The two-digit economic growth in the 1980s led Thailand to the expansion of labour market and an acute labour shortage especially at the unskilled level in the 1990s. The private sector expressed their demand for labourers to fulfill their production but local Thais were not interested in the unskilled labour market, partly due to the extension of basic education to secondary schools and partly due to their preference to work in the services sectors. As a result, the private sector put pressure on the government to allow them to employ migrant workers. It was in 1992 that Thailand started to adopt an immigration policy for unskilled foreign workers.

**Imigration policies between 1992 – 2004**

Two major acts that Thailand uses to guide its immigration policies are *Immigration Act 1979* and *Foreign Employment Act 1978*. The 1979 Immigration Act indicates that an immigrant who enters the country without visa and/or acts in breach of the immigration law is illegal and may be deported and or penalized by other sanctions. He or she will be deported. However, Section 17 provides the Ministry of Interior with discretion in exempting illegal migrant workers from being deported when they come out into registration. The 1978 Foreign Employment Act requires that an alien must have a work permit to work in Thailand and he or she is allowed to work only in activities designated by law by the relevant authorities (currently the Ministry of Labour). A royal decree of 1979 listed 39 activities prohibited to aliens; these included general labour, farming, weaving and construction. However, Section 12 of the Foreign Employment Act provides flexibilities for the authorities to allow migrant workers to work temporarily in some sectors as conditioned by the laws and cabinet decisions (Vitit Muntarbhorn 2005, p.13-14)

The government firstly recognized the need to employ migrant workers along the Thai-Myanmar borderers in the fishing, construction, agricultural and some other labour industries. Therefore it started to develop the first immigration policy in 1992. However, since Thailand has never allowed unskilled foreign workers to be employed in the country; its existing legal framework did not provide clauses for such initiatives. The government decided to use the cabinet resolution as the mechanism to create new legal framework. It should be noticed that this decision is based on the belief that the employment of migrant workers would be a temporary event and after

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some years the situation would changed and there should be fewer or no need to continue to employ them. This has proven to be incorrect.

The Cabinet resolution is the kind of an *ad hoc* type of policy formulation. It gives a flexibility to the strict Immigration law and Foreign Employment law. As mentioned above, under the Foreign Employment Act, some occupations including labour worker are preserved exclusively for Thai citizens. This has resulted in the fact that any foreigners who are working in the prohibited jobs will not only violate the Foreign Employment Act, but also Immigration Act as their entry for work is illegal since the beginning. A situation which a huge number of migrant workers were facing now is no difference. They become illegal once they have crossed the border into the country and seek for a job.

The government choose the option that illegal immigrants who report themselves to the authorities will be allowed to work temporarily under Section 17 of the Immigration Act.

Although from 1970s onwards some factories started to hire few migrant workers, it was only in 1992 when the Thai government addressed the issue for the first time. This recognition was done under the larger gap between demand and supply for labour. The economic prosperity had boosted demand for workers in many economic sectors. In addition, the decreasing international comparative advantage in labour-intensive products required the business to have cost cutting. However, due to a higher education and a decline in birth rate of the Thai population, lesser Thai workers entered the unskilled labour market. As the economy developed, many Thai people became reluctant to do some occupations such as agriculture, fishing and fish-related, domestic work, and 3 D’s work. We can divide the immigration policy into 4 periods as followed;


In 1992, some business groups put a pressure on the government to relax the legislations on prohibiting unskilled migrant workers because there was a labour shortage for Thailand. In order to solve the immediate problem, the government used a loophole in the legislations announcing the first registration through a cabinet resolution. The registration was to allow registered migrant workers working for a period of time before they were deported back to their countries. It was only limited for Burmese workers in four border provinces. Later, the areas were expanded to 9 provinces. Thai employers would pay for bail out and work-permit fees. Eventually, only 704 Burmese workers were registered (Chintayananda, Risser and Chantavanich, 1997).

