำงานต่างประเทศมาก่อน มีเพียงร้อยละ 15 ที่เคยไป คนงานร้อยละ 78 มาทำงานที่ไต้หวันเป็นเวลาไม่ถึง 1 ปี ที่เหลือไม่เกิน 2 ปี และมีน้อยมาก (ร้อยละ 4) ที่อยู่เกิน 2 ปี ทั้งนี้เป็นเพราะ สัญญาจ้างงานส่วนใหญ่มีอายุ 2 ปี เมื่อถูกถามว่าถ้าเศรษฐกิจไทยดีจะหางานทำอยู่ในประเทศไทยหรือจะไปทำงาน ต่างประเทศ ร้อยละ 44 ตอบว่าจะอยู่ และร้อยละ 52 ตอบว่าจะไปต่างประเทศ สรุปได้ว่าภาวะเศรษฐกิจด้อยไม่ใช่ สาเหตุสำคัญที่ทำให้คนงานตัดสินใจอยู่หรือไปต่างประเทศ คนงานที่ไปไต้หวันได้รับข้อมูลเป็นอย่างดีเกี่ยวกับ ลักษณะงานที่ตนจะต้องทำและชีวิตความเป็นอยู่ในไต้หวัน

กระบวนการเดินทางและการจัดหางาน

คนงานที่ไปไต้หวันมีญาติหรือคนรู้จักอยู่ที่นั่นไม่มากนัก กล่าวได้ว่าเครือข่ายทางสังคมมีบทบาทไม่มาก ในการจัดการให้มีการเดินทางไปทำงาน ผู้ตอบถึงร้อยละ 97 จัดการเดินทางและหางานโดยบริษัทจัดหางานที่ ประเทศไทย นายจ้างที่ประเทศไทยและรัฐบาลไทย (กรมการจัดหางาน) มีเพียงร้อยละ 1 ที่จัดการเดินทางด้วยตนเอง ในจำนวนนี้ร้อยละ 90 ได้รับการติดต่อทาบทามจากนายหน้าจัดหางาน ในขณะที่ร้อยละ 2 เป็นผู้ติดต่อนายหน้าเอง เป็นที่น่าสนใจว่าผู้ตอบส่วนใหญ่ (ร้อยละ 80) ไม่แสดงความเห็นเกี่ยวกับบริการข้อมูลที่กรมการจัดหางานให้แก่คน งาน สะท้อนให้เห็นว่าผู้ตอบไม่พอใจบริการดังกล่าว แต่ไม่ต้องการแสดงความเห็น คนงานส่วนใหญ่ (ร้อยละ 80) ได้ผ่านการปฐมนิเทศก่อนเดินทาง (predeparture orientation) โดยเฉพาะคนงานก่อสร้าง

ค่าใช้จ่ายในการเดินทางและได้งาน

ค่าใช้จ่ายมีอัตราสูงมาก ร้อยละ 43 จ่ายเงิน 80,000 - 140,000 บาท เพื่อมาทำงานที่ไต้หวัน อีกร้อยละ 23 จ่ายสูงถึง 160,000 และอีกร้อยละ 25 จ่ายสูงกว่านั้น ผู้ที่มาทำงานก่อสร้างต้องจ่ายเงินสูงกว่าผู้ทำงานโรงงาน คน

งานส่วนใหญ่ (ร้อยละ 90) จึงต้องกู้เงินเพื่อมาจ่ายค่าหัวนี้ แหล่งให้กู้เงินที่สำคัญ คือ คนปล่อยกู้ร้อยละ 63), อื่นๆ เช่น ญาติ (ร้อยละ 17) มีผู้ที่กู้จากนายหน้าจัดหางานร้อยละ 7.7 และกู้จากธนาคารเพียงร้อยละ 3.3 การกู้เงินจากระบบเพื่อนำมาจ่ายเพื่อไปทำงานได้หัวนจึงเป็นวิธีการที่คนงานทำกันโดยแพร่หลายที่สุด การไม่มีทรัพย์สินจํานองเป็นประกันอาจเป็นเหตุผลสำคัญที่ทำให้กู้เงินในระบบไม่ได้ ผลที่ตามมาคือดอกเบี้ยจากเงินกู้จากระบบจะสูงมาก อย่างไรก็ตามค่าใช้จ่ายที่สูงนี้อาจมีส่วนคืออยู่บ้าง เพราะคนงานทุกคนสามารถมีวีซ่าเข้าประเทศได้อย่างถูกต้องตามกฎหมาย นายหน้าหรือบริษัทจัดหางานได้อำนวยความสะดวกในการขอวีซ่าโดยไม่มีปัญหาเป็นส่วนใหญ่ (ร้อยละ 94.5)

สภาพการทำงาน

คนงานที่ไปทำงานโดยถูกกฎหมายทั้ง 183 คน ได้เซ็นสัญญาการจ้างงาน และมียกเว้นเพียง 1 คนที่เลือกเซ็นสัญญาในประเทศไทยก่อนเดินทาง อย่างไรก็ตามคนงานร้อยละ 64 เข้าใจสัญญาเพียงบางส่วน และมีอีกร้อยละ 6.6 ที่ไม่เข้าใจ อาจเป็นเพราะระดับการศึกษาต่ำและขาดประสบการณ์ทำงานในต่างประเทศ นอกจากนั้นยังแสดงว่าบริษัทจัดหางานไม่ได้พยายามให้ความรู้และการปฐมนิเทศแก่คนงานอย่างเพียงพอ คนงานประมาณสองในสามพอใจในงานที่ตนทำ ทั้งนี้เป็นเพราะอัตราค่าจ้างสูงกว่าที่เคยได้รับในไทย แต่อีกหนึ่งในสามไม่พอใจ คนงานในโรงงานอุตสาหกรรมพอใจงานที่ตนทำมากกว่าคนงานก่อสร้างต่างๆ ที่คนงานก่อสร้างมีรายได้สูงกว่า คนงานทุกคนมีวีซ่าแต่มี 4 คนที่วีซ่าหมดอายุแล้ว คนงานร้อยละ 88 มีนายหน้าเป็นผู้จัดหาใบอนุญาตทำงานให้ ส่วนใหญ่ (ร้อยละ 61) ทำงานในบริษัท/โรงงานขนาดกลาง-ใหญ่ อีกหนึ่งในสามทำงานในบริษัท/โรงงานขนาดเล็ก นายจ้างชาวไต้หวันที่ว่าจ้างคนไทยมีสาขาในประเทศไทยเพียงร้อยละ 10 อีกร้อยละ 86 ไม่มีสาขาในประเทศไทย แสดงว่านายจ้างส่วนใหญ่ไม่มีความสัมพันธ์ทางธุรกิจในประเทศไทย ในกรณีนี้การแสวงหาคนงานและความช่วยเหลือที่มีให้คนงานจึงเป็นเรื่องของนายหน้าหรือบริษัทจัดหางานเป็นส่วนใหญ่ คนงานร้อยละ 76 รายงานว่าภาวะงานของตนหนัก ส่วนใหญ่เป็นคนงานก่อสร้าง ข้อมูลนี้ช่วยอธิบายว่าเหตุใดคนงานก่อสร้างจึงไม่พอใจลักษณะงานของตนทั้งที่มีรายได้สูง ทั้งนี้เป็นเพราะงานหนักมาก

ค่าจ้างและผลตอบแทน

คนงานมากกว่าสามในสี่ได้ว่าจ้างไม่เกิน 30,000 เหรียญไต้หวัน (ประมาณ 40,000 บาท) ต่อเดือน ทุกคนได้รับเงินไม่ต่ำกว่าอัตราค่าจ้างขั้นต่ำ 15,840 เหรียญไต้หวัน) ส่วนใหญ่ค่าจ้างจะกระจายอยู่ตั้งแต่ 20,000, 25,000 และ 30,000 เหรียญ มีเพียงร้อยละ 22 ที่ได้สูงกว่า 30,000 เหรียญ คนงานโรงงานส่วนใหญ่ได้ไม่เกิน 20,000 เหรียญ ในขณะที่คนงานก่อสร้างส่วนใหญ่ได้ 25,000 ถึงกว่า 30,000 เหรียญ เห็นได้ชัดว่าคนงานก่อสร้างได้ค่าจ้างสูงกว่าส่วนหนึ่งเป็นเพราะมีการทำล่วงเวลามากกว่า ในแง่ผลตอบแทนอื่นๆ คนงานร้อยละ 41 ได้รับค่าจ้างเมื่อป่วย อีกร้อยละ 30 ไม่ได้รับ ที่เหลือไม่แน่ใจว่าตนมีสิทธิหรือไม่ ในแง่นี้คนงานโรงงานได้รับสิทธิมากกว่าเพราะร้อยละ 60 ของคนงานโรงงานได้รับสิทธินี้ในขณะที่ร้อยละ 3 ของคนงานก่อสร้างได้รับสิทธิเดียวกัน การประกันสุขภาพก็เช่นกัน คนงานก่อสร้างร้อยละ 55.7 มีประกันสุขภาพ แต่อีกร้อยละ 41 ไม่แน่ใจว่าตนมีประกันหรือไม่ในขณะที่คนงานโรงงานร้อยละ 89 มีประกันสุขภาพ

ผลกระทบของการย้ายถิ่นต่อประเทศไทยและไต้หวัน

ความขัดแย้ง, ปัญหาสุขภาพและปัญหาอื่นๆ

คนงานร้อยละ 40 ระบุว่าตนมีปัญหาในที่ทำงาน กลุ่มคนงานก่อสร้างมีปัญหามากกว่ากลุ่มคนงานโรงงาน แต่ไม่มีคนงานใดเข้าเป็นสมาชิกของสหภาพแรงงาน ในด้านสุขภาพคนงานร้อยละ 52 ระบุว่ามีปัญหาสุขภาพ โดยเฉพาะคนงานก่อสร้าง ในขณะที่คนงานที่เป็นกลุ่มตัวอย่างร้อยละ 75 เห็นว่าสุขภาพของตนมีสภาพเหมือนเดิม ไม่เปลี่ยนแปลง มีคนงานก่อสร้างถึงร้อยละ 54 ที่เห็นว่าสุขภาพของตนทรุดโทรมลง

คนงานร้อยละ 42 ใช้ภาษาไทยในที่ทำงานและร้อยละ 53.6 ใช้ภาษาจีน ได้พบว่าคนงานโรงงานส่วนใหญ่ (ร้อยละ 73) ต้องใช้ภาษาจีน แต่คนงานก่อสร้างส่วนใหญ่ (ร้อยละ 85) ใช้ภาษาไทย ทั้งสองกลุ่มต่างมีความสัมพันธ์ที่ดีกับคนไต้หวันพอๆ กัน ในแง่ความสัมพันธ์กับคู่สมรสที่ประเทศไทย ก็ไม่มีการเปลี่ยนแปลงเกือบทุกคน มีเพียง 10 รายที่มีคู่ใหม่ในไต้หวัน คนงานเกือบทั้งหมดระบุว่าเหงาคิดถึงบ้าน

ไต้หวันเป็นจุดหมายปลายทางที่สำคัญมากสำหรับคนงานไทยเพราะรับคนงานไทยถึงหนึ่งในสามของคนงานทั้งหมดที่เดินทางออกไปทำงานต่างประเทศ อย่างไรก็ตาม เนื่องจากค่าใช้จ่ายในการเดินทางไปไต้หวันสูงมาก คนงานไทยต้องทำงานไม่ต่ำกว่าครึ่งปี โดยไม่ใช้จ่ายอะไรเลย จึงจะพอใช้หนี้ที่เกิดจากการกู้ยืมเงินเพื่อนำมาเป็นค่าใช้จ่ายในการเดินทาง นอกจากนั้นแหล่งเงินกู้ของคนงานไทยส่วนใหญ่ก็เป็นแหล่งเงินนอกระบบ คิดค่าดอกเบี้ยสูง ทำให้ยอดค่าใช้จ่ายในการเดินทางสูงตามขึ้นไปด้วย กระทรวงแรงงานฯ จึงควรพิจารณาช่วยเหลือด้วยการค้าประกันให้คนงานกู้เงินจากธนาคารและเสียดอกเบี้ยตามอัตราปกติได้ สิ่งนี้จะทำให้ค่าใช้จ่ายลดลงได้ โดยรวมแล้ว การไปทำงานที่ไต้หวันให้ผลลัพธ์ที่น่าพอใจ แม้จะมีปัญหาอยู่บ้างสำหรับคนงานในแง่ตัวงาน, สถานที่ทำงาน และสภาพแวดล้อม นายจ้าง, บริษัทจัดหางาน, หน่วยงานราชการ ของทั้งสองฝ่ายและตัวคนงานไทยเอง ย่อมต้องพยายามหาทางแก้ไขร่วมกัน สำหรับไต้หวันแม้จะยอมรับว่าแรงงานไทยเป็นแรงงานต่างชาติกลุ่มที่ใหญ่ที่สุดในไต้หวัน แต่ก็มิมีนโยบายจะลดจำนวนคนงานให้น้อยลงและกระจายจำนวนคนงานให้มากจากประเทศอื่นๆ หลากหลายมากขึ้น ซึ่งย่อมส่งผลต่อโอกาสของแรงงานไทยในอนาคต

3. มาเลเซีย

ข้อมูลจากการศึกษาภาคสนามใน 4 พื้นที่ในมาเลเซีย ประกอบด้วยกลุ่มตัวอย่างจากกัวลาลัมเปอร์ (ร้อยละ 13.6) สลังงอร์ (ร้อยละ 13.6), เคดาห์ (ร้อยละ 36.4) และกลันตัน (ร้อยละ 36.4) ส่วนใหญ่เป็นรัฐตอนเหนือของมาเลเซีย มีพรมแดนติดประเทศไทย จากสัมภาษณ์แรงงานไทยจำนวน 110 คน มีข้อค้นพบโดยสรุปดังนี้

ภูมิหลังในประเทศไทย

แรงงานไทยส่วนใหญ่มีภูมิลำเนาจากภาคใต้ของประเทศไทย มาจากปัตตานีถึงร้อยละ 42.7 สงขลา ร้อยละ 17.3, ยะลาร้อยละ 16.4 และนราธิวาสร้อยละ 10 มีแรงงานจากภาคอื่นเช่น สตูลและเชียงรายบ้างแต่น้อยมากเพียงร้อยละ 2 กลุ่มตัวอย่าง เป็นแรงงานชายร้อยละ 62 และหญิงร้อยละ 38 อายุส่วนใหญ่ 21-30 ปี (ร้อยละ 52.7) มีต่ำกว่า 20 ปี และสูงกว่า 30 ปีบ้างรวมร้อยละ 37 แรงงานไทยที่มีบุตรและไม่มีบุตรจำนวนใกล้เคียงกัน เช่นเดียวกับสถานภาพสมรส มีผู้จบประถมศึกษาร้อยละ 56.4 และมีมัธยมศึกษาตอนต้นร้อยละ 26.4 เนื่องจากส่วนใหญ่

ยังเป็นคนหนุ่มสาว จึงไม่ใช่วัยหน้าครัวเรือนในประเทศไทย ผู้ที่เดินทางมาทำงานคิดว่าครอบครัวของตนมีฐานะปานกลางเมื่อเทียบกับคนอื่นร้อยละ 50 และต่ำกว่าคนอื่นเล็กน้อยร้อยละ 23.6 ครอบครัวมีรายได้เฉลี่ยไม่ถึง 5,000 บาท (ร้อยละ 48) ที่เหลือรายได้ระหว่าง 5,000 - 20,000 บาท (ร้อยละ 44) อาชีพเดิมในประเทศไทยเป็นเกษตรกรร้อยละ 22.7, ไม่มีงานทำร้อยละ 15, ทำธุรกิจร้อยละ 9 และประมงร้อยละ 11 ถึงแม้จะไม่ได้เป็นเกษตรกรเป็นส่วนใหญ่ แต่แรงงานเหล่านี้ก็มีที่ดินทำกินของครอบครัวขนาด 1-20 ไร่

กระบวนการเดินทางและการทำงานที่มาเลเซีย

แรงงานไทยถึงร้อยละ 40 ให้เหตุผลว่าไม่มีงานทำในประเทศไทย จึงมาหางานที่มาเลเซีย อีกร้อยละ 47 ไม่พอใจต่อรายได้ที่ต่ำเกินไปในประเทศไทย ส่วนใหญ่รู้ข้อมูลเกี่ยวกับมาเลเซียจากญาติหรือเพื่อนในประเทศไทย และมีถึงร้อยละ 65 ที่มีญาติทำงานอยู่ที่นั่นอยู่ก่อนแล้ว ญาติเหล่านี้จึงมีบทบาทสำคัญในการช่วยเหลือจัดการให้เดินทางไปมาเลเซีย (ร้อยละ 35) ส่วนที่เหลือมีนายจ้างเป็นผู้จัดการให้ไป (ร้อยละ 32) และอีกร้อยละ 20 ไปด้วยตนเอง มีผู้ให้บริการของบริษัทจัดหาแรงงานหรือนายหน้าในประเทศไทยเพื่อช่วยจัดการเดินทางเพียงร้อยละ 10 ดังนั้นบทบาทของบริษัทจัดหาแรงงานหรือนายหน้าจึงมีน้อยสำหรับแรงงานไทยที่เดินทางไปมาเลเซีย ทำให้ต้นทุนค่าใช้จ่ายในการเดินทางไปทำงานต่ำเพียง 100-200 ริงกิตเท่านั้น สำหรับคนส่วนใหญ่ (ร้อยละ 57), ที่เหลือร้อยละ 18 ไม่ต้องเสียค่าใช้จ่ายเพราะนายจ้างออกให้ และมีเพียงร้อยละ 15 ที่เสีย 200-300 ริงกิต ค่าใช้จ่ายที่เสียไปส่วนใหญ่เป็นค่าเดินทาง แรงงานเหล่านี้จึงไม่มีหนี้สินจากการเตรียมตัวไปทำงานในมาเลเซีย

คนงานส่วนใหญ่เดินทางเข้าไปโดยใช้บัตรผ่านแดน และบัตรทำงานชั่วคราว (temporary working pass) หรือเข้าไปโดยไม่มีเอกสารการเดินทางใดๆเลย ทั้งนี้เป็นเพราะการเดินทางผ่านพรมแดนไทย-มาเลเซียสำหรับชาวไทยมุสลิม และทำได้เป็นปกติอยู่แล้วเนื่องจากชาวไทยมุสลิมและชาวมาเลเซียที่อยู่ในบริเวณติดชายแดนมีภาษาและวัฒนธรรมร่วมกันและมีความสัมพันธ์เป็นเครือญาติกันมายาวนาน ดังนั้นไม่ว่าจะมีเอกสารการเดินทางหรือไม่ก็สามารถผ่านแดนไปได้โดยไม่มีปัญหาถึงร้อยละ 94 มีเพียงร้อยละ 6 ที่มีปัญหา เหตุผลที่แรงงานไทยเลือกไปทำงานที่มาเลเซียเป็นเหตุผลเชิงเศรษฐกิจเป็นส่วนใหญ่ ร้อยละ 30 ต้องการหารายได้สูงขึ้นให้ตนเองหรือครอบครัว ร้อยละ 18.2 ต้องการไปหาประสบการณ์ในการทำงาน อีกร้อยละ 16.4 ต้องการแสวงหาโอกาสที่ดีกว่าเดิมในการทำงาน มีบางคนติดตามญาติหรือคู่สมรสมา, ไปเพราะระยะทางใกล้, ไปเพราะใช้ภาษาเดียวกัน และไปเพราะนายจ้างชักชวนมา การไปทำงานเป็นการไปอย่างไม่เป็นทางการ ดังปรากฏว่าร้อยละ 93 ไม่มีการเซ็นสัญญาจ้างงาน มีเพียงร้อยละ 6.4 ที่มีสัญญาจ้างงาน แต่ส่วนใหญ่แล้ว (ร้อยละ 94.5) ได้ทำงานตรงกับที่คาดหวังไว้ว่าจะไปทำ คนงานร้อยละ 38 ทำงานมาแล้วไม่เกิน 1 ปี, อีกร้อยละ 25.5 ทำงานแล้ว 1-3 ปี, และอีกร้อยละ 17.3 ทำงานแล้ว 4-6 ปี จึงมีผู้ที่ทำงานมาเป็นเวลานานเกิน 1 ปีจำนวนมากพอควร

สภาพการทำงาน

คนงานไทยร้อยละ 42 ทำงานในร้านอาหาร อีกร้อยละ 16.4 ทำงานเกษตร, ร้อยละ 10 ทำงานโรงงาน, ร้อยละ 7.3 ทำงานประมง, ที่เหลือกระจายในอาชีพต่างๆ ได้แก่ กรีดยาง, ก่อสร้าง, เร่ขายอาหาร, ทำงานบ้าน, ตัดผม และพนักงานนวด ได้พบว่ามีผู้ทำงานในร้านอาหารกระจายอยู่ทั้งในกัวลาลัมเปอร์, สลังงอร์, เคนดาร์ และกลันตัน, ผู้ทำงานเกษตรอยู่ในเคนดาร์แห่งเดียว, ส่วนอาชีพอื่นๆ มีทั้งในเคนดาร์และกลันตัน ในแง่การกระจายทางเพศ มีเพียงงานประมง, งานตัดผม, งานกรรมกร, งานเร่ขายของและงานนวดที่ไม่มีผู้หญิงทำ

เมื่อเปรียบเทียบอาชีพเดิมในประเทศไทยกับอาชีพที่ทำในมาเลเซีย ได้พบว่าผู้ที่เคยเป็นเกษตรกรสามารถไปทำงานได้เกือบทุกอาชีพ ยกเว้นงานที่ต้องมีทักษะเช่นตัดผม, นวด, ก่ออิฐ ผู้ที่เคยทำงานประมงก็ไปทำงานประมงเป็นส่วนใหญ่ ผู้เคยกรีดยางและเข็นผ้าไปทำงานอื่น ได้แก่ งานร้านอาหารและอื่นๆ ผู้ที่เคยตัดผมก็ไปทำอาชีพตัดผม ผู้ที่เคยนวดก็ไปเป็นพนักงานนวด ผู้เคยทำธุรกิจและงานขับรถไปทำงานร้านอาหารเป็นส่วนใหญ่ และน่าสนใจว่า ผู้ที่ไม่มีงานทำไปทำงานในร้านอาหารและงานเกษตรเกือบทั้งหมด โดยส่วนใหญ่ไปทำงานในร้านอาหาร

เนื่องจากคนงานส่วนใหญ่ทำงานโดยไม่มีสัญญา จึงทำงานโดยไม่มีวันหยุด (ร้อยละ 53) ในแง่รายได้มีทั้งผู้ที่ได้ค่าจ้างเป็นรายวัน (ร้อยละ 12), รายสัปดาห์ (ร้อยละ 15.5) และรายเดือน (ร้อยละ 58) ส่วนใหญ่มีรายได้เฉลี่ยเดือนละ 400-800 ringgit (ร้อยละ 70) และมีผู้มีรายได้สูงเพิ่มขึ้นจากเมื่อเริ่มทำงานในมาเลเซียร้อยละ 70 เช่นกัน นอกจากรายได้แล้ว ไม่มีสวัสดิการอื่นๆ ให้คนงาน เพราะเป็นงานที่ทำโดยไม่มีสัญญาเป็นส่วนใหญ่ ยกเว้นกลุ่มที่ทำงานโดยนายจ้างพามา ซึ่งน่าจะเป็นงานโรงงานกลุ่มนี้ (ประมาณร้อยละ 23) จะมีสวัสดิการต่างๆ ตามกฎหมายแรงงานของมาเลเซีย การที่คนงานเป็นชาวไทยมุสลิม จึงทำให้ไม่มีปัญหาในแง่วัฒนธรรมในสถานที่ทำงาน ดังจะพบว่าร้อยละ 90 ไม่มีปัญหาในที่ทำงาน

สภาพความเป็นอยู่

คนงานร้อยละ 44 พักอาศัยในบ้านพักร่วมกับคนงานอื่นๆ, อีกร้อยละ 16 เช่าบ้านอยู่ร่วมกัน และร้อยละ 23.6 อยู่ตามลำพัง เป็นที่น่าสนใจว่ามีคนงานไทยถึงร้อยละ 23.6 ที่พำนักอยู่กับคู่สมรส และร้อยละ 12.7 พำนักอยู่กับครอบครัวในมาเลเซีย เมื่อรวมสองกลุ่มนี้แล้วก็นับว่ามีถึงร้อยละ 36.4 ที่อาศัยอยู่กับครอบครัวของตน ซึ่งนับว่าสูงมากและแตกต่างจากแรงงานไทยในประเทศอื่นมาก เพราะในประเทศอื่น แรงงานไทยไม่มีสิทธิพาคู่สมรสหรือครอบครัวไปอยู่ด้วยได้

ความคล้อยคลึงทางวัฒนธรรมทำให้คนงานร้อยละ 75.5 สามารถเข้าใจภาษามาเลย์ได้ นอกจากนั้นยังมีถึงร้อยละ 56 ที่ได้คู่สมรสใหม่ในมาเลเซีย นับเป็นข้อมูลที่สำคัญมาก สถานการสมรสเช่นนี้มีผลต่อการพำนักในมาเลเซีย ดังจะพบว่าคนงานร้อยละ 73 ไม่แน่ใจว่าตนจะกลับประเทศไทยเมื่อใด มีเพียงร้อยละ 21 ที่ตอบว่าจะกลับเมื่อสัญญาสิ้นสุด และเพียงร้อยละ 3.6 ที่จะกลับภายใน 1-2 ปี แสดงถึงแนวโน้มที่แรงงานไทยจะพำนักอยู่ในมาเลเซียเป็นเวลานานหรือเป็นการถาวรจำนวนไม่น้อย และเมื่อถามถึงความตั้งใจจะขอสัญชาติมาเลเซียก็พบว่าร้อยละ 38 มีความตั้งใจดังกล่าว

ผลกระทบของการย้ายถิ่นต่อประเทศไทย และประเทศมาเลเซีย

คนงานร้อยละ 74.5 ส่งเงินกลับบ้าน อีกร้อยละ 25.5 ไม่ได้ส่ง การที่มีผู้ส่งเงินกลับบ้านน้อยกว่าคนงานในประเทศอื่น เป็นเพราะมาเลเซียมีชายแดนอยู่ติดประเทศไทย คนงานสามารถเดินทางเข้าออกได้เสมอ ผู้ที่ใช้บัตรผ่านแดนซึ่งมีอายุ 14 วันก็ต้องเดินทางกลับมาประเทศแล้วจึงออกไปใหม่อีกครั้ง คนเหล่านี้จึงสามารถนำเงินรายได้กลับมาด้วยตนเอง ไม่ต้องส่งกลับด้วยระบบใดๆ ความถี่ในการส่งเงินกลับก็ไม่เป็นประเด็น บางคนส่งทุกเดือน บางคนส่งเพียงปีละ 2 ครั้ง ในกลุ่มผู้ที่ส่งกลับพบว่าโดยเฉลี่ยแล้วส่งกลับเดือนละ 100-300 ringgit (ร้อยละ 35) ที่เหลือส่งไม่เกิน 500 ringgit (ร้อยละ 15) และอีกร้อยละ 15 ส่งเงินกลับสูง 600-2,000 ringgit (ร้อยละ 16.4) ส่วนใหญ่จะส่งเงินนี้

ไปให้บิดามารดา (ร้อยละ 47.3), ให้บุตร (ร้อยละ 16.4) และให้คู่สมรสเพียงร้อยละ 9 ที่เป็นเช่นนี้คู่สมรสส่วนหนึ่งอยู่ในมาเลเซียด้วยกันแล้ว และอีกส่วนหนึ่งเป็นคนโสด ยังไม่มีคู่สมรส ดังจะพบว่ากลุ่มที่ส่งเงินกลับบ้านมากที่สุดคือคนงานวัย 21-30 ปี ผลการวิเคราะห์ยังได้พบว่าผู้ที่ส่งเงินกลับบ้านมากที่สุดคือผู้มีรายได้เดือนละ 400-600 ริงกิต และทำงานในร้านอาหารเป็นส่วนใหญ่

คนไทยที่ไปทำงานในมาเลเซีย ซึ่งส่วนใหญ่อยู่ในกลันตันและเคดาห์ (แห่งละร้อยละ 36.4) รวมแล้วมากกว่าสองในสามของกลุ่มตัวอย่าง มักไม่มีปัญหาในการปรับตัวทางวัฒนธรรมและภาษา เมื่อถามว่าเขาจะสนับสนุนให้ผู้อื่นมาทำงานที่มาเลเซียหรือไม่จึงมีผู้ตอบว่าจะสนับสนุนถึงร้อยละ 63 และจะสนับสนุนอย่างยิ่งอีกร้อยละ 17, อีกร้อยละ 16 มีความเห็นว่าเฉยๆ และเพียงร้อยละ 4 ตอบว่าจะไม่สนับสนุน ข้อมูลนี้แสดงให้เห็นทัศนคติอันดีของแรงงานไทยต่อการไปทำงานในมาเลเซีย สำหรับชุมชนชาวมุสลิมบทบาทของหญิงที่ไปทำงานก็เป็นเรื่องน่าสนใจ ผู้ตอบถึงร้อยละ 64 สนับสนุนให้ผู้หญิงย้ายถิ่นไปทำงานเพื่อหารายได้ให้ครอบครัว มีเพียงร้อยละ 7.3 ที่ระบุว่าให้ไปเมื่อสามีอนุญาต เหตุผลสำคัญรองลงมาคือ สนับสนุนในกรณีที่สามีป่วย, เสียชีวิตหรือไม่ได้อยู่ร่วมกัน คนงานไทยรวมถึงร้อยละ 85 เห็นว่าชาวมาเลเซียเป็นมิตรกับตน อีกร้อยละ 15 เห็นว่าเฉยๆ และมีผู้เห็นว่าไม่เป็นมิตรเพียงรายเดียว แต่ในทางตรงกันข้ามมีเพียงร้อยละ 13.6 ที่เห็นว่าเจ้าหน้าที่ของกระทรวงแรงงานฯ เป็นมิตรที่ดี อีกร้อยละ 63.6 ไม่มีความเห็นหรือรู้สึกเฉยๆ และร้อยละ 8.2 เห็นว่าไม่เป็นมิตร ไม่ช่วยเหลือเลย เมื่อถามถึงเงินค่าจ้างที่ได้ทุกคนเห็นว่ารายได้นี้สูงมาก (ร้อยละ 88), และครอบครัวของตนดีขึ้นมากหลังจากที่ตนตัดสินใจมาทำงาน (ร้อยละ 81) ไม่มีผู้ใดเห็นว่าครอบครัวตกต่ำลงเลย

4. สิงคโปร์

คนงานไทยเริ่มเดินทางไปทำงานในสิงคโปร์ตั้งแต่ปี 1978 โดยทำงานในโรงงานเครื่องไฟฟ้าและโรงงานทอผ้าจำนวน 500 คน ต่อมาในทศวรรษ 1980 เมื่ออุตสาหกรรมก่อสร้างในสิงคโปร์ขยายตัวอย่างรวดเร็ว คนงานไทยจำนวนมากก็เข้าไปเป็นแรงงานก่อสร้างที่นั่น ในปี 1999 ประมาณการว่ามีคนไทยทำงานอยู่ในสิงคโปร์ประมาณ 65,000 คน อาจเป็นแรงงานผิดกฎหมาย ครั้งหนึ่งของจำนวนนี้

การเดินทางไปทำงานของคนไทยมีทั้งที่ไปโดยใช้บริการของบริษัทจัดหางานและไปด้วยตนเองในสัดส่วนใกล้เคียงกัน การใช้บริการของบริษัทจัดหางาน ทำให้คนงานต้องเสียเงินมากกว่าไปด้วยตนเองเพราะบริษัทต้องจ่ายเงินค่าคอมมิสชันให้แก่เจ้า้างสิงคโปร์เพื่อซื้อโควต้าตำแหน่งงานที่รัฐบาลให้บริษัทมา คนงานจึงต้องจ่ายเงินประมาณ 50,000 บาท แทนที่จะจ่าย 22,500 บาทตามอัตราที่กระทรวงแรงงานและสวัสดิการสังคมกำหนดไว้

ภูมิหลังในประเทศไทย

จากการสำรวจข้อมูลคนงานไทย 145 คน ระหว่างเดือนมิถุนายน - กรกฎาคม 1999 คนงานไทยที่เป็นกลุ่มตัวอย่าง ส่วนใหญ่เป็นชาย มีภูมิหลังเป็นเกษตรกร (ร้อยละ 89) มาจากภาคอีสานและภาคเหนือ จบการศึกษาระดับประถมศึกษา มีแนวโน้มใหม่ที่มีคนงานจากภาคเหนือมากขึ้น และอายุเฉลี่ยของคนงานสูงขึ้น (จาก 27 ปี เป็น 34 ปี โดยเฉลี่ย) คนงานซึ่งมีวัยสูงขึ้นนี้ส่วนใหญ่มีครอบครัวแล้วและมีบุตรเฉลี่ย 1-2 คน แม้คนงานส่วนใหญ่จะมีที่ดินทำกินของตนเอง แต่รายได้จากการเกษตรไม่เพียงพอจึงต้องหางานทำ แต่เนื่องจากงานในประเทศไทยหายากขึ้นมาก หลังภาวะเศรษฐกิจถดถอย คนเหล่านี้จึงต้องออกหางานทำในต่างประเทศ แม้บางคนจะไม่ต้องเดินทางไปทำงานต่าง