After 1992, the government made a move by ordering the Ministry of Interior and the National Security Council (NSC), two of the key policy makers for country’s development and security, to set a framework for the prospective policy.
Later there were also an agreement on the principle of migrant worker employment on necessity basis and an impact assessment from hiring migrant workers. The business groups requested the government to address an imbalance in the economy. They claimed that one million migrant workers were needed to fill the gap (Business Day 1995, cited in Chalamwong, 1996) and their wage could be reduced by 35-40% in border provinces if allowed (Nopporn, 1995b, cited in Chalamwong, 1996). In 1996, therefore, another registration was announced via a cabinet resolution. As the policy did not yet come clear, this registration like the previous on was designed to systemise and control illegal workers. It was expanding to cover Lao and Cambodian workers in labour work and domestic helpers in 43 provinces for 2 years. There were 323,123 migrant workers coming for the registration, though 239,652 were eligible to get work permits. The registration in 1996 granted work permit to 239,652 migrant workers. They were employed in the sectors of fisheries, fishing related, agriculture, husbandry, Mining, construction, saw mill, rice mill, manufacturing, seals, Food Shop, Transportation, Domestic Work (see table 4.1). Although 323,123 persons came to request for work permit, 83,471 of them were hired in the areas which were not allowed to use migrant workers. Therefore they did not get work permit in 1996. They and those found not registered would be deported.

In 1997 a committee headed by the NSC was set up and the policy makers reached an agreement to establish a central organisation to supervise the migrant worker policy at the national level. The financial crisis in 1997 hit Thailand’s economy severely and left unemployment rate to 4.37% in 1998 compare with 1.15 before the crisis (http://unpan1.un.org/ intradoc/groups/public/documents /APCITY/ UNPAN001686. pdf, cited in Chantavanich and Prachason, 2004). Trying to open up more jobs for Thai people, the government pushed 300,000 migrant workers back to their countries but the Ministry of Labour could only provide few Thai workers to replace the deportees. As a result, a cabinet resolution launched another registration of migrant workers in 1998 for only migrant workers in labour job in 54 provinces and a health insurance was a compulsory. 90, 911 workers out of 230, 617 were given work permits.
**Table 1**: Thai Cabinet Decisions on Registration of Migrant Workers: 1992-2005

<table>
<thead>
<tr>
<th>Date</th>
<th>Where</th>
<th>Fee</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>March 17, 1992</td>
<td>9 border provinces</td>
<td>5,000-Baht bond; 1,000-Baht fee</td>
<td>Burmese only; 706 migrants registered.</td>
</tr>
<tr>
<td>June 22, 1993</td>
<td>22 coastal provinces; fisheries</td>
<td></td>
<td>Not implemented in fisheries until 1939 law amended.</td>
</tr>
<tr>
<td>June 25, 1996</td>
<td>39 (later 43) provinces; 7 (later 11) industries</td>
<td>1,000-Baht bond; 1,000-Baht fee; 500-Baht health fee</td>
<td>Two-year permits for those who registered between Sept. 1-Nov. 29, 1996 – 34 types of jobs open to migrants</td>
</tr>
<tr>
<td>July 29, 1997-January 19, 1998</td>
<td>Step up border and interior enforcement Remove 300,000 migrants in 1997; another 300,000 in 1998</td>
<td>1,000-Baht bond; 700-Baht medical exam fee, 500-1,200-Baht provincial health fee</td>
<td>Provincial committees to deal with migrants; encourage factories in Thai border areas</td>
</tr>
<tr>
<td>April 28, 1998-May 8, 1998</td>
<td>54 provinces, 47 types of jobs; Extend permits expiring in August 1998 to August 1999</td>
<td>Max 158,000, but 90,911 migrants registered; Permit border commuters</td>
<td></td>
</tr>
<tr>
<td>August 3, 1999-November 2, 1999</td>
<td>37 provinces; 18 sectors in 5 industries</td>
<td>Maximum 106,000 permits good for one year, to expire August 31, 2000; 99,974 migrants registered</td>
<td></td>
</tr>
<tr>
<td>August 29, 2000</td>
<td>37 provinces; 18 sectors</td>
<td>Allowed 106,684 migrants in 18 sectors and 37 provinces to work until August 31, 2001</td>
<td></td>
</tr>
<tr>
<td>August 28, 2001</td>
<td>All industries, all jobs</td>
<td>3,250 Baht ($ 74) 1,200 Baht for six-month renewal</td>
<td>Six-month permits renewable for another six months until September-October 2002</td>
</tr>
<tr>
<td>September 24-October 25, 2002</td>
<td>All employers, Provinces, And jobs</td>
<td>same</td>
<td>568,000 migrants registered for six months; 430,074 re-registered in February-March 2002</td>
</tr>
<tr>
<td>November 2003-June 2004</td>
<td>Same</td>
<td>same</td>
<td>288,780 migrants registered</td>
</tr>
<tr>
<td>April 2004 – June 2005</td>
<td>All provinces, all jobs, employers also registered</td>
<td>3,800 Baht (1,800 Baht for 1 years work permit, 1300 for health insurance, 600 for medical exam and 100 for registration fee)</td>
<td>1,284,920 migrants and dependents shown up, 838,943 went through complete registration for one year. In 2005 re-registration, the number dropped to 343,777 persons in June.</td>
</tr>
</tbody>
</table>