ประเทศก็ตาม ภาวะเศรษฐกิจจึงเป็นปัจจัยหลักอันดับที่สำคัญที่สุด ผู้ตอบร้อยละ 18 ไม่มีงานทำในประเทศไทย อีก ร้อยละ 50 มีรายได้ไม่เพียงพอ กลุ่มตัวอย่าง ร้อยละ 25 ตอบว่าภาวะวิกฤตเศรษฐกิจมีผลต่อการตัดสินใจไปทำงาน ต่างประเทศ การตัดสินใจเดินทางกระทำโดยตนเองเป็นส่วนใหญ่ (ร้อยละ 72) มีเพียงส่วนน้อยที่ปรึกษาหรือบิดา มารดาเป็นคนช่วยเหลือตัดสินใจ คนงานอีกร้อยละ 40 เคยทำงานต่างประเทศมาก่อนแล้ว และมีอีกร้อยละ 58 ที่มีญาติหรือ เพื่อนทำงานอยู่ในสิงคโปร์ก่อนที่จะเดินทางไปคนงานเหล่านี้ช่วยเหลือหาที่พัก และอื่นๆ ให้แก่คนงานที่มาใหม่ ผู้ที่มาโดยผิดกฎหมายก็อาศัยเครือข่ายเพื่อนหรือญาติในเองช่วยให้เดินทางมาได้ โดยสรุปแล้วปัจจัยทางเศรษฐกิจกับ เครือข่ายทางสังคมเป็นสิ่งที่ทำให้เกิดการย้ายถิ่นมาทำงานในสิงคโปร์

กระบวนการเดินทางและการจัดหางาน

กระบวนการเดินทางและจัดหางานประกอบด้วยบริการของบริษัทจัดหางาน, การเดินทางด้วยตนเอง และ การจัดการขออนุญาตทำงานในสิงคโปร์ คนที่ทำงานโดยผิดกฎหมาย เข้ามาบนบกที่ท่าเรือโดยทางทะเลใหญ่ โดย มีเจ้าหน้าที่อะโรว์บาร์คอยช่วยเหลือ คนงานส่วนใหญ่ไม่เคยได้รับการฝึกอบรมทักษะในการทำงาน และมีเพียงร้อยละ 39 ที่ได้ผ่านการทดสอบฝีมือ ผู้ที่ผ่านการฝึกอบรมมาแล้วก็ไม่ได้ทำงานตรงกับที่อบรมมา

คนงานส่วนใหญ่ (ร้อยละ 75) ทำงานก่อสร้าง กลุ่มคนงานไทยเป็นกลุ่มกรรมกรก่อสร้างที่มีจำนวนมากที่สุด ในสิงคโปร์ ปกติคนงานจะได้ค่าจ้าง 800-1,200 สิงคโปร์ดอลลาร์ (ประมาณ 19,000 - 28,600 บาท) ข้อมูลจาก กลุ่มตัวอย่างพบว่าคนงานส่วนใหญ่ทำงานก่อสร้าง (ร้อยละ 68) รองลงมาคือผู้ดูแลเรือ (ร้อยละ 23), งานบริการ (ร้อยละ 7), และอื่นๆ (ร้อยละ 2) คนงานที่เพิ่งเข้ามาทำงาน หลังภาวะวิกฤตเศรษฐกิจ (เดือนกรกฎาคม 1997) มีจำนวนถึง ร้อยละ 53.5 ซึ่งแสดงว่าภาวะวิกฤตเศรษฐกิจทำให้คนงานไทยมุ่งแสวงหางานทำในสิงคโปร์มากขึ้น จำนวนคนงาน ที่เดินทางมาหลังวิกฤตจึงสูงเท่าตัวของผู้ที่ทำงานอยู่เดิม ทั้งนี้รวมทั้งผู้ที่เข้ามาโดยผิดกฎหมายด้วย

ในการมาทำงานที่สิงคโปร์ คนงานไทยต้องเสียเงินโดยเฉลี่ยคนละ 47,000 บาท การที่ค่าใช้จ่ายสูงเป็น เพราะต้องจ่ายเงินเพื่อซื้อตำแหน่งงานดังกล่าวมาแล้ว ผู้ที่มาด้วยตนเองจะเสียเงินน้อยลง เมื่อสืบปีก่อน (ปี 1989) คนงานไทยที่ลักลอบมาสิงคโปร์เสียเงินเพียง 12,260 บาท คนงานส่วนใหญ่ (ร้อยละ 60) กู้เงินเพื่อจ่ายค่าบริการนี้ และกู้จากพ่อปล่อเงินอีกร้อยละ 33.8. กู้จากนายหน้าหาหนาร้อยละ 26.8

สัญญาจ้างงานและใบอนุญาตทำงาน

กลุ่มตัวอย่างร้อยละ 84 มีสัญญาจ้างงานซึ่งส่วนใหญ่เซ็นสัญญาในประเทศไทยก่อนเดินทาง สัญญาฉบับทั้งที่เป็นภาษาไทยและเป็นภาษาอังกฤษส่วนใหญ่เป็นภาษาไทย แต่คนงานก็ทราบเพียงประเด็นสำคัญๆ ในสัญญาเท่านั้น มีคนงานร้อยละ 32 ที่เข้าใจสัญญาครบถ้วน และร้อยละ 13.8 ที่ไม่เข้าใจอะไรเลย คนงานจำนวนหนึ่งไม่สนใจว่าตนได้เซ็นสัญญาหรือไม่ เพราะได้ยินมาในเอกสารหลายชิ้น แต่ไม่รู้ว่ามันเป็นเอกสารอะไรกัน ในสิงคโปร์ นายจ้างจะเป็นผู้จัดหาใบอนุญาตทำงานให้แก่ลูกจ้างของคนงานที่ถูกจ้างจะเดินทางเข้ามาในสิงคโปร์และกลุ่มตัวอย่าง 84% ที่มีสัญญาจ้างก็คือผู้ที่มีใบอนุญาตทำงาน คนงานหญิงที่มาทำงานรับใช้ในบ้านไม่ได้เซ็นสัญญาและไม่มีใบอนุญาตทำงาน

สภาพการทำงาน

คนงานไทยส่วนใหญ่ (ร้อยละ 54.7) ทำงานในบริษัท/โรงงาน ขนาดกลาง (51-100 คน) และขนาดใหญ่ (เกิน 100 คน) ที่เหลือทำงานในภาคบริการและงานบ้าน กลุ่มตัวอย่างร้อยละ 71 พอใจงานที่ทำ ร้อยละ 42.9 คิดว่าค่าจ้างต่ำไป คนงานสามารถใช้ภาษาไทยในการทำงาน เพราะผู้คุมงานมักพูดไทยได้ ร้อยละ 61 ของคนงานกะว่าจะกลับประเทศไทยเมื่อสัญญาจ้างงานสิ้นสุดหรือภายใน 1-2 ปี คนงานส่วนใหญ่ (ร้อยละ 84) ไม่คิดจะเป็นพลเมืองสิงคโปร์ คนงานไทยมักทำงานล่วงเวลาเพื่อเพิ่มรายได้ ค่าจ้างเฉลี่ยที่ได้เดือนละ 738 เหรียญสิงคโปร์ (ประมาณ 17,000 บาท) ซึ่งคนงานก็พอใจ

ขณะที่อยู่ในสิงคโปร์ คนงานมีค่าใช้จ่าย (ค่าอาหาร, ค่าเดินทาง, ค่าใช้จ่ายเพื่อพักผ่อนหย่อนใจ) เดือนละประมาณ 300 เหรียญสิงคโปร์ คนงานชายใช้จ่ายเพื่อการดื่มเหล้า สูบบุหรี่และไปใช้บริการทางเพศ จำนวนไม่น้อย ในแง่ผลตอบแทนอื่นๆ นอกเหนือจากค่าจ้าง คนงานได้รับการประกันสุขภาพและจะได้รับค่าจ้างขณะเจ็บป่วย (ในกรณีที่มีการเจ็บป่วยเกิดจากการทำงาน)

ผลกระทบของการย้ายถิ่นต่อประเทศไทยและประเทศสิงคโปร์

คนงานไทย สามารถส่งเงินกลับบ้านได้เฉลี่ยคนละ 538.5 เหรียญสิงคโปร์ (12,800 บาท) ต่อเดือน หรือคนละ 6,546.2 เหรียญสิงคโปร์ต่อปี เมื่อคำนวณจากจำนวนแรงงาน 65,000 คน ก็สามารถคิดคร่าวๆ ว่า มีเงินส่งกลับประเทศไทยถึงปีละ 430 ล้านเหรียญสิงคโปร์ (10,255 ล้านบาท) จากสิงคโปร์ เงินส่วนใหญ่ถูกนำไปใช้หนี้ ใช้เป็นค่าใช้จ่ายในครอบครัวและเงินเก็บ

คนงานส่วนใหญ่คิดว่าการเดินทางมาทำงานที่ประเทศสิงคโปร์ไม่มีผลต่อความสัมพันธ์กับคู่สมรส มีเพียงร้อยละ 4.6 ที่คิดว่าความสัมพันธ์เสื่อมโทรมลงเพราะคู่สมรสมีแฟนใหม่ แต่ก็มีคนงานไทยที่ได้แฟนใหม่เป็นหญิงฟิลิปปินส์เช่นกัน

คนงานมีความรู้สึกกังวลกันระหว่างควรไปหรือไม่ควรไปทำงานที่สิงคโปร์ หนึ่งในสามไม่ส่งเสริมให้คนอื่นไป อีกหนึ่งในสามอยากส่งเสริมและอีกหนึ่งในสามเฉยๆ ผู้ที่ส่งเสริมคิดว่าการทำงานที่สิงคโปร์ทำให้มีรายได้มีเงินเก็บ เสริมฐานะของครอบครัว สามารถมีบ้านของตนเองและมีเครื่องใช้อื่นๆ ตลอดจนส่งเสียลูกให้เรียนได้สูงขึ้น ส่วนผู้ที่ไม่ส่งเสริมมักระบุเหตุผลด้านจิตใจ ได้แก่ ความคิดถึงบ้าน การไม่ได้ทำงานตามที่คาดไว้ การมีรายได้ต่ำ ทั้งที่ลักษณะงานยากลำบาก และความไม่พึงใจต่อผู้ควบคุมหรือลักษณะการจ้างงาน

ในแง่แรงงานสัมพันธ์ คนงานไทยไม่ค่อยมีปัญหาเกี่ยวกับเพื่อนร่วมงานหรือนายจ้าง และไม่มีการรวมตัวเพื่อรักษาผลประโยชน์อีกด้วย คนงานไม่ค่อยเกี่ยวข้องกับสถานทูตไทยและสำนักบริหารแรงงานไทยในสิงคโปร์ ผู้ที่มาเกี่ยวข้องเป็นผู้มีปัญหาในการจ้างงานเท่านั้น เป็นที่น่าสนใจว่าความช่วยเหลือที่คนงานคาดหวังจากสถานทูต/สำนักบริหารแรงงานมักไม่ใช่ความช่วยเหลือด้านการจ้างงาน แต่เป็นด้านอื่น เช่น อยากให้สถานทูตจัดกิจกรรมพักผ่อนหย่อนใจเช่นจัดงานสังสรรค์(ร้อยละ 21), อยากให้ช่วยแก้ไขสถานภาพทางกฎหมายและสิทธิของคนไทยในสิงคโปร์ (ร้อยละ 18), และอยากให้ข้อมูลเกี่ยวกับประเทศไทย (ร้อยละ 6.5) เป็นต้น บางคนอยากให้ช่วยแก้ปัญหาเรื่องยาบ้า และหญิงบริการทางเพศในกลุ่มคนงานก่อสร้าง และบางคนอยากให้รัฐบาลจัดหางานให้คนงานแทนบริษัทจัดหางาน เพราะบริษัทจัดหางานบางแห่งโกงคนงานแล้วก็เปลี่ยนชื่อบริษัทใหม่เพื่อทำกิจการต่อไปได้

ส่วนที่ 2: กฎหมายที่เกี่ยวข้องกับแรงงานต่างชาติในประเทศปลายทาง

1. ญี่ปุ่น

แรงงานผิดกฎหมาย

การที่รัฐบาลญี่ปุ่นมีนโยบายอนุญาตให้ชาวต่างชาติทำงานในประเทศญี่ปุ่นเป็นจำนวนจำกัดและหันไปใช้นโยบายรับสมัครงานเข้าไปทำงานที่เป็นงานไร้ทักษะ ทำให้สถานภาพของคนงานไทยส่วนใหญ่เป็นผู้ทำงานโดยผิดกฎหมาย การเข้าไปทำงานในญี่ปุ่นโดยผิดกฎหมายเป็นปรากฏการณ์ที่เริ่มเกิดขึ้นเป็นเวลานานกว่า 10 ปีมาแล้ว ไม่ใช่ปรากฏการณ์ใหม่ ดังจะพบในตาราง 2.1 ว่ามีคนไทยถูกจับกุมเพราะลักลอบเข้าประเทศจำนวนมากในปี 1994 มีจำนวนถึง 2,865 คน นอกจากนั้นยังมีผู้ที่เดินทางเข้าไปก่อนหน้านี้และพำนักอยู่เกินกำหนดวีซ่าอีกจำนวนถึง 46,973 คนในปีเดียวกัน

ระบบนายหน้าและเครือข่ายการค้ามนุษย์ข้ามชาติ

การเดินทางไปญี่ปุ่นในระยะแรกอาศัยระบบนายหน้าค่อนข้างมาก หลังปี 1995 เป็นต้นมาจึงเป็นการเดินทางโดยตัวคนงานเอง แต่ก็ยังต้องอาศัยความช่วยเหลือจากนายหน้าในเรื่องวีซ่า นายหน้าที่ช่วยให้คนไทยเดินทางไปญี่ปุ่นเป็นกลุ่มที่ดำเนินการโดยผิดกฎหมาย ญี่ปุ่นไม่อนุญาตให้แรงงานไร้ฝีมือเข้าไปทำงานในญี่ปุ่น จึงมีกฎระเบียบด้านคนเข้าเมืองที่เคร่งครัดมาก นายหน้าเหล่านี้จึงต้องใช้ความสามารถพิเศษเพื่อนำคนลักลอบเข้าไป ได้มีการจับกุมนายหน้าที่ลักลอบนำคนไทยเข้าญี่ปุ่นได้เพียงปีละ 7 คน ในปี 1994 และ 1995 นายหน้าส่วนใหญ่ยังคงดำเนินการต่อไป โดยผิดกฎหมาย คิดค่าหัวจากผู้เดินทางถึงคนละ 4 ล้านเยน (ประมาณ 40,000 เหรียญสหรัฐ) วิธีการลักลอบเข้าอาจทำในรูปคู่บ่าวสาวไปฮันนีมูนที่ญี่ปุ่น อย่างไรก็ตามระบบนายหน้าได้ลดบทบาทลงในระยะหลัง เพราะผู้ที่เดินทางไปญี่ปุ่นในปัจจุบันเป็นคนที่เคยเดินทางเข้าญี่ปุ่นมาก่อนแล้ว จึงรู้ช่องทางที่จะจัดการเดินทางด้วยตนเอง และส่วนใหญ่เป็นผู้สมัครใจจะเดินทาง ไม่ใช่ผู้ถูกล่อลวงดังเช่นช่วงต้นทศวรรษ 1990

วิธีการเข้าประเทศญี่ปุ่นโดยผิดกฎหมาย อาจใช้เส้นทางใหม่ๆ เช่น เดินทางผ่านทางมาเลเซีย, เซียงไฮ้ หรือกลุ่มประเทศละตินอเมริกา เพื่อเบี่ยงเบนจากความเคร่งครัดในการตรวจสอบผู้เดินทางจากประเทศไทยเครือข่ายค้ามนุษย์ข้ามชาติที่จัดการให้คนไทยเดินทางไปญี่ปุ่นเป็นความร่วมมือระหว่างนายหน้าในประเทศไทยกับนายหน้าในญี่ปุ่น ดำเนินการโดยมีกลุ่มอิทธิพลยาเกะเป็นผู้อยู่เบื้องหลัง ผู้ที่เดินทางโดยอาศัยเครือข่ายนี้ส่วนใหญ่เป็นผู้หญิงเดินทางโดยมุ่งไปทำงานในธุรกิจบันเทิงและบริการทางเพศ และต้องเสียค่าใช้จ่ายจำนวนนับแสนบาทค้ำข้อมูลจากกลุ่มตัวอย่าง บางคนถูกหลอกไป บางคนไปโดยสมัครใจ แต่ในช่วงหลังไม่สู้มีการหลอกลวงดังได้กล่าวมาแล้วข้างต้น อย่างไรก็ตาม ผู้สมัครใจส่วนหนึ่งไม่รู้ว่าตนจะต้องถูกบังคับให้ค้าบริการทางเพศโดยไม่ได้ค่าตอบแทนเป็นเวลานานและต้องถูกกักขังควบคุมโดยกลุ่มอิทธิพล จึงไม่สามารถกล่าวได้ว่าเป็นความสมัครใจโดยสิ้นเชิง การเดินทางไปญี่ปุ่นโดยผิดกฎหมายและการทำงานโดยผิดกฎหมายมีผลทำให้แรงงานไทยในญี่ปุ่นมีสถานภาพที่เลวร้ายที่สุดเมื่อเทียบกับแรงงานไทยในประเทศอื่น จำเป็นต้องเร่งดำเนินการแก้ไข

ตารางประมวลข้อมูลที่สะท้อนปัญหาที่เกิดจากคนไทยผิดกฎหมายในญี่ปุ่น

ปี	ผู้ที่อยู่ เกินวีซ่า	ผู้ที่ไม่ได้ รับอนุญาต ให้เข้า ประเทศ	ผู้ลัก ตอบเข้า เมือง (ทาง อากาศ)	ผู้ประสบ ปัญหาที่มา ขอความช่วยเหลือ จาก สถานทูต	นายจ้าง ญี่ปุ่นที่จ้าง คนไทยผิด กฎหมายและ ถูกจับกุม	ผู้ที่ถูกจับกุม เพราะกระทำ ผิดกฎหมาย	หญิงไทยค้า บริการทาง เพศถูกจับกุม	จำนวน หญิงไทยที่ ติดเชื้อ HIV*	จำนวนเด็ก เกิดจาก มารดาไทย ในญี่ปุ่น**
1993	53,845	2,735	NA	4,089	1,235	387	1,849	12	220
1994	46,973	747	2,865	3,763	700	328	1,407	NA	383
1995	43,014	1,388	1,811	NA	320	697	571	NA	NA
1996	41,280	1,061	1,465	NA	282	276	316	NA	NA
1997	39,513	564	1,457	NA	375	186	425	NA	NA
1998	37,046	358	1,181	NA	NA	NA	NA	NA	NA

*ที่มา Ito, 1999. Research Paper - Interviews with Key Informants on Thai Migrant Workers in Japan, ARCM, Chula.

• มีหญิงไทยติดเชื้อ HIV ระหว่างปี 1989-1992 อีกรวม 46 คน ข้อมูลนี้เป็นของกลุ่มที่มารับการตรวจเลือดในเขต Ibaraki แห่งเดียวเท่านั้น

** มีเด็กเกิดจากมารดาไทยระหว่างปี 1987-1992 อีกรวม 264 คน

จากข้อมูลในตารางซึ่งประมวลข้อมูลที่สะท้อนปัญหาที่เกิดจากคนไทยผิดกฎหมายในญี่ปุ่น จะพบว่าสภาพปัญหารุนแรงประกอบด้วย :

1) มีคนไทยที่เดินทางเข้าไปญี่ปุ่นและอยู่เกินกำหนดวีซ่าปีละ 30,000-40,000 คน ถึงแม้กรมตรวจคนเข้าเมืองญี่ปุ่นและสถานทูตจะเคร่งครัดในกระบวนการเข้าเมือง แต่ผู้ที่ตั้งใจจะไปอยู่นานกว่ากำหนดก็มีจำนวนสูงอย่างต่อเนื่อง

2) ในจำนวนคนไทยที่พยายามเดินทางเข้าประเทศญี่ปุ่น มีจำนวนหนึ่งที่ถูกปฏิเสธไม่ได้รับอนุญาตให้เข้าประเทศ (refusal landing) ที่สนามบิน เพราะเอกสารไม่ถูกต้องหรือครบถ้วน คนเหล่านี้คือผู้ที่พยายามจะเข้าไปทำงานแต่ถูกค้นพบเสียก่อนนั่นเอง

3) คนไทยจำนวนหนึ่งลักลอบเข้าประเทศญี่ปุ่น โดยทางอากาศ และถูกควบคุมตัวโดยกรมตรวจคนเข้าเมืองญี่ปุ่น มีจำนวนถึงปีละ 1,000 คนขึ้นไป

4) คนไทยที่พำนักอยู่ในญี่ปุ่นโดยผิดกฎหมาย และมาร้องขอความช่วยเหลือจากสถานทูต เคยมีจำนวนถึงปีละ 3,000-4,000 คน ในช่วงปี 1993-94 ซึ่งมีเจ้าหน้าที่ของสถานทูตไทยจัดเก็บข้อมูลและให้ความช่วยเหลือแก่คนเหล่านั้น อย่างไรก็ตามไม่ได้มีการเก็บข้อมูลและให้ความช่วยเหลืออย่างต่อเนื่องทำให้ไม่อาจทราบได้ว่ามีผู้มีปัญหาต้องการความช่วยเหลืออีกเท่าใด ข้อมูลจากภาคสนามแสดงว่าคนไทยส่วนใหญ่ไม่ประสงค์จะมาขอความช่วยเหลือหรือมาติดต่อเฉพาะเรื่องเอกสารเท่านั้น

5) ในส่วนของนายจ้างที่จ้างคนงานไทยโดยผิดกฎหมาย มีการจับกุมและดำเนินคดีตลอดมาตั้งแต่ปี 1993-1997 จำนวนนายจ้างที่ถูกจับกุมในปี 1993 มีถึง 1,235 ราย หลังจากนั้นมียศคนน้อยลงเรื่อยๆ เหลือเพียง 200-300

รายในแต่ละปี ส่วนหนึ่งอาจเป็นเพราะมีผู้ว่าจ้างน้อยลง หรืออีกแห่งหนึ่งอาจเป็นไปได้ว่านายจ้างมีวิธีว่าจ้างที่รับซ่อนขึ้น ทำให้กฎหมายเขาผิดได้ยาก เช่นในงานก่อสร้าง บริษัทก่อสร้างจะจ้างให้บริษัทเล็กๆ รับทำงานแทน แล้วบริษัทเล็กๆ ก็นำงานมาให้คนงานต่างด้าวทำแล้วนำไปส่งบริษัทที่ว่าจ้างช่วงอีกทอดหนึ่ง

6) ปัญหาเรื่องการกระทำผิดกฎหมายและถูกจับกุมในคดีอาชญากรรมเป็นเรื่องที่เกิดขึ้นได้ในหมู่คนไทยที่ทำงานโดยผิดกฎหมาย จำนวนคนไทยที่ถูกจับกุมในคดีประเภทนี้มีมาโดยตลอด แม้จะไม่สูงเป็นเรื้อรังแต่ก็มีคนไทยถูกจับกุมทุกปี ปี 1997 ถูกจับกุม 186 คน และปี 1995 ถูกจับกุมถึง 697 คน คนเหล่านี้ส่วนใหญ่ถูกตัดสินจำคุกและใช้โทษอยู่ในญี่ปุ่น

7) เป็นที่ทราบกันดีว่าหญิงไทยที่เดินทางไปญี่ปุ่นจำนวนไม่น้อยไปค้าประเวณี มีหญิงไทยที่ถูกจับกุมข้อหาค้าประเวณีทุกปีเช่นกัน ในช่วงปี 1993-94 ถูกจับกุมปีละถึง 1,400-1,800 ราย ต่อมาในปี 1995-1997 จึงลดลงเหลือปีละ 300-500 ราย ยังมีอีกจำนวนไม่น้อยที่ไม่ถูกจับกุมแต่ยังคงค้าประเวณีอยู่ในญี่ปุ่น

8) การให้บริการทางเพศเป็นสาเหตุหนึ่งของการติดเชื้อ HIV และเอดส์ในหมู่หญิงไทย เฉพาะที่อิมบารากิแห่งเดียว หญิงไทยที่มาตรวจเลือดระหว่างปี 1990-1993 ติดเชื้อเอชไอวีถึง 58 คน มีบางคนเสียชีวิตในญี่ปุ่นและบางคนกลับมามีชีวิตที่บ้านเกิดในประเทศไทย

9) หญิงไทยที่มีบุตรกับชายญี่ปุ่นมีจำนวนเพิ่มมากขึ้นอย่างรวดเร็ว บางรายชาวญี่ปุ่นก็รับเป็นบิดา บางรายก็ไม่มีบิดา แต่ส่วนใหญ่รัฐบาลญี่ปุ่นจะมีนโยบายให้บรรดาคนไทยมาขอสัญชาติไทยให้บุตรของตน ในปี 1993 เด็กที่เกิดจากมารดาไทย 220 คน และปี 1994 เพิ่มขึ้นอีก 383 คน เด็กจำนวนหนึ่งเติบโตถึงวัยเข้าโรงเรียนและเข้าเรียนในโรงเรียนญี่ปุ่นแล้วเกิดปัญหาความขัดแย้งทางจิตใจทั้งกับมารดาคนไทยและเพื่อนนักเรียนชาวญี่ปุ่นในโรงเรียน

ผลกระทบของภาวะเศรษฐกิจถดถอย

ในแง่ของโอกาสการทำงานในภาวะเศรษฐกิจถดถอย ข้อมูลจากประเทศญี่ปุ่นไม่อาจตอบปัญหานี้ได้ชัดเจน เพราะคนไทยที่ไปทำงานญี่ปุ่นส่วนใหญ่ไปก่อนเกิดภาวะวิกฤตเศรษฐกิจ จึงไม่ได้ตัดสินใจโดยมีผลจากเหตุการณ์นี้ นอกจากนั้นภาวะการทำงานในญี่ปุ่นก็เป็นการทำงานผิดกฎหมาย และหญิงไทยส่วนหนึ่งก็อยู่ในธุรกิจบริการทางเพศ ซึ่งไม่มีความเกี่ยวข้องกับตลาดแรงงานโดยทั่วไปโดยตรง อีกประการหนึ่ง ประเทศญี่ปุ่นเองก็ไม่ได้เกิดภาวะวิกฤตเศรษฐกิจในปี 1997 ภาวะวิกฤตเช่นนี้เกิดขึ้นในญี่ปุ่นตั้งแต่ต้นทศวรรษ 1990 แล้ว จึงไม่อาจสรุปได้ว่าตลาดแรงงานญี่ปุ่นยังคงเปิดให้คนไทยเข้าไปทำงานได้เท่าเดิม มากขึ้น หรือน้อยลงเมื่อเกิดภาวะเศรษฐกิจถดถอยในประเทศไทย อย่างไรก็ตาม ภาวะดังกล่าวมีผลให้แรงงานไทยไม่ต้องการกลับประเทศไทยและเลือกจะทำงานในญี่ปุ่นต่อไป เพราะมีงานทำและมีรายได้ดีกว่า ในแง่ผลกระทบ, ภาวะเศรษฐกิจถดถอยของญี่ปุ่นเองซึ่งเกิดตั้งแต่ปี 1992 ส่งผลกระทบต่อแรงงานไทยมากกว่าในทัศนะของผู้ให้ข้อมูลสำคัญฝ่ายญี่ปุ่น นอกจากนั้น มีแนวโน้มว่าตลาดแรงงานญี่ปุ่นจะต้องการผู้เข้าไปทำงานบริการโดยเฉพาะงานเลี้ยงดูผู้สูงอายุ งานโรงแรม งานเกษตรกรรม และงานผลิตผลิตภัณฑ์จากทะเล ทั้งนี้โดยเข้าไปในฐานะผู้ฝึกงานที่มีสถานะถูกต้องตามกฎหมาย

สำหรับคนไทยที่ลักลอบทำงานอยู่ในญี่ปุ่น ส่วนใหญ่จะไม่ต้องการกลับประเทศไทย เพราะภาวะเศรษฐกิจถดถอยทำให้การหางานทำในประเทศไทยทำได้โดยยาก และการเดินทางกลับมาญี่ปุ่นใหม่อีกครั้งก็ทำได้

หากดังนั้นคนไทยที่อยู่ในญี่ปุ่นอยู่แล้วก็จะคืนรนเพื่อให้ได้อยู่ต่อไปโดยไม่ถูกจับกุมและส่งกลับ ผู้ที่อยู่ในญี่ปุ่นอยู่แล้ว พยายามจะให้ตนได้สถานภาพที่ถูกกฎหมายด้วยการไปจดทะเบียนเป็นคนต่างด้าว (migrant residents) กับรัฐบาลท้องถิ่นเช่นที่ชิบะมีคนไทยไปจดทะเบียนเช่นนี้ถึง 3,330 คน สำหรับผู้ที่ต้องการจะเดินทางมาใหม่ ความเข้มงวดของกฎระเบียบคนเข้าเมืองญี่ปุ่นไม่ใช่อุปสรรคที่จะขัดขวางความต้องการของเขาได้ เพียงแต่ต้องยอมเสียค่าใช้จ่ายจำนวนมหาศาลเพื่อให้เดินทางเข้าประเทศได้

คนงานชายมีเงื่อนไขต่างจากหญิง คนงานชายส่วนหนึ่งอาจหาเส้นทางกลับประเทศไทยเพราะเศรษฐกิจในญี่ปุ่นก็ยังไม่ดีนัก อัตราการว่างงานสูง ทำให้คนงานไทยเช่นในอุตสาหกรรมก่อสร้างหางานได้ยากขึ้น

ระบบกฎหมายของญี่ปุ่น

สำนักงานคนเข้าเมืองของประเทศญี่ปุ่น สังกัดอยู่ในกระทรวงยุติธรรม มีหน้าที่ดูแลเรื่องการเข้าเมืองของสำนักงานระดับภาค 8 แห่ง, ระดับเมือง 5 แห่ง และระดับเมืองเล็กอีก 89 แห่ง ตลอดจนศูนย์กักขังผู้เข้าเมือง 3 แห่ง ญี่ปุ่นใช้กฎหมายคนเข้าเมืองและสัญชาติของอเมริกาเป็นตัวแบบ แต่ไม่มีนโยบายรับคนต่างด้าวเป็นพลเมืองญี่ปุ่น เช่นอเมริกา ญี่ปุ่นมีนโยบายรับคนต่างด้าวที่เป็นนักวิชาชีพเข้ามาทำงานแต่เข้มงวดในการรับแรงงานไร้ฝีมือ นอกจากนั้นยังยอมให้คนต่างด้าวเข้ามาเป็นการชั่วคราวเท่านั้น รัฐบาลได้นำนโยบายรับฝึกงาน (trainee) เข้ามาใช้เพื่อแก้ปัญหาการขาดแรงงานไร้ฝีมือ คนงานต่างชาติในญี่ปุ่นประกอบด้วยชาวเกาหลี จีน และบราซิลเป็นส่วนใหญ่ คนงานต่างชาติผิดกฎหมายประกอบด้วยชาวเกาหลี (จำนวน 52,387 คน) ฟิลิปปินส์ (42,547 คน), ไทย (39,513 คน) และจีน (38,296 คน) ในปี 1999