The Second Period: Area and Quota-Based System (1999-2000)

Prior to 1999, a number of academics started to realize the shortcomings of the registration program, which was no more than a yearly relaxation of the immigration law. They argued that to formulate a better policy, concepts of management and protection must be in place (Archavanitkul 1997, cited in Chantavanich and Prachason, 2004). Moreover, principles of migrants’ well-being; social equity between Thai and migrant workers; and social inclusion of all concerned parties should be fundamental of the policy process (Chantavanich, 1998). Unfortunately, the practice had not come easily. During 1999-2000, another two registrations for illegal workers were launched. For those who were Burmese, Lao, and Cambodian. But what was different was a quota imposed to limit numbers of the registered. In effect, this initiative since then had put many policy discussions over what proper number should be. The government followed a recommendation from the academics who suggested 106,684 people for registration. 99,974 out of 355,050 migrant applicants in 1999 and 99,656 out of 117,379 in 2000 successfully received work permits.

From Table 2, we can see that the sectors of employment recommended by academics comprised of fisheries and fishing related work, agriculture and husbandry, construction, mining, transportation and other minor labour work. Domestic work and manufacturing work were excluded because local Thais were available in both
sectors. In addition, the two sectors were not considered as “labour work” which was defined as “dirty, difficult and dangerous” job shunned by Thai worker (if the wage is up to the minimum/standard wage). For such reasons, academies recommended to exclude them from registration rights.

The reason why the member of registered migrant workers is lower than the quota was that many workers were employed in sectors which were not allowed to hire migrant workers. Therefore they were not eligible to register. On the other hand, some workers who were hired in the quota sectors (eg. Fisheries and agriculture) were not brought by their employers to register. This is due to employers’ unwillingness to pay registration fee and their preference to pay undertable money to the police instead (Asian Research Center for Migration, 2000 and 2002).

In the meantime, the NSC reinforced the idea of setting up a national organisation to bundle the matter. Moreover, there was a discussion on actual need of migrant workers and how to replace migrant workers by Thai workers, disease prevention and control, public awareness towards the problem of illegal workers, effective immigration control and people’s right attitudes towards living with the migrant (Burutphat, 2001, cited in Chantavanich and Prachason, 2004).


It was clear that the past policy had mainly built around an approach of registration, accompanied by border control and deportation. Such policy had proved unsuccessful in reducing the number of illegal migrant workers and bringing these people into the registration system. Realising the limitation of the policy, the NSC highly suggested an urgent abolish of registration program for the purpose of yearly relaxation and a legalisation of migrant workers. Nevertheless, in 2001 the new government took a reverse step towards fully opening the registration for migrant workers in all occupations, be they have employers or self-employed, throughout the country without imposing any quotas. The assumption was that this approach would bring all illegal and underground migrant workers to the light, so that the government had an accurate number for future policy input. The highest number ever registered, 568,000 led some people to conclude a success of the registration. But for others such as academics, the registration has widened the scale of the problem into all areas and deepened the level of migrant dependency in many sectors. In late 2002, another following renewal of registration was announced and the number has dropped from 568,000 to 409,339. In the meantime, the government started to negotiate with the Lao government, seeking cooperation in legalizing Lao workers.