กฎระเบียบว่าด้วยคนเข้าเมือง

ญี่ปุ่นไม่ได้ให้เสรีภาพในการเข้าประเทศญี่ปุ่นแก่คนต่างชาติ การยกเว้นวีซ่าเข้าญี่ปุ่นกระทำกับ 58 ประเทศทั่วโลก ในปี 1999 ประเทศเอเชียใต้ที่เคยได้รับการยกเว้นวีซ่าได้ถูกยกเลิก ปกติผู้มีวีซ่าจะอยู่ได้ไม่เกิน 90 วัน แต่ห้ามทำงาน ผู้ที่ต้องการมาทำงานจะต้องผ่านขั้นตอนการขออนุญาตที่สถานทูตญี่ปุ่นในประเทศของตน โดยสถานทูตออกใบรับรองเรียกว่า Certificate of Eligibility วีซ่ามีทั้งหมด 23 ประเภท ได้แก่ การทูต, ข้าราชการ, อาจารย์มหาวิทยาลัย, ศิลปิน, ผู้ปฏิบัติงานด้านศาสนา, นักหนังสือพิมพ์, นักลงทุน, นักกฎหมาย/บัญชี, บุคลากรทางการแพทย์, นักวิจัย, ครูผู้สอน, วิศวกร, ผู้ปฏิบัติงานด้านช่วยเหลือเพื่อนมนุษย์/ด้านระหว่างประเทศ, พนักงานของบริษัทที่มีการย้ายโอนตำแหน่งภายในบริษัท, ผู้ให้บริการบันเทิง (entertainer), คนงานมีฝีมือ, ผู้ปฏิบัติงานด้านวัฒนธรรม, ผู้มาเยี่ยมเยือนชั่วคราว, นักศึกษา, นักเรียน, ผู้ฝึกงาน, ผู้มาสมทบกับครอบครัว และผู้ปฏิบัติงานอื่นๆ ที่ได้รับอนุญาต วีซ่าของคน 16 ประเภทแรกเป็นวีซ่าทำงานได้ ส่วน 7 ประเภทหลังทำงานไม่ได้ อย่างไรก็ตาม ลูกหลานของชาวญี่ปุ่นที่อพยพไปตั้งหลักแหล่งในบราซิลและเปรู สามารถเดินทางเข้าประเทศญี่ปุ่นและทำงานได้โดยไม่ต้องมีกำหนดระยะเวลาการพำนัก

การส่งกลับ / ผลักดัน

ตามมาตรา 24 ของกฎหมายควบคุมคนเข้าเมืองกำหนดให้บุคคลต่อไปนี้ถูกส่งกลับออกจากญี่ปุ่น

- (1) ผู้เข้าเมืองโดยไม่มีหนังสือเดินทาง(พาสปอร์ต)ถูกต้อง

- (2) ผู้เข้าเมืองโดยไม่มีใบอนุญาตให้เข้าประเทศ
- (3) ผู้เข้าเมืองโดยที่วีซ่าหมดอายุ
- (4) ผู้เข้าเมืองที่ทำผิดระเบียบของการพำนักรอยู่ในญี่ปุ่น
- (5) ผู้เข้าเมืองที่ทำผิดระเบียบของการเข้าประเทศชั่วคราว
- (6) ผู้ที่ช่วยเหลือจัดการให้มีการเข้าเมืองโดยผิดกฎหมาย
- (7) ผู้ที่ถูกตัดสินจำคุกเพราะทำผิดกฎหมายคนเข้าเมือง
- (8) ผู้เยาว์ที่ถูกตัดสินจำคุกเกิน 3 ปี
- (9) ผู้กระทำผิดกฎหมายควบคุมยาเสพติด
- (10) ผู้กระทำผิดถูกตัดสินจำคุกเกิน 1 ปี
- (11) ผู้เกี่ยวข้องกับธุรกิจค้าประเวณี
- (12) ผู้เกี่ยวข้องกับความรุนแรงทำลายล้าง
- (13) ผู้กระทำสิ่งที่ถูกคามต่อผลประโยชน์หรือความมั่นคงของญี่ปุ่น

ในปี 1997 มีคนต่างชาติดูถูกส่งกลับประเทศถึง 49,566 คน ในจำนวนนี้ 41,113 คนเป็นผู้อยู่เกินกำหนดวีซ่า และ 41,606 คนเป็นแรงงานผิดกฎหมาย มีคนไทยที่ถูกส่งกลับ 4,487 คนในปีดังกล่าว

ผู้ที่อยู่เกินกำหนดวีซ่า จะถูกลงโทษจำคุกไม่เกิน 3 ปีหรือปรับไม่เกิน 300,000 เยน หรือทั้งจำคุกและปรับ (มาตรา 70 กฎหมายคนเข้าเมือง) ผู้ที่ถูกส่งกลับจะไม่มีสิทธิเดินทางเข้าประเทศญี่ปุ่นอีกเป็นเวลา 1 ปี กระทรวงยุติธรรมกำลังปรับปรุงแก้ไขระเบียบนี้เพื่อขยายระยะเวลาเป็น 5 ปี

สำหรับผู้ช่วยเหลือหรือว่าจ้างแรงงานผิดกฎหมายจะมีโทษจำคุกไม่เกิน 3 ปีและหรือปรับไม่เกิน 2 ล้านเยน รวมถึงการช่วยเหลือติดต่อกับกระทำความผิดนอกประเทศญี่ปุ่นด้วย

สวัสดิการ

คนงานที่ทำงานโดยถูกกฎหมายมีสิทธิได้รับการประกันสังคมไม่ว่าจะเป็นชาติใด แต่สำหรับแรงงานผิดกฎหมายจะไม่ได้สิทธิเพราะนายจ้างไม่ต้องการไปจดทะเบียนกับสำนักงานประกันสังคม (รับจดทะเบียนสำหรับบริษัทที่มีลูกจ้าง 5 คนขึ้นไปเท่านั้น) ในกรณีที่เกิดอุบัติเหตุกับแรงงานผิดกฎหมาย คนงานจะมีปัญหามากในการได้รับการชดเชย รัฐบาลท้องถิ่นหลายแห่งและองค์กรพัฒนาภาคเอกชนต้องช่วยออกค่ารักษาพยาบาลให้คนต่างด้าวที่เจ็บป่วยหรือได้รับอุบัติเหตุจากการทำงาน ตัวคนงานเองก็ไม่อยากเข้าสู่ระบบประกันสุขภาพเพราะไม่มีสิทธิได้รับเงินชดเชยในอนาคตระยะยาวเนื่องจากเดินทางกลับประเทศแล้ว

การส่งเงินกลับ

การส่งเงินกลับประเทศต้องแสดงบัตรประจำตัว ถ้าส่งเงินเกิน 5 ล้านเยน ต้องกรอกแบบฟอร์มระบุชื่อผู้รับและวัตถุประสงค์ที่ส่ง ทั้งนี้เพื่อป้องกันการฟอกเงินคนงานต่างด้าวจึงมักส่งเงินโดยวิธีการนอกระบบ เช่น ฝาก

เพื่อนหรือญาติไปให้ ฝากส่งกับ “ธนาคารใต้ดิน” รวมถึงเงินที่ส่งกลับประเทศไทยด้วย ธนาคารใต้ดินจะคิดค่าบริการร้อยละ 0.3 ถึง 1 ของจำนวนที่ส่ง ตั้งแต่ปี 1997 มีผู้จัดการของธนาคารใต้ดินถูกจับ 15 ราย เงินที่ส่งกลับด้วยวิธีนี้มีมูลค่า 100 พันล้านเยน บทลงโทษของการส่งเงินนอกระบบนอกจากจำคุก 1 ปี - 2 ปี แล้ว ยังปรับอีก 700,000 เยน อย่างไรก็ตามเนื่องจากแรงงานต่างชาติผิดกฎหมายส่วนหนึ่งได้เริ่มทำนิกในญี่ปุ่นเป็นเวลานานขึ้น บางรายมีครอบครัวตามมาสมทบ จำนวนเงินที่ส่งกลับต่อหัว จึงลดลงเรื่อยๆ จากคนละประมาณ 830,205 เยน ในปี 1980 เหลือเพียง 173,329 เยน ในปี 1992

อาชญากรรมในหมู่คนต่างชาติมีแนวโน้มสูงขึ้นเรื่อยๆ ตั้งแต่ปี 1991 ทำให้คดีที่ต้องมีล่ามหรือการดูแลผู้ต้องหามีขึ้นเป็นพิเศษเพิ่มขึ้นด้วย ปัญหาด้านการบูรณาการทางวัฒนธรรมของคนต่างชาติกับคนญี่ปุ่นก็ยังคงมีเรื่องร้อง ในแง่การเมืองท้องถิ่น รัฐบาลท้องถิ่นบางแห่งเริ่มพิจารณาที่จะให้สิทธิคนต่างชาติในการเลือกตั้ง แต่ยังคงไม่ผ่านกระบวนการนิติบัญญัติโดยสมบูรณ์

2. ไต้หวัน

แรงงานไทยผิดกฎหมายในไต้หวัน

เนื่องจากกลุ่มตัวอย่างคนงานทั้งหมดในไต้หวันในการสำรวจครั้งนี้เป็นคนงานที่ทำงานโดยถูกกฎหมายทั้งสิ้น คณะวิจัยจึงได้เก็บข้อมูลเชิงคุณภาพเพิ่มขึ้นอีกส่วนหนึ่งเกี่ยวกับคนงานผิดกฎหมายเพื่อให้ได้เห็นภาพที่เป็นองค์รวม คนงานไทยที่ทำงานโดยผิดกฎหมายมีไม่มาก ส่วนหนึ่งเป็นผู้ที่วิชาหมดอายุแล้วลักลอบอยู่ต่อ อีกส่วนหนึ่งสัญญาจ้างงานหมดอายุแต่ไม่กลับ หรือหลบหนีจากสถานประกอบการเพื่อไปทำงานอื่น จำนวนผู้ที่เข้ามาทำงานโดยผิดกฎหมายมีเท่าใดไม่แน่ชัด แต่จำนวนผู้ที่ถูกจับกุมเพราะเข้าเมืองโดยผิดกฎหมาย ระหว่างปี 1992-1997 ที่เป็นคนไทยรวมแล้วมี 3,681 คน เป็นชาย 2,910 คน หญิง 771 คน จากจำนวนแรงงานต่างด้าวผิดกฎหมายรวมทั้งสิ้น 7,674 คน นับว่ามีจำนวนคนไทยสูงกว่าแรงงานต่างด้าวชาติอื่นๆ ทุกชาติ รองจากไทยก็คือชาวฟิลิปปินส์ (2,485 คน)

แรงงานชายที่ทำงานโดยผิดกฎหมาย มักเป็นผู้ที่เข้ามาโดยถูกต้องตามกฎหมายทุกประการ แต่หลังจากระยะหนึ่งก็มีการเปลี่ยนงาน อาจเปลี่ยนโดยนายจ้างย้ายคนงานให้ไปทำในสถานประกอบการอื่น ต่อมาเมื่อมีตำรวจมาตรวจสถานประกอบการก็จับได้ว่าทำงานไม่ตรงกับสัญญาจ้างงาน การที่ไต้หวันมีนโยบายแก้ปัญหาแรงงานต่างด้าวผิดกฎหมายด้วยการเปิดเผยจำนวนคนงานต่างด้าวที่อยู่ในข่ายผ่อนผันให้ทำงานได้โดยถูกกฎหมาย ในระหว่างปี 1985-1992 เป็นเวลาถึง 7 ปี ทำให้จำนวนแรงงานต่างด้าวผิดกฎหมายลดลงอย่างมาก รัฐบาลไต้หวันใช้นโยบายขยายงานก่อสร้างที่เป็นสาธารณูปโภคเช่นรถไฟฟ้า ที่พักอาศัยของการเคหะแห่งชาติ และใช้คนงานต่างด้าวเข้าไปทำงานในโครงการเหล่านี้เช่นเดียวกับสิงคโปร์ ต่างกันที่ว่าสิงคโปร์ดำเนินนโยบายนี้เพราะมีความต้องการสาธารณูปโภคมากกว่า ส่วนไต้หวันมีเหตุผลอื่นประกอบด้วยกล่าวคือต้องการสนองความต้องการของภาคเอกชน โดยเฉพาะผู้ประกอบการรายใหญ่ที่ต้องการใช้แรงงานต่างด้าวในอุตสาหกรรมโรงงานและก่อสร้าง พร้อมกันนั้นก็ต้องการสร้างความสัมพันธ์ทางการทูตที่ดีกับประเทศต้นทางที่ส่งแรงงานต่างด้าวมาทำงานด้วย อย่างไรก็ตาม ตั้งแต่ปี 1996 เป็นต้นมา ไต้หวันก็เริ่มจำกัดจำนวนแรงงานต่างด้าวให้ลดลงเพราะอัตราว่างงานในประเทศสูงขึ้นมาก ผู้ประกอบการรายใหญ่ที่มีการลงทุนสูงยังคงมีสิทธิว่าจ้างแรงงานต่างด้าว เพราะรัฐเห็นว่าช่วยทำให้เกิดรายได้ให้แก่ประเทศ แต่รัฐ

หันมาลดแรงจูงใจในการใช้แรงงานต่างด้าว โดยการลดอัตราค่าจ้างสำหรับแรงงานต่างด้าวให้ต่ำลง นอกจากนั้นยังใช้วิธีเจรจนาเข้าแรงงานในรูปรัฐต่อรัฐมากขึ้น และขยายจำนวนประเทศต้นทางที่ส่งแรงงานมาทำงานให้หลากหลายมากขึ้นอีกด้วย

แรงงานหญิงจากประเทศไทยที่ผิดกฎหมายในไต้หวันแม้จะมีจำนวนน้อยกว่าแรงงานชาย แต่ก็อยู่ในสภาพน่าเป็นห่วง ส่วนหนึ่งเป็นผู้ที่ถูกล่อลวงไปทำงานค้าบริการทางเพศ เช่นถูกหลอกลวงให้ไปแต่งงานกับชายไต้หวัน โดยมีผู้ออกค่าใช้จ่ายต่างๆ ให้หมด หรือถูกหลอกลวงให้ไปทำงาน แล้วนำไปค้าบริการทางเพศโดยถูกกักขัง End Child Prostitution Association Taiwan (ECPAT) ซึ่งเป็นองค์กรภาคเอกชนให้ความช่วยเหลือเด็กและหญิงไทยที่ถูกนำมาค้าบริการทางเพศ ได้พบว่าหญิงไทยที่ถูกจับกุมและองค์กรให้ความช่วยเหลือเป็นผู้ที่ถูกกระบวนการค้าหญิงข้ามชาติล่อลวงมา นอกจากหญิงไทยยังมีหญิงจากลาว กัมพูชา เวียดนาม และพม่า กระบวนการนี้จะนำหญิงเดินทางไปไต้หวันและญี่ปุ่นโดยผ่านสิงคโปร์ หรือไปมาเลเซีย สิงคโปร์ ฟิลิปปินส์ไปยังไต้หวัน ในจำนวนหญิงต่างชาติที่ถูกล่อลวงมาค้าประเวณีในไต้หวันและถูกจับกุมระหว่างปี 1995-1998 รวม 457 คน เป็นหญิงไทยถึง 377 คน ฟิลิปปินส์เพียง 42 คน ที่เหลือเป็นอินโดนีเซียและมาเลเซีย กลุ่มใหญ่ที่สุดอายุ 20-30 ปี (264 คน) และเดินทางเข้าไต้หวันโดยถูกต้องตามกฎหมายถึง 200 คน

หน่วยงานที่ให้ความช่วยเหลือและควบคุม คนงานผิดกฎหมาย ประกอบด้วยสำนักงานดูแลและคุ้มครองแรงงานไทยของกระทรวงแรงงานไทย, ศูนย์ให้คำปรึกษาแรงงานต่างชาติของไต้หวัน ศูนย์ควบคุมคนต่างด้าว กรมตำรวจไต้หวัน และองค์กรเอกชน

สำนักงานดูแลและคุ้มครองแรงงานไทย ตั้งอยู่ในไทเปและเกาสง มีเจ้าหน้าที่ประจำเพียงแห่งละ 2 คน จึงไม่พอเพียงที่จะปฏิบัติงานได้อย่างมีประสิทธิภาพ ทั้งที่มีแรงงานไทยทำงานในไต้หวันมากกว่า 1 แสนคน แต่สำนักงานดูแลคุ้มครองกลับมีเจ้าหน้าที่รวมทั้งหมดเพียง 4 คน ข้อมูลจากแรงงานไทยระบุว่าไม่ได้มาขอใช้บริการของสำนักงานนี้แต่อย่างใด และถึงมาขอใช้บริการก็ไม่ได้ได้รับความช่วยเหลือตามต้องการ

ศูนย์ให้คำปรึกษาแรงงานต่างชาติเถาหยวน (Taoyuan Foreign Worker's Consultation Center) เป็นศูนย์สังกัดรัฐบาลท้องถิ่นของเขตเถาหยวน ซึ่งเป็นเขตอุตสาหกรรมสำคัญของไต้หวัน มีคนงานต่างชาตินานาชาติมาก แต่การสอดส่องดูแลคนงานทั้งโดยฝ่ายตำรวจและผู้ประกอบการเคร่งครัดมาก จึงไม่ค่อยมีคนงานหลบหนีมากนัก ส่วนศูนย์ควบคุมคนต่างด้าว (Alien Detention Center, National Police Administration) มีหน้าที่กักขังแรงงานต่างชาติที่ถูกจับกุม รอการดำเนินการส่งกลับประเทศ โดยผ่านกระบวนการทางศาล

องค์กรเอกชนไต้หวันที่ช่วยคนงานต่างด้าวชื่อ Hope Workers' Center เป็นองค์กรของคณะกรรมการการอลิก จะให้คำปรึกษาแก่คนงานทั้งทางโทรศัพท์และโดยตรง ส่วน ECPAT จะเน้นการช่วยเหลือผู้หญิงที่ถูกล่อลวงมาค้าประเวณี

ระบบกฎหมายของไต้หวัน

กฎหมายที่เป็นแม่บทในการดูแลแรงงานต่างด้าวในไต้หวันคือ The Employment Service Act หรือกฎหมายแรงงานนั่นเองแต่จะมีมาตราที่เน้นเรื่องแรงงานต่างด้าวโดยเฉพาะ ได้แก่ มาตรา 41 จนถึงมาตรา 68

เนื้อหาสาระของกฎหมายระบุว่า การใช้แรงงานต่างด้าวจะต้องไม่เป็นการแย่งโอกาสการได้งานของแรงงานได้วันและเป็นภัยต่อความมั่นคงทางสังคมและเศรษฐกิจ มาตรา 48 กำหนดประเภทของแรงงานต่างด้าวที่เป็นงานไร้ฝีมือหรือไม่ใช่งานวิชาชีพที่กฎหมายอนุญาตให้จ้างได้มีเพียง 3 อย่าง คือ

1. คนทำงานบ้าน
2. งานที่ทางการเห็นว่าจำเป็นสำหรับการฟื้นฟูหรือพัฒนาเศรษฐกิจและสังคม
3. งานอื่นที่ทางการเห็นว่าจำเป็นเพราะคนงานได้วันทำไม่ได้

มาตรา 49-50 ระยะเวลาที่จะว่าจ้างคนงานต่างด้าวได้ไม่เกิน 2 ปี อาจขยายเวลาได้อีก 1 ปีถ้าจำเป็น แต่งานไร้ฝีมือและงานอีก 2 ประเภทข้างต้นให้ว่าจ้างได้เพียง 1 ปี และขยายเวลาได้อีก 1 ปี (ต่อมาได้มีการเพิ่มระยะเวลาของการจ้างแรงงานไร้ฝีมือได้เป็น 2 ปีขยายเวลาได้อีก 1 ปี - ผู้วิจัย) ลูกจ้างที่ต้องการย้ายงานจะต้องขอให้นายจ้างคนเก่าและนายจ้างคนใหม่ร่วมกันยื่นคำขออนุญาต ทั้งนี้ไม่อนุญาตให้มีการเปลี่ยนงานสำหรับงาน 3 ประเภทข้างต้น

มาตรา 51 รัฐบาลได้จัดตั้งกองทุนพิเศษขึ้นและนายจ้างที่ว่าจ้างคนงาน 3 ประเภทนี้จะต้องจ่ายเงินเรียกว่า employment stabilization fee เข้ากองทุนเพื่อนำไปส่งเสริมการจ้างงานในประเทศ ถ้านายจ้างไม่นำเงินเข้ากองทุน อาจถูกเพิกถอนใบอนุญาตให้ว่าจ้างแรงงานต่างด้าว

มาตรา 52 นายจ้างต้องแจ้งทางการระดับท้องถิ่นหรือตำรวจในกรณีต่อไปนี้

1. ลูกจ้างขาดงานเกิน 3 วันติดต่อกันโดยไม่ได้ลาและขาดการติดต่อ
2. ลูกจ้างมีปัญหารุนแรงในการทำงานกับนายจ้าง
3. ระยะเวลาจ้างงานตามที่ได้รับอนุญาตสิ้นสุดลง

มาตรา 53 นายจ้างต้องไม่กระทำการดังต่อไปนี้

1. จ้างแรงงานต่างด้าวโดยไม่ได้รับอนุญาต หรือใบอนุญาตหมดอายุ
2. ใช้ชื่อตนเองจ้างแรงงานต่างด้าว แต่ให้ไปทำงานให้ผู้อื่น
3. จ้างแรงงานต่างด้าวโดยใช้ชื่อนายจ้างคนอื่น
4. ใช้ให้แรงงานต่างด้าวทำงานอื่นที่ไม่ตรงกับที่ได้รับอนุญาต

มาตรา 54 สำหรับแรงงานต่างด้าว ถ้าทำผิดในกรณีต่อไปนี้将被ยึดใบอนุญาต

1. ทำงานกับนายจ้างที่ชื่อไม่ตรงกับในใบอนุญาตทำงาน
2. ทำงานอื่นที่ไม่ตรงกับที่ระบุในใบอนุญาตทำงาน
3. ไม่เข้ารับการตรวจโรค หรือไม่ผ่านการตรวจโรค

- 4 ขาดงานเกิน 3 วันติดต่อกันโดยไม่แจ้งและขาดการติดต่อบนจ้าง หรือปัญหารุนแรงในการทำงาน หรือระยะเวลาทำงานสิ้นสุด
- 5 เอกสารเกี่ยวกับการจ้างงานและการเดินทางไม่สมบูรณ์
- 6 กระทำการละเมิดกฎหมายอื่นๆ ของไต้หวันและทำให้เกิดผลเสียหายร้ายแรง ผู้ที่ถูกยกเลิกใบอนุญาตทำงานต้องเดินทางออกนอกประเทศทันทีและไม่ได้รับอนุญาตให้เข้ามาทำงานอีก

มาตรา 55 นายจ้างเป็นผู้รับผิดชอบค่าเดินทางและค่าใช้จ่ายในการควบคุมตัวของคนงานที่ถูกทางการส่งตัวกลับประเทศ

นายจ้างเป็นผู้รับผิดชอบค่าใช้จ่ายในการจัดพิธีศพให้คนงานที่เสียชีวิตระหว่างการจ้างงาน

เงินที่จ่าย employment stabilization fee ต้องเพียงพอจะครอบคลุมค่าใช้จ่ายข้างต้น ถ้านายจ้างเพิกเฉยไม่จ่ายหรือจ่ายไม่พอ แม้จะได้รับการแจ้งให้ทราบอย่างเป็นทางการแล้ว ให้เจ้าหน้าที่ฟ้องศาลเพื่อบังคับให้นายจ้างชดใช้เงินดังกล่าว

มาตรา 56 ห้ามเสนองานให้แรงงานต่างด้าวทำโดยผิดกฎหมาย

มาตรา 57 เจ้าหน้าที่และตำรวจ หรือผู้ได้รับมอบหมายเป็นลายลักษณ์อักษร สามารถเข้าตรวจค้นสถานประกอบการที่สงสัยว่าจะมีการว่าจ้างแรงงานต่างด้าวผิดกฎหมายได้ ทั้งนี้ นายจ้างจะต้องไม่หลบหนี ปฏิเสธหรือขัดขวางกับการตรวจค้น

มาตรา 58 บทลงโทษนายจ้าง นายจ้างที่กระทำผิดตามมาตรา 53 ถ้าจ้างแรงงานผิดกฎหมาย 1 คน มีโทษจำคุกไม่เกิน 6 เดือน และทำงานหนักใช้โทษหรือเสียค่าปรับไม่ต่ำกว่า 90,000 เหรียญไต้หวัน หรือทั้งจำทั้งปรับ ถ้าจ้าง 2 คน โทษจำคุกไม่เกิน 2 ปี และทำงานหนัก หรือปรับ 300,000 เหรียญไต้หวัน หรือทั้งจำทั้งปรับ

ในกรณีที่บริษัทหรือนิติบุคคล ให้ลงโทษทั้งผู้กระทำผิดและผู้รับผิดชอบตามกฎหมาย

มาตรา 59 ผู้กระทำผิดมาตรา 56 มีโทษจำคุก 6 เดือน, ทำงานหนัก หรือจ่ายค่าปรับ 150,000 เหรียญไต้หวัน หรือทั้งจำทั้งปรับ

ผู้เสนองานให้แรงงานต่างด้าวโดยหวังผลกำไร มีโทษจำคุก 3 ปี ทำงานหนัก หรือเสียค่าปรับ 600,000 เหรียญไต้หวัน หรือทั้งจำทั้งปรับ

ผู้ที่เป็นนายหน้าจัดหางานและกระทำผิดซ้ำ มีโทษสูงขึ้นเป็น จำคุก 5 ปี ทำงานหนักหรือปรับ 1,500,000 เหรียญไต้หวันหรือทั้งจำทั้งปรับ

ถ้าเป็นบริษัทหรือนิติบุคคล ให้ลงโทษทั้งตัวผู้กระทำผิดและผู้รับ

มาตรา 61 ผู้กระทำผิดตามมาตรา 57 (ไม่ร่วมมือให้ตรวจค้นหรือหลบหนีหรือขัดขวาง การตรวจคน) มีโทษปรับไม่ต่ำกว่า 15,000 เหรียญไต้หวัน และ ไม่เกิน 150,000 เหรียญ

มาตรา 63 สถานประกอบการที่กระทำผิดอย่างรุนแรงจะถูกเพิกถอนใบอนุญาตประกอบการบางส่วนหรือทั้งหมด

จะเห็นได้ว่ากฎหมาย The Employment Service Act ฉบับนี้ของไต้หวันมีมาตราต่างๆ ที่ระบุกฎเกณฑ์ในการว่าจ้างแรงงานต่างด้าว บทบาทหน้าที่ของฝ่ายนายจ้างและแรงงานต่างด้าว ตลอดจนบทลงโทษนายจ้างและบริษัทจัดหางานไว้อย่างชัดเจน ทำให้มีผู้ที่ต้องรับผิดชอบเมื่อเกิดภาวะผิดกฎหมายขึ้นและรัฐไม่สูญเสียประโยชน์สามารถดำเนินการกับทุกฝ่ายได้ รวมทั้งฝ่ายแรงงานต่างด้าวที่จะต้องถูกส่งกลับด้วย

อย่างไรก็ตามการบังคับใช้ตามกฎหมายในความเป็นจริงก็มีปัญหาและไม่ราบรื่นดังตัวบทกฎหมายว่าไว้ เช่น ในกรณีของแรงงานไทยที่หลบหนีไปจากนายจ้างเพื่อทำงานอื่น เมื่อมาจับตัวกับตำรวจผ่านองค์กรเอกชน จะต้องจ่ายเงินค่าตัวเครื่องบินเอง (ประมาณ 4,000 เหรียญไต้หวัน) นอกจากนั้นทางการไต้หวันยังได้กำหนดบทลงโทษสำหรับแรงงานต่างด้าวผิดกฎหมายที่มาจับตัวไว้ดังนี้

หลบหนีไม่เกิน	1 ปี	เสียค่าปรับ	650 เหรียญไต้หวัน
หลบหนีไม่เกิน	1-5 ปี	เสียค่าปรับ	10,000 เหรียญไต้หวัน
หลบหนีไม่เกิน	5 ปีขึ้นไป	เสียค่าปรับ	15,000 เหรียญไต้หวัน

ในบางกรณีมีการลงโทษจำคุกด้วย

3. มาเลเซีย

กฎหมายสำคัญของมาเลเซียได้แก่ The Immigration Act 1959 (Amended 1963), The Employment Act (Amended 1998) และ The Occupational Safety and Health Act 1994

The Immigration Act ระบุว่า ผู้ที่เข้าเมืองเพื่อทำงานจะต้องมี employment pass ซึ่งออกให้โดย Controller of Immigration และจะต้องมี entry permit ด้วย หน่วยงานที่ดูแลมี 2 หน่วย คือ กองตรวจคนเข้าเมือง ซึ่งขึ้นอยู่กับกระทรวงภายใน และกรมตำรวจ ส่วนสำนักอัยการสูงสุดจะรับผิดชอบเฉพาะในกรณีที่ผู้เข้าเมืองกระทำผิดกฎหมายอาญาเท่านั้น

การแก้ไขปัญหาแรงงานต่างด้าวในปัจจุบันกระทำโดยคณะกรรมการในคณะรัฐมนตรี เรียกว่า Cabinet Committee on Foreign Workers มีรองนายกรัฐมนตรี (ซึ่งเป็นรัฐมนตรีกระทรวงภายในด้วย) เป็นประธาน เมื่อเดือนกุมภาพันธ์ 2000 คณะกรรมการได้มีมติอนุญาตให้แรงงานต่างด้าวทำงานได้ทุกอาชีพยกเว้น 138 อาชีพสงวน (ได้แก่ อาชีพทำเครื่องดนตรี, ช่างยนต์, ช่างเทคนิค, ขายของหาบเร่, พนักงานเสิร์ฟชาย, แม่บ้าน และ social escort เป็นต้น) ทั้งนี้เนื่องจากมีความต้องการว่าจ้างแรงงานต่างด้าวมากในกิจการก่อสร้าง, อุตสาหกรรมโรงงานและงานเกษตร นอกจากนั้นคณะกรรมการยังผ่อนผันให้ขยายเวลาจ้างแรงงานต่างด้าวเพิ่มได้อีก 1 ปี จากที่จ้างมา 7 ปีแล้ว

สหพันธ์นายจ้างมาเลเซีย (Malaysian Employers' Federation) คาดว่า จะมีความต้องการใช้แรงงานต่างด้าว 200,000 คน ในงานอุตสาหกรรมโรงงาน ในปี 2000 นี้ สหพันธ์สนใจจะจ้างแรงงานต่างด้าวไม่ต่ำกว่า 70% (เท่ากับ 140,000 คน) จากอินโดนีเซีย เพราะมีภาษาและวัฒนธรรมเหมือนกัน แต่ฝ่ายสมาชิกสหภาพแรงงานมาเลเซีย (Malaysian Trades Union Congress หรือ MTUC) พิจารณาวามติของคณะกรรมการที่ประกาศออกมานี้จะดำเนินการ

ได้ยากเพราะมีปัญหาในการควบคุมไม่ให้แรงงานต่างด้าวทำงานในอาชีพสงวน 138 อาชีพ การควบคุมนายจ้างที่ได้รับอนุญาตให้ว่าจ้างแรงงานต่างด้าวแล้วไม่ให้นำแรงงานไปใช้ในอาชีพที่ไม่ได้รับอนุญาต, การแก้ปัญหาแรงงานเดือนจำนวนประมาณถึง 600,000 คน และความชัดเจนว่ารัฐบาลจะส่งแรงงานเดือนกลับหรือยอมให้นายจ้างว่าจ้างทำงานต่อไป

ปัญหาเรื่องแรงงานต่างด้าวในมาเลเซียเป็นปัญหาที่นักกฎหมายไม่ให้ความสนใจมากนัก ในแง่ผลประโยชน์ ปัญหานี้ไม่ช่วยให้ทนายความมีรายได้ดี ต่างจากคดีอาชญากรรมอื่นๆ แต่ส่วนองค์กรภาคเอกชนให้ความสนใจ มีองค์กร 2 องค์กรที่ทำงานช่วยเหลือคนงานต่างด้าวได้แก่ Womens' Aid Organization และ Tenaganita แต่ทั้งสององค์กรทำงานได้ไม่มากนักเพราะรัฐบาลควบคุมเคร่งครัด โดยใช้กฎหมายความมั่นคงภายในเป็นตัวควบคุมองค์กร Womens' Aid ช่วยให้ที่พักพิงแก่คนงานหญิงชาวอินโดนีเซียที่ทำงานบ้าน และถูกนายจ้างทุบตีหรือละเมิด

ในเรื่องคนงานหญิงทำงานบ้าน บทลงโทษสำหรับนายจ้างที่ปฏิบัติต่อคนงานต่างด้าวไม่เหมาะสม (เช่น ทุบตี, ละเมิด, ฯลฯ) คือไม่อนุญาตให้ว่าจ้างคนงานต่างด้าวมาทำงานบ้านอีกตลอดชีวิต นอกจากนั้นนายจ้างจะต้องแจ้งให้คนงานหญิงรู้ลักษณะงานที่ตนจะต้องทำก่อนหน้าการว่าจ้าง เพราะมีงานบางอย่างที่ขัดต่อบทบัญญัติทางศาสนาของคนงานหญิง

ปัญหาแรงงานต่างด้าวผิดกฎหมายและการค้า/ชักนำแรงงานต่างด้าวเข้ามาโดยผิดกฎหมายเป็นปัญหาสำคัญ นำไปสู่ปัญหาอาชญากรรมอื่นๆ รวมทั้งปัญหาการรกล้ำที่สาธารณะและที่ส่วนบุคคลโดยแรงงานต่างด้าว ซึ่งส่วนใหญ่เป็นชาวอินโดนีเซีย สำหรับคนงานไทย ปัญหาที่เกิดขึ้นเป็นเรื่องการกระทำผิดเช่น คืบเหล้า เล่นการพนัน หรือพฤติกรรมทางเพศ