In 2003, Thailand successfully signed a memorandum of understanding with the other three home countries of the migrant: Cambodia, Laos and Myanmar in
relation to migrant worker legalisation. The memorandum done with Laos, Cambodia and Myanmar focuses on the government-to-government recruitment of migrant workers for specific period of employment in Thailand, conditions which motivate the workers after the completion of employment to return home, labor protection and dispute settlement, and measure against illegal employment (Memorandum of Understanding, 2002 and 2003). In November 2003, all the four governments had a conference on Economic Cooperation Strategy. As a result of the conference the Pagan Declaration was signed. It stated the importance of partnership among the four countries to enhance economic growth, facilitate production, create employment and reduce income gaps, and advocate sustainable peace, stability and wealth in all the four countries (Ministry of Foreign Affair, 2003). Although this was very much trade and investment oriented, there was an implication in tackling at some root causes of migration, poverty and economic disparity.


In April 2004, the Cabinet decision invented a new system of registration whereby migrant workers, their dependents as well as employers are required to register themselves. A thirteen–digit ID number was given to each workers and dependents. For the purpose of better alien management, the registration was announced to bring as many migrant workers as possible to register with their employers and accommodators on home registrars before the government specify quotas for some specific industries allowed for migrant employment. A total of 1,284,920 migrants showed up at the second amnesty, bringing an alert to the government of the huge number of aliens from the three nationalities living in Thailand. On the employers side, 248,746 employers came for registration. Among the 1,284,920 registered migrants, 838,943 persons went through the full process of registration (having photo ID card and finger prints) while another 103,082 persons are children under 15 years(93,082 children) and 10,000 elderly persons (Ministry of Labour, 2005).

The second amnesty policy was continued in 2005. In March 2005, the government announced an extension of work permit for registered migrant workers to come for re-registration. However, as of June 2005, the number of re-registration decreased to only 343,777 persons.

In term of geographical distribution of the registered workers in 2004, Bangkok and the central region have the highest number of registration, followed by southern and the northern regions. The northeastern region has the lowest number of employment as presented in Table 3.
Table 3: Number of Registered Migrant Workers by Region in 2004

<table>
<thead>
<tr>
<th>Region</th>
<th>number</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bangkok</td>
<td>162,750</td>
<td>19</td>
</tr>
<tr>
<td>Central</td>
<td>199,210</td>
<td>24</td>
</tr>
<tr>
<td>East</td>
<td>107,410</td>
<td>13</td>
</tr>
<tr>
<td>West</td>
<td>51,635</td>
<td>6</td>
</tr>
<tr>
<td>North</td>
<td>132,338</td>
<td>16</td>
</tr>
<tr>
<td>Northeast</td>
<td>16,131</td>
<td>2</td>
</tr>
<tr>
<td>South</td>
<td>169,469</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td>838,943</td>
<td>100</td>
</tr>
</tbody>
</table>


The distribution of the 2004 registration showed that agricultural and husbandry workers, construction and domestic work were the sectors of high employment. Fisheries and fishing related work as well as rice mill, water transportation and mining had lower employment. The category “others” became the highest number because it comprised of all other unspecified jobs in the registration of the amnesty policy as show in Chart 1.

Chart 1: Distribution of Migrant Workers by Sector of Employment in 2004

Source: Kritaya and Panthip, op cit p.19.

To conclude, Thailand has begun a registration process to identify unauthorized migrant workers since 1992. It gradually expanded the number of business sectors and provinces where employers could register migrants and employ
them legally for one to two years. Re-registrations were permitted in 1998, 1999 and 2000. In year 2001, the cabinet resolution allowed migrants to register in all industries and all jobs with a requirement to re-register in year 2002. In year 2004 registration would allow Burmese, Lao, and Cambodian migrants to register with their employers for a one-year work permit. In this second amnesty, employers and dependents of migrant workers were also registered. A thirteen-digit ID number was given to each registered workers. The registration was renewed in 2005.

The Registration System and Its Related Problems

Thailand has constantly used the registration of migrant workers as a tool to enable them to work legally. From the registration in 1996 to the most recent one in 2005, the process repeatedly covers the registration of migrant workers by employers, the health exam, the photo ID card and fingerprint procedures and the issuing of a work permit. In each registration, the government announced policy through the cabinet decisions. The process required concerted efforts from various government offices, i.e., Ministry of Labour, Health, Interior.