ในเรื่องโอกาสในการได้สัญชาติมาเลเซีย รัฐธรรมนูญของมาเลเซียในส่วนที่ว่าด้วยเรื่องสัญชาติได้กำหนดให้การได้สัญชาติมาเลเซียเป็นเรื่องทำได้ยาก เพราะปัญหาเรื่องสัญชาติเป็นเรื่องละเอียดอ่อนสำหรับประเทศที่มีพลเมืองหลายชาติพันธุ์อยู่ร่วมกันเช่นมาเลเซีย ในอดีตได้เกิดมีการจลาจลเนื่องจากความไม่พอใจขึ้นในปี 1969 โอกาสที่คนงานต่างด้าวจะได้สัญชาติจึงมีน้อยมาก

4. สิงคโปร์

แรงงานผิดกฎหมาย

คาดว่ามียานวนประมาณ 10,000 คนในสิงคโปร์ บางคนมีสถานภาพผิดกฎหมายโดยจงใจลักลอบเดินทางเข้าไปทำงาน หรือเดินทางเข้าไปแบบนักท่องเที่ยวแล้วลักลอบทำงาน และมีบางรายที่ถูกนายหน้าชาวไทยและสิงคโปร์หลอกลวง

สำหรับผู้ที่ถูกหลอกจะได้รับการสอนจากนายหน้าให้แจ้งว่าจะเข้าไปท่องเที่ยวในสิงคโปร์ เมื่อเดินทางเข้าไปแล้ว นายหน้าก็จะหางานจรรยาให้ เป็นงานในบริษัทก่อสร้างเล็กๆ ที่ว่าจ้างคนงานระยะสั้นๆ ไม่มีสวัสดิการให้คนงาน บริษัทบางแห่งก็มีบัตรอนุญาตทำงานปลอมให้ หลังจากนั้นคนงานไทยก็จะถูกหลอกลวง พร้อมกับถูกนายจ้างเจตนาสปรัดไป ต้องมาขอความช่วยเหลือจากสถานทูตไทยให้ออกเอกสาร CI และส่งตัวกลับประเทศไทย

ส่วนผู้ที่ตั้งใจลักลอบมาทำงานแบบผิดกฎหมาย จะทำงานเกือบถึง 3 เดือนแล้วไปที่ Office of Labour Affairs (OLA) ขอความช่วยเหลือโดยอ้างว่าถูกหลอกมา เพราะการเข้าประเทศไม่เกิน 3 เดือนมีโทษเพียงปรับไม่มีการโบย บางคนถึงกับขายพาสปอร์ตของตนในราคา 500 เหรียญแล้วมาแจ้งว่าพาสปอร์ตหาย

ปัญหาอาชญากรรมในไซต์งานก่อสร้างมีทั้งการลักขโมย การทำร้ายร่างกายและฆ่ากัน

นายจ้างที่ว่าจ้างคนงานผิดกฎหมายมักเป็นบริษัทก่อสร้างที่รับช่วงงานจากบริษัทใหญ่ บริษัทบางแห่งใช้ชื่อลงท้ายว่า Builders, Building, General Contractor หรือ Civil Engineering ซึ่งทำให้ดูเหมือนเป็นบริษัทก่อสร้างแต่จริงๆแล้วเป็นบริษัทนายหน้าจัดหางาน หรือเป็นทั้งสองอย่าง โดยนำโควต้าตำแหน่งงานที่ได้มาขายให้แก่นายหน้าคนไทยอีกทอดหนึ่ง

ระบบกฎหมายของสิงคโปร์

กฎหมายของสิงคโปร์ที่เกี่ยวกับแรงงานต่างด้าว มี 2 ฉบับ คือ กฎหมายคนเข้าเมือง และกฎหมายแรงงาน

(1) กฎหมายคนเข้าเมือง

กฎหมายคนเข้าเมืองของสิงคโปร์มีหน่วยงานคือ Singapore Immigration and Registration (SIR) เป็นผู้บังคับใช้ SIR อยู่ในสังกัดกระทรวงภายใน คนไทยที่จะเดินทางเข้าสิงคโปร์ไม่ต้องใช้วีซ่า มีเพียงเอกสารการเดินทางที่ออกโดยรัฐบาลไทยจะสามารถอยู่ในสิงคโปร์ได้ 14 วัน แต่ถ้าต้องการอยู่นานกว่านี้จะต้องขออนุญาตต่อทางการ สำหรับผู้ที่เข้ามาทำงาน ทุกระเบียบส่วนใหญ่จะเป็นเรื่องของใบผ่านทางเพื่อทำงาน (Employment Pass) และใบอนุญาตทำงาน (work permit) ซึ่งออกโดยกระทรวงกำลังคน (Manpower)

บทลงโทษผู้เข้าเมืองโดยผิดกฎหมาย

เนื่องจากการลักลอบเข้ามาทำงานในสิงคโปร์มากขึ้น บทลงโทษสำหรับผู้เข้าเมืองโดยผิดกฎหมายจึงรุนแรงกว่าเดิม โทษในปัจจุบันคือ จำคุก 6 เดือน และโบยอย่างต่ำ 3 ครั้ง สำหรับผู้ที่ลักลอบเดินทางออกโดยผิดกฎหมาย โทษจำคุก 3 เดือนและปรับ 2,000 เหรียญสิงคโปร์

ผู้ใช้ออกสารเดินทางปลอมมีโทษจำคุก 2-5 ปี และปรับ 10,000 เหรียญสิงคโปร์และโบย ผู้ที่อยู่เกินกำหนดที่ได้รับอนุญาตมีโทษ ปรับ 4,000 เหรียญสิงคโปร์หรือจำคุก 3 เดือน หรือทั้งปรับทั้งจำ ถ้าอยู่เกินกำหนดเลย 90 วัน มีโทษเพิ่มโบยอีก 3 ครั้งและจำคุก 6 เดือน ถ้าโบยไม่ได้ให้เพิ่มค่าปรับเป็น 6,000 เหรียญสิงคโปร์

สำหรับการ โบก กฎหมายอาญาระบุว่าสตรี, ชายที่ต้องโทษประหารชีวิตและชายอายุเกิน 50 ปี ไม่ต้องถูกโบย

ผู้ที่ชักนำจัดการให้ผู้ใดเข้าเมืองโดยผิดกฎหมายมีโทษจำคุก 2-5 ปี โบก 3 ครั้ง แต่ในความเป็นจริงแล้ว มีผู้ถูกลงโทษตามมาตรานี้น้อยมาก เพราะเจ้าหน้าที่ไม่สามารถหาหลักฐานยืนยันว่าบุคคลที่จับกุมได้เป็นนายหน้าหรือผู้ส่งต่อชักนำคนต่างด้าวเข้ามา จึงลงโทษได้เพียงในฐานะผู้ช่วยเหลือให้คนต่างด้าวเข้าเมืองโดยผิดกฎหมาย บทลงโทษคือจำคุก 6 เดือน ถึง 2 ปี และปรับ 6,000 เหรียญสิงคโปร์ และโบย 3 ครั้ง

กฎหมายคนเข้าเมืองนี้ แก้ไขครั้งล่าสุดปี 1998 มีเนื้อหาสำคัญที่แก้ไขคือการตรวจโรคคนต่างด้าวเข้าเมือง ผู้ที่ไม่ได้รับการตรวจโรคจะต้องถูกปรับ 2,000 เหรียญสิงคโปร์ และจำคุกไม่เกิน 6 เดือน และยกเลิกใบอนุญาตเข้าประเทศ สำหรับผู้ติดเชื้อ HIV จะไม่พิจารณาให้เดินทางเข้าประเทศ

นอกจากนั้นยังได้มีการแก้กฎหมาย เพื่อให้มีการบันทึก, เก็บรักษาและดึงข้อมูลลายนิ้วมือของผู้เข้ามาทำงานในสิงคโปร์ไว้ในฐานข้อมูลคอมพิวเตอร์ด้วย ระบบฐานข้อมูลที่เรียกดูได้จากกระทรวงกำลังคนจะมีเครือข่ายออนไลน์ไปยังทุกหน่วยงานที่มีหน้าที่ปฏิบัติและบังคับใช้กฎหมาย แรงงานต่างด้าวทุกคนต้องมีบัตรนี้ติดตัว และมีลายนิ้วมืออยู่ในบัตรประจำตัวด้วย

(2) กฎหมายแรงงาน

ประกอบด้วยกฎหมายสำคัญคือ The Employment of Foreign Workers Act 1991 และกฎหมายประกอบอื่นๆ อีก 6 ฉบับ กฎหมายระบุว่า คนต่างชาติที่จะได้ employment pass คือคนที่เป็นักเรียน นักศึกษา บัณฑิต จบการศึกษาระดับปริญญาตรีขึ้นไป และมีรายได้ต่ำกว่าเดือนละ 2,000 เหรียญสิงคโปร์ ส่วนคนต่างชาติที่เป็นแรงงานกึ่งฝีมือหรือไร้ฝีมือ ซึ่งมีรายได้ไม่ถึง 2,000 เหรียญ จะได้ใบอนุญาตทำงาน (work permit) รายได้ในที่นี้ไม่รวมค่าล่วงเวลาและอื่นๆ

ใบอนุญาตทำงานมีอายุ 2 ปี และ 3 ปี แบบ 3 ปีออกให้เฉพาะผู้ที่จบการศึกษาระดับมัธยมศึกษาตอนปลาย ที่สอบผ่าน GCE ระดับ O และ A level เท่านั้น

ใบอนุญาตทำงานอายุ 2 ปีสำหรับคนงานที่มีการศึกษาคำนวณและมีการจ้างงานคนละลักษณะกัน แรงงานต่างด้าวที่ทำงานก่อสร้างจะได้ใบอนุญาตทำงานต่อเมื่อได้ผ่านการปฐมนิเทศ เป็นเวลาครึ่งวันด้วยความปลอดภัยในการทำงานก่อสร้างและได้ใบรับรอง ใบรับรองมีอายุ 2 ปี คนงานจะเปลี่ยนงานหรือเปลี่ยนนายจ้างต่างไปจากที่ระบุในใบอนุญาตไม่ได้ ตั้งแต่เดือนพฤษภาคม 1999 กระทรวงกำลังคนได้ออกบัตรประจำตัวสำหรับใบอนุญาตทำงาน (work permit ID card) บัตรนี้เป็นทั้งบัตรอนุญาตทำงาน, บัตรผ่านแดนเข้า-ออกประเทศและบัตรอนุญาตให้เข้าประเทศสิงคโปร์ได้ จะมีรูปภาพและลายนิ้วมือของแรงงานต่างด้าวบนบัตร ในอดีต นายจ้างมักป้องกันไม่ให้คนงานหลบหนีไปด้วยการยึดหนังสือเดินทางและใบอนุญาตทำงานของแรงงานต่างด้าวไว้ ให้คนงานพกเพียงสำเนาเอกสารดังกล่าว แต่สำเนาที่ถ่ายเอกสารมานั้นปลอมแปลงได้ง่าย ทางกรจึงออกบัตรใหม่ที่แรงงานต่างด้าวต้องพกไว้ติดตัวให้เจ้าหน้าที่เห็น ได้ตลอดเวลาเพื่อเจ้าหน้าที่จะได้ทราบว่าแรงงานแต่ละคนมีสถานภาพถูกกฎหมายหรือไม่ และป้องกันการปลอมแปลงเอกสาร

กฎหมายคนเข้าเมืองที่บังคับให้คนงานทุกคนพิมพ์ลายนิ้วมือลงในบัตรและเก็บข้อมูลไว้ในคอมพิวเตอร์แบบออนไลน์ ทำให้การควบคุมคนงานและปัญหาอาชญากรรมทำได้มีประสิทธิภาพ ในกรณีที่บัตรหายหรือถูกทำลาย คนงานต้องแจ้งต่อเจ้าหน้าที่ภายใน 14 วัน เพื่อขอทำบัตรใหม่

เมื่อเจ้าหน้าที่เห็นสมควรยุติหรือยกเลิกบัตรอนุญาตทำงานของแรงงานต่างด้าว นายจ้างต้องเลิกจ้างภายใน 7 วัน นับแต่ได้รับการแจ้งและจะต้องนำบัตรอนุญาตทำงานของแรงงานต่างด้าวมาคืนต่อนายจ้างภายใน 7 วันหลังยุติการว่าจ้าง

การเรียกเก็บค่าธรรมเนียม (levy)

รัฐบาลสิงคโปร์ใช้นโยบายเรียกเก็บค่าธรรมเนียมเพื่อควบคุมจำนวนแรงงานต่างด้าวไม่ให้มีมากเกินไป นอกจากนั้นยังมีการกำหนดโควต้าเป็นสัดส่วนว่านายจ้างต้องจ้างแรงงานท้องถิ่น (ชาวสิงคโปร์) ด้วย นายจ้างมีหน้าที่จ่ายค่าธรรมเนียมรายเดือนสำหรับแรงงานต่างด้าวแต่ละคน อัตราค่าธรรมเนียมขึ้นอยู่กับประเภทของงานและคุณสมบัติของแรงงาน ถ้าไม่จ่ายค่าธรรมเนียมภายใน 14 วันหลังสิ้นเดือนจะต้องเสียค่าปรับร้อยละ 2 หรือ 5 เหรียญสิงคโปร์ อัตราค่าธรรมเนียม ตั้งแต่วันที่ 1 มกราคม 1999 เฉพาะสำหรับแรงงานต่างด้าวไร้ฝีมือเป็นดังนี้

ประเภทงาน	สัดส่วนคนงานสิงคโปร์ : ต่างด้าว	อัตราค่าธรรมเนียม (เหรียญสิงคโปร์)	
		ต่อเดือน	ต่อวัน
โรงงาน	60:40	240	8
ก่อสร้าง	1:5	470	16
ดูแลรักษา (process maintenance)	-	350	12
ตัดหญ้า	-	350	12
ทำงานบ้าน	-	345	12
งานประมง/ทะเล	1:3	295	10

ค่าธรรมเนียมสำหรับแรงงานมีฝีมือจะต่ำกว่ามาก เพียงเดือนละ 30 เหรียญ หรือวันละ 1 เหรียญ เพราะรัฐบาลสนับสนุนให้แรงงานมีฝีมือเข้ามาทำงานในประเทศ

บทลงโทษการว่าจ้างแรงงานต่างด้าว

นายจ้างที่จ้างแรงงานต่างด้าวผิดกฎหมาย 5 คนขึ้นไป มีโทษจำคุก 6 เดือน ถึง 2 ปี, ปรับเป็นเงินไม่เกิน 6,000 เหรียญสิงคโปร์และ โขย ถ้าโขยไม่ได้ (เพราะเป็นหญิงหรืออายุเกิน 50ปี) ให้เพิ่มค่าปรับเป็น 10,000 เหรียญ

บริษัทที่ว่าจ้างแรงงานผิดกฎหมายจะถูกปรับ 50,000-100,000 เหรียญ เจ้าหน้าที่ที่เป็นคนสั่งหรืออนุมัติให้ว่าจ้างมีโทษเช่นเดียวกับนายจ้าง

ตำรวจหรือสารวัตรแรงงาน (employment inspector) มีสิทธิจับกุมผู้ต้องสงสัยว่าลักลอบเข้ามาทำงานโดยไม่ต้องมีหมายจับ มีสิทธิเข้าตรวจค้นสถานประกอบการที่ต้องสงสัยว่า ว่าจ้างแรงงานต่างด้าว มีสิทธิขอคุบัตรประจำตัวและบัตรอนุญาตทำงาน มีสิทธิถ่ายภาพสถานประกอบการและบุคคลที่ต้องสงสัยได้ ผู้จัดขึ้นมีโทษจำคุกหรือถูกปรับ

นายจ้างที่ทำผิดครั้งแรกในการจ้างแรงงานต่างด้าวจะถูกปรับคิดเป็น 1 วัน เท่ากับค่าธรรมเนียมของแรงงานต่างด้าวเป็นเวลา 24-48 เดือน หรือจำคุก 1 ปี หรือทั้งปรับทั้งจำ

ผู้ที่เป็นเจ้าของสถานที่ที่แรงงานต่างด้าวทำงานอยู่ถือว่าเป็นผู้ว่าจ้างแรงงานต่างด้าวโดยปริยาย เจ้าของสถานที่ที่ทะเลาะ จะถูกปรับเป็นเงินเท่ากับค่าธรรมเนียมระยะเวลา 24-48 เดือน ต่อแรงงานต่างด้าว 1 คน สำหรับผู้ทำผิดครั้งแรก ถ้าทำผิดซ้ำค่าปรับจะเพิ่มเป็น 48-96 เดือนของค่าธรรมเนียม หรือจำคุกไม่เกิน 2 ปีหรือทั้งปรับทั้งจำ

แรงงานต่างด้าวที่ทำงานโดยไม่มีบัตรอนุญาตทำงานต้องถูกปรับไม่เกิน 5,000 เหรียญ หรือจำคุกไม่เกิน 1 ปีหรือทั้งปรับทั้งจำ

อย่างไรก็ตามกฎหมายไม่ได้ระบุว่าใครเป็นผู้รับผิดชอบค่าใช้จ่ายในกรณีที่จะต้องส่งตัวแรงงานต่างด้าวผิดกฎหมายกลับประเทศ

นโยบายแรงงานของสิงคโปร์และผลกระทบต่อแรงงานไทย

นโยบายแรงงานโดยรวม

- 1) ต้องการพัฒนาประเทศในเชิงการลงทุนและธุรกิจจึงต้องมีกำลังคนที่แข่งขันได้มีความสามารถใหญ่
- 2) การแข่งขันปัจจุบันเน้นกำลังแรงงานที่มีความรู้และทักษะ (knowledge-based/ skilled workforce) แผนพัฒนากำลังคนต้องนำไปสู่การแข่งขันได้ เพราะฉะนั้นความต้องการกำลังคนทั้งในแง่ปริมาณและคุณภาพต้องมีการวางแผน, พัฒนา, จัดการที่สอดคล้องประสานกัน และตรงกับสภาพความต้องการด้านเศรษฐกิจที่เปลี่ยนแปลงไปเรื่อยๆ

ดังนั้นสิงคโปร์จึงกำหนดนโยบายกำลังแรงงานที่มีทักษะสูงระดับแข่งขันในโลกได้ (globally competitive workforce)

นโยบายแรงงานต่างชาติ

- 1) สิงคโปร์เน้นอาชีพที่มีมูลค่าเพิ่มสูง (higher value added occupation) ไม่เน้น labour intensive แต่เป็น capital driven manufacturing และ knowledge-based industries จึงยินยอมให้มีแรงงานต่างด้าวเข้ามาทำงานที่ต้องใช้แรง ในสัดส่วนแรงงานสิงคโปร์ต่อแรงงานต่างด้าว 1 : 5
- 2) แรงงานต่างด้าวเป็นชาติใดก็ได้ แต่ต้องปฏิบัติตามกฎหมาย โดยเฉพาะกฎหมายคนเข้าเมืองและระยะเวลาพำนัก
- 3) รัฐบาลส่งเสริมการว่าจ้างแรงงานต่างด้าวที่มีฝีมือมากกว่าไม่มีฝีมือ คนงานต่างด้าวทุกคนต้องผ่าน Skill Evaluation Test (SET) การทดสอบทำทั้งในประเทศต้นทางและในสิงคโปร์ โดยผู้ทดสอบชาวสิงคโปร์
- 4) ในช่วงเศรษฐกิจถดถอย สิงคโปร์มีนโยบายลดผลกระทบของเศรษฐกิจถดถอยด้วยการส่งเสริมโครงการก่อสร้างขนาดใหญ่ ได้แก่ อาคารที่พักอาศัย โรงเรียนและรถใต้ดิน ซึ่งช่วยให้แรงงานต่างด้าวมีงานทำต่อไป และรัฐบาลก็ได้ประโยชน์จากค่าก่อสร้างราคาถูกกว่าปกติด้วย
- 5) แม้จะยอมรับความจำเป็นต้องใช้แรงงานต่างด้าว แต่รัฐบาลสิงคโปร์ก็พยายามลดภาวะพึ่งพาอาศัยนี้ด้วยการยกระดับอุตสาหกรรมในประเทศให้เป็นเทคโนโลยีมากขึ้น มีสภาพการทำงานที่ดีขึ้น เพื่อคนสิงคโปร์จะได้ยินยอมทำงานดังกล่าว และมีความต้องการจ้างแรงงานต่างด้าวน้อยลง

แนวโน้มนโยบายการจ้างแรงงานต่างด้าวในอนาคค

(1) การยกระดับทักษะ

อุตสาหกรรมก่อสร้างถือเป็นอุตสาหกรรมที่มีประสิทธิภาพและผลิตภาพต่ำในสิงคโปร์ เมื่อเทียบกับญี่ปุ่นและเกาหลีใต้ ผลิตภาพของแรงงานในสิงคโปร์ต่ำกว่า 2-3 เท่า ดังนั้นองค์การก่อสร้างและอาคาร (Building and Construction Authority - BCA) จึงเริ่มควบคุมและทดสอบฝีมือของแรงงานก่อสร้าง นอกจากนั้นยังมีการประเมินผลการพัฒนาด้านเทคโนโลยีของอุตสาหกรรมก่อสร้าง โดยดูจากจำนวนแรงงานด้วย การประเมินนี้จะมีผลให้ผู้ประกอบการต้องจ้างแรงงานไร้ฝีมือน้อยลง

จากการทดสอบฝีมือแรงงานทั้งชาวญี่ปุ่นและต่างชาติจำนวน 27,766 คน ในปี 1998 มีผู้ผ่านการทดสอบ 16,835 คน เป็นแรงงานต่างด้าวมากกว่าแรงงานสิงคโปร์ สัดส่วนแรงงานต่างด้าวที่ผ่านการทดสอบมากกว่าปีที่แล้ว 59% แสดงให้เห็นแนวโน้มว่าแรงงานต่างด้าวที่เข้ามาทำงานต้องเป็นผู้มีทักษะมากกว่าผู้ไม่มีทักษะ สำหรับแรงงานไทย เดิมสัดส่วนผู้มีและไม่มีทักษะในสิงคโปร์คิดเป็น 1 : 9 ปัจจุบันสัดส่วนกลับกลายเป็น 9 : 1 การคิดค่าธรรมเนียม (levy) สูงมากสำหรับแรงงานไร้ฝีมือ ทำให้นายจ้างต้องหันมาพยายามส่งเสริมหรือบังคับให้คนงานของตนไปเข้ารับการทดสอบฝีมือเพื่อจะได้เลื่อนระดับเป็นแรงงานมีฝีมือ ช่วยให้นายจ้างเสียค่าธรรมเนียมน้อยลง อย่างไรก็ตาม ผลิตภาพในอุตสาหกรรมก่อสร้างในสิงคโปร์ยังคงต่ำกว่าในประเทศพัฒนาแล้วอื่นๆ ทำให้รัฐบาลต้องผลักดันให้ใช้แรงงานมีฝีมือมากขึ้น แรงงานต่างด้าวที่จะมาทำงานในสิงคโปร์ในอนาคตจึงต้องเป็นแรงงานที่มีฝีมือเป็นส่วนใหญ่

(2) แนวทางการวางแผนกำลังคนแบบบูรณาการ

ในอดีต การว่าจ้างแรงงานต่างด้าวเป็นงานที่หลายองค์กรมีส่วนเกี่ยวข้องได้แก่ กรมตรวจคนเข้าเมือง, องค์การก่อสร้างและอาคารและกระทรวงกำลังคน ทำให้การประสานงานมีอุปสรรค รัฐบาลจึงมอบให้กระทรวงกำลังคนเป็นผู้รับผิดชอบเรื่องนี้ทั้งหมด ตั้งแต่เดือนกันยายน 1998 กระทรวงกำลังคนได้กำหนดให้มีบัตรอนุญาต (pass) 3 ประเภท ได้แก่ P, Q และ R. บัตร P และ Q คือบัตรอนุญาตสำหรับนักวิชาชีพที่มีรายได้สูงกว่า 2000 เหรียญสิงคโปร์ต่อเดือน และบัตร R สำหรับแรงงานที่มีรายได้ต่ำกว่า 2000 เหรียญสิงคโปร์ ส่วนใหญ่เป็นแรงงานกึ่งฝีมือและไร้ฝีมือ การดำเนินงานใหม่นี้ทำให้กระทรวงกำลังคนสามารถวางแผนการว่าจ้างชาวต่างชาติทุกระดับให้สอดคล้องกับแผนพัฒนากำลังคนของสิงคโปร์เอง กระทรวงสามารถตอบสนองต่ออุปสงค์และอุปทานแรงงานในภาคอุตสาหกรรม และสามารถควบคุมจำนวนแรงงานต่างด้าวที่ต้องการให้เข้าและออกจากประเทศได้

นอกจากนั้นกระทรวงกำลังคนยังแบ่งประเภทคนงานต่างด้าวออกเป็น 3 กลุ่มตามแหล่งที่มาคือ แหล่งเดิม (มาเลเซีย) แหล่งใหม่ (อินเดีย, บังกลาเทศ, ไทย และอื่นๆ), และเอเชียเหนือ (จีน) การแบ่งนี้เพื่อประโยชน์ในการส่งกลับเมื่อบัตรอนุญาตทำงานสิ้นสุด หรือถูกยกเลิก และนายจ้างจะต้องส่งคนงานกลับประเทศทันที ในกรณีที่นายจ้างทำไม่ได้ รัฐบาลจะเข้าจัดการ สำหรับคนงานจากมาเลเซีย การส่งกลับไม่ยุ่งยากและไม่แพงเพราะอยู่ใกล้ นอกจากนั้น หน่วยตรวจคนเข้าเมืองของมาเลเซียก็เข้าใจปัญหาดี แต่สำหรับคนงานจากแหล่งอื่นมีความยุ่งยากกว่า เพราะระยะทางไกล ค่าใช้จ่ายสูง ต้องเจรจากับรัฐบาลนาน เพื่อไม่ให้กระทบกระเทือนความสัมพันธ์ การดำเนินการทั้งหมดนี้กระทรวงกำลังคนจะเป็นผู้รับผิดชอบตั้งแต่ต้นจนจบ ทำให้มีบูรณาการขึ้นมาก

(3) การปรับปรุงสภาพแวดล้อมสำหรับแรงงานต่างด้าว

แนวโน้มนี้เป็นแนวโน้มใหม่เพิ่งเกิดขึ้น รัฐบาลสิงคโปร์เริ่มให้ความสำคัญในการสร้างสิ่งแวดล้อมในการทำงานที่ดีขึ้นสำหรับแรงงานต่างด้าว สมัชชาสหภาพแรงงานแห่งชาติ (National Trade Union Congress) ซึ่งเป็นหน่วยงานของรัฐเริ่มจัดกิจกรรมให้คนงานต่างด้าว เช่น พาไปชมสวนนก Jurong และจัดงานรื่นเริงให้คนงานในวันแรงงานที่ผ่านมา

ผลกระทบของนโยบายแรงงานสิงคโปร์ต่อแรงงานไทย

(1) ค่าจ้าง

การที่รัฐบาลสิงคโปร์มีนโยบายให้แรงงานผ่านการทดสอบฝีมือ ทำให้นายจ้างเร่งรัดให้คนงานไทยเข้ารับการทดสอบ อย่างไรก็ตาม แม้คนงานไทยจะผ่านการทดสอบ แต่สัญญาจ้างงานที่มีอยู่เดิมเป็นสัญญาจ้างงานแรงงานไร้ฝีมือ นายจ้างจึงไม่จำเป็นต้องขึ้นค่าจ้างจากวันละ 17 หรือ 20 เป็น 25 เหรียญสิงคโปร์ ตามอัตราค่าจ้างสำหรับแรงงานกึ่งฝีมือ เพราะไม่มีระเบียบบังคับไว้ชัดเจน แต่นายจ้างจะเสียค่าธรรมเนียมร้อยละ 10 เพราะคนงานของตนตอบผ่านเป็นแรงงานกึ่งฝีมือแล้ว ฉะนั้นจึงมีความจำเป็นอย่างยิ่งที่คนงานไทยที่จะมาทำงานสิงคโปร์จะต้องผ่านการทดสอบฝีมือในประเทศไทยและทำสัญญาจ้างงานที่จ้างแรงงานกึ่งฝีมือ จึงจะได้ค่าจ้างตามอัตรา 25 เหรียญ

(2) การต่อสัญญา

แรงงานที่มีรายได้ต่ำกว่าเดือนละ 2,000 เหรียญจะมีสัญญาจ้างงาน 2 ปี และต่ออายุอีกได้ 1 ครั้ง ไม่เกิน 2 ปี แต่ถ้าผ่านการทดสอบฝีมือแล้วจะสามารถต่ออายุได้รวม 5 ครั้ง ทำงานได้ถึง 10 ปี คนงานไทยที่ผ่านการทดสอบฝีมือจะสามารถทำงานในสิงคโปร์ได้ 10 ปี

(3) สวัสดิการ

การผ่านการทดสอบฝีมือไม่มีผลต่อการได้สวัสดิการเพิ่มขึ้น คนงานไทยจึงจะไม่ได้รับสวัสดิการใดต่างจากเดิม

(4) การเพิ่มพูนทักษะ

ในสิงคโปร์มีโครงการฝึกอบรมทักษะสมัยใหม่ที่เป็นประโยชน์ แต่คนงานไทยไม่สามารถเข้าอบรมได้ เพราะภาระงานหนัก ชั่วโมงการทำงานสูง ฉะนั้น คนงานไทยจึงควรเข้าอบรมเพื่อให้ได้ประกาศนียบัตร/ใบรับรองการทดสอบทักษะก่อนเดินทางไปทำงานที่สิงคโปร์ บทบาทของกรมพัฒนาฝีมือแรงงานของประเทศไทยในเรื่องนี้จะมีส่วนช่วยให้แรงงานไทยมีโอกาสดีกว่าเดิมมากในสิงคโปร์

โอกาสการแข่งขันของแรงงานไทยในสิงคโปร์

ได้มีแรงงานจากประเทศอื่นๆ เข้าไปทำงานในสิงคโปร์เพิ่มขึ้น โดยมีใบรับรองการทดสอบการทำงาน ทำให้โอกาสของแรงงานไทยอยู่ในภาวะแข่งขันมากขึ้น ถ้าแรงงานเหล่านี้ยอมรับค่าจ้างต่ำกว่า (สิงคโปร์ไม่มีอัตราค่าจ้างขั้นต่ำ) แรงงานไทยย่อมถูกว่าจ้างน้อยลง ปัจจุบันสมาคมผู้ว่าจ้าง (Contractors Association) ของสิงคโปร์ได้เสนอต่อรัฐบาลไทยให้อัตราค่าจ้าง 22 เหรียญต่อวันสำหรับคนงานไทยและสมาคมฯ พิจารณาค่าจ้างนี้นับว่าสูง ในภาวะเศรษฐกิจถดถอยซึ่งผู้ว่าจ้างต้องการลดค่าใช้จ่ายในด้านค่าจ้าง สมาคมฯ ก็สนใจจะจ้างแรงงานจากประเทศอื่น

มากขึ้น เพราะค่าจ้างถูกกว่าแรงงานไทย สภาพการณ์นี้จะบังคับให้คนงานไทยต้องยอมรับค่าแรงที่ต่ำกว่าเดิม ซึ่งไม่เป็นผลดีต่อตัวแรงงานเอง ในขณะเดียวกัน รัฐบาลไทยก็ยังไม่ได้เพิ่มขีดความสามารถที่จะส่งแรงงานไทยถึงฝีมือที่ผ่านการทดสอบฝีมือแล้วในประเทศไทยไปทำงานที่สิงคโปร์ในจำนวนเพิ่มมากขึ้นได้ แรงงานไทยจึงตกอยู่ในที่นั่งลำบาก สำหรับนายจ้างก่อสร้างสิงคโปร์ มีความต้องการจ้างแรงงานไทยมากกว่าชาติอื่นอยู่แล้ว เพราะอดทนทำงานประณีต, และว่องไว แต่ก็ต้องการลดค่าจ้างต่ำลง โดยเอาการจ้างแรงงานชาติอื่นมาเป็นตัวต่อรอง สภาพเช่นนี้เป็นจุดสำคัญที่รัฐบาลไทยจะต้องเร่งดำเนินการทั้ง 2 ด้าน กล่าวคือ ต่อรองให้แรงงานไทยที่ถูกว่าจ้างอยู่แล้วยังคงได้ค่าจ้างอัตราเดิม พร้อมกันนั้นก็ต้องรีบดึงดูดตลาดแรงงานไทยในสิงคโปร์ให้เป็นตลาดแรงงานถึงฝีมือโดยการเร่งฝึกและจัดทดสอบฝีมือแรงงานไทยให้ผ่านการทดสอบให้มากที่สุด

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