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

Registration fees  the 1992 registration required a bail of 5,000 Baht from employers and it was considered as extremely high, resulting is a very low registration rate (Panam and Caoutte, 2004, p.13). In later registration, the fee was reduced to 1,000 Baht. However, many employers were not willing to pay. Generally, employers paid for the registration and then deducted monthly installments from their employees. Some employers of unregistered migrants found that the fees were expensive and registering a waste of time (Asian Research Center for Migration, 2002a). Employers in the small farms and seasonal work also found the fees too expensive. If an employer has a sizeable work force, the investment for the registration fee for workers will be quite high. In ferhicies, for example, the boat owner pays for his crew but the latter ran away for another boat, leaving him with a big investment lost and no crew for fishing. This is the reason why registration is low in some sectors of employment.

Awareness of registration  Awareness of the registration system is low, depending on the decision of employers. Most migrant workers have no access to information on registration due to language barrier and lack of access to information channels. The Ministry of Labour tried to campaign through media promotions. This can lead to higher number of registration(TDRI 2002c). The major obstacle is the unwillingness of the employers to bring their employees for registration. Registration was possible only through employers’ decision. On the migrant workers’ side, with or
without awareness, the workers could not register themselves without an employer. Only in the 2004 registration that they could do this on their own.

In addition, detailed information about migrants’ rights, benefits and obligations are not fully made known in most campaigns.

**Slow registration process** There has been an inadequate preparation for the registration process, resulting in delays in many sectors of employment (ARCM 2002a). The computer system which is used to install information of migration workers apparently had major obstacles. The ID photo taking and the finger printing which must be digitized into the computer required high caliber on both technical and human sides. The medical check up must be done at the designated hospitals. Therefore, the one stop service registration point is not possible. Registration points are inadequate and far from the work sites.

Some construction workers complained of having to wait one or two months before receiving their registration cards when they should have been issued immediately (ARCM 2002a). Workers and employers in the domestic work observed that another problem in the delays is due to the lack of coordination between the different levels of authorities (TDRI, 2002c). Questions were also raised in regard to the efficiency and coordination, especially the database which should be workable and processing to harmonize future registration (IOM with ARCM, IPSR and TDRI, 2004, p.48-51).

**Discontinuity of the measures in the registration policy:** From 1992 to 2006, the government policy on registration continued at different measures. During the first period, the government did not set up a blueprint for the sectors of employment which could hire migrant workers. Nor did it specify the quota. This was due to the lack of experience in managing migrant worker policy. However, from 1997-2000, the government started to be more specific in its measures: area, sector and quota were set. But this period was the expansion stage of the employment of migrant workers and the overheated labour demand before the economic crises in 2000. As a result, the quota, area and sector set were not agreed upon by the private sector who is the employer. Later in 2001, the amnesty measures overruled the previously strict policy period and offered an empty cheque to employers, followed by the second amnesty in 2004. There is not straight, continued, clear measures for the different phases of the registration policy. Migrant workers, employers and government officials in charge of the registration were often confused.

**Access to an efficient database of migrant workers:** The Thai government has assigned different organizations to handle migrant workers database during the after the registration: starting by the Ministry of Labour, then contracted out to private companies and finally, to the Ministry of Interior. Nonetheless, the database has never been complete and easily accessed. Recently, the Ministry of Interior released some parts of the database to the Ministry of Labour and kept the
rest, claiming that, due to security reasons, the complete database will not be released publicly. Without an efficient database, a well-founded policy cannot be adopted.

Conclusion

Thailand policies towards migrant workers from Myanmar as well as Laos and Cambodia are based on two acts, the Immigration Act 1979 and the Foreign Employment Act 1978. The government uses cabinet resolutions to push a registration policy of migrant workers during 1992-2006. Migrants are allowed to work in labour work only. The policies are divided into 4 periods: the area-based, non-quota system (1992-1998); the area and quota-based system (1949-2000); the first amnesty policy (2001-2003); and the second amnesty (2004-2005). The number of registered migrant workers in 2004 was as high as 838,943 persons with additional dependents making a total of 1,284,920 migrants showing up at the amnesty. The registration system has some problems in its implementation. The employers are not willing to pay for registration fee, claiming that the fee is too expensive, making registration low in some sectors of employment. The registration process is considered to be slow, with inadequate preparation. In addition, measures in the four periods of registration are different and discontinued, making all involved parties confused. Finally, the access to the migrant workers database is limited.
References


