

Step by Step

UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region



Combating Trafficking
in Women and Children

The UN Inter-Agency Project aims to reduce trafficking of women and children in the Mekong Sub-region through improving national and regional co-ordination, identifying and filling gaps in programme implementation and adding value to existing programmes. It includes Cambodia, Laos, Myanmar, Thailand, Viet Nam and Yunnan Province of China and is supported by the UN Foundation (Ted Turner Fund) and AusAID.

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GETTING AT THE ROOTS

This article is based on a recent ILO paper to the International Symposium on the UN Convention Against Transnational Organized Crime: Requirements For Effective Implementation, held in Turin. The full paper is available from UNIAP Bangkok.

The Palermo Convention Against Transnational Organized Crime and its Protocols on Combating Trafficking in Persons and against Smuggling of Migrants were adopted in December 2000 in the spirit of the fight against organized crime. The focal point is clearly the organised criminal group and how to weaken it through law enforcement. The main provisions of the Convention and Protocols reflect this by dealing almost exclusively with providing for the criminalization of such groups and improving measures to fight them. In adopting these instruments, governments commit to criminalizing offences committed by organised groups, cracking down on the proceeds of crime, speeding up and widening the reaches of extradition of members of criminal groups and tightening law-enforcement cooperation to seek out and prosecute suspects. The logic of these instruments is that the interception and prosecution of the members of criminal groups will lead to their downfall.

A distinguishing feature of the movement of people, as compared to the move-

ment of illicit goods by criminal groups, is the question of choice, by the people moved, as to how the movement is organised. People, unlike commodities, are conscious actors, exercising choices in their decisions and activities. Furthermore, people have inalienable human rights, which must be protected. This poses the question of whether States may be able to weaken criminal groups more successfully by providing migrants with incentives to make the right choices in the manner in which they travel and thereby avoid the services of criminal groups.

This paper argues that only a comprehensive set of measures to eliminate root factors that make trafficking and smuggling necessary for migration, and profitable for criminal groups will achieve what the Protocol against trafficking intends to obtain. These measures include addressing conditions that compel out-migration, reducing widespread demand for clandestine and unregulated labour, and replacing restrictive barriers with regulated legal migratory channels. And in the longer-term perspective, employment possibilities must be generated that broaden or expand choices of potential migrants for employment and livelihood.

Supply and Demand Factors driving Trafficking and Smuggling of Migrant Workers

Much has already been writ-

ten about the supply factors. These generally include inequality, poverty, growing consumerism, forced migration and armed conflict. Evidence so far available on the impact of globalization points to a likely worsening of migration pressures in many parts of the world.

In terms of demand, globalisation and trade liberalisation have had contradictory impacts on employment conditions in countries of destination. Demand for cheap, low-skilled labour in industrialized countries as well as a considerable number of developing nations in Africa, Asia, Latin America and the Middle East remains evident in agriculture, food-processing, construction, semi-skilled or unskilled manufacturing jobs (textiles, etc.), and low-wage services like domestic work, home health care and the sex sector.

Small and medium size companies and labour-intensive economic sectors do not have the option of relocating operations abroad. Responses in these sectors include downgrading of manufacturing processes, deregulation, and flexibilization of employment, with increased emphasis on cost-cutting measures and subcontracting. In a considerable number of countries, these measures have expanded the number of jobs at the bottom of the em-

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The Forgotten Convention: International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

In the great majority of documents outlining international instruments relevant to human trafficking, the Migrant Rights Convention is conspicuous by its absence. The most common explanation, currently one that could also be applied to the Convention on Transnational Organised Crime, is that it is not yet in force. This argument will disappear when it is ratified by one more country. Here is some more information from the Global Campaign for Ratification.

Introduction

Around our globe today, millions of people are on the move - living or trying to live in countries not their own. In some cases, this movement is voluntary. People move across borders for work, education or family reasons. In many more cases, the migration is forced, as people flee civil unrest and war, or search for adequate agricultural land or employment simply for survival.

In recent years, the displacement of people has accelerated. At the same time, the typical response to migrants and other displaced people has deteriorated from acceptance and assistance to hostility and rejection.

The fundamental human rights of migrants are too easily violated or ignored. This is most true for those who do not qualify within one of the categories (e.g. citizen, refugee, registered foreign worker, student) that normally secure people legal protection. The violation of their rights contributes to increasing social disintegration and declining respect for the rule of law.

There is more need than ever before to promote the development and application of international standards that underline a fundamental fact: migrants' rights are human rights.

Recognizing the need to explicitly define and uphold the human rights of migrants, the United Nations created the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. It was approved on 18 December 1990 by the UN General Assembly.

Why is the International Convention significant?

The importance of this Convention may be highlighted by these six points:

1. Migrant workers are viewed as more than laborers or economic entities. They are social entities with families and accordingly have rights, including that of family reunification.
2. It recognizes that migrant workers and members of their families, being non-nationals residing in states of employment or in transit, are unprotected. Their rights are often not addressed by the national legislation of receiving states or by their own states of origin. Therefore, it is the responsibility of the international community, through the UN, to provide measures of protection.
3. It provides, for the first time, an international definition of migrant worker, categories of migrant workers, and members of their families. It also establishes international standards of treatment through the elaboration of the particular human rights of migrant workers and members of their families. *These standards would serve to uphold basic human rights of other vulnerable migrants as well as migrant workers.*
4. Fundamental human rights are extended to all migrant workers, both documented and undocumented, with additional rights being recognized for documented migrant workers and members of their families, notably equality of treatment with nationals of states of employment in a number of legal, political, economic, social and cultural areas.
5. The International Convention seeks to play a role in preventing and eliminating the exploitation of all migrant workers and members of their families, including an end to their illegal or clandestine movements and to irregular or undocumented situations.
6. It attempts to establish minimum standards of protection for migrant workers and members of their families that are universally acknowledged. It serves as a tool with which to encourage those States lacking national standards to bring their legislation in closer harmony with recognized international standards.

Why is a global campaign for ratification necessary?

Twenty UN member States must ratify or accede to the Convention for it to "enter into force". Eleven years after adoption by the UN, entry into force is finally imminent. As of February 6, 2002, nineteen States have ratified or acceded to the Convention: Azerbaijan, Belize, Bolivia, Bosnia-Herzegovina, Cape Verde, Colombia, Ecuador, Egypt, Ghana, Guinea, Mexico, Morocco, Philippines, Senegal, Seychelles, Sri Lanka, Tajikistan, Uganda and Uruguay. Eleven other states have signed the Convention, the first step towards ratification: Bangladesh, Burkina Faso, Chile, Comoros, Guatemala, Guinea-Bissau, Paraguay, Sao Tome & Principe, Sierra Leone, Togo, and Turkey.

The decision of the UN to draft and adopt this Convention was a strong statement of international consensus concerning the need for greater protection of the rights of migrants. Now, that decision must be implemented through national ratification and legislation.

Governments need to be convinced that ratification of the Convention is necessary. This will be achieved only by building awareness about the Convention with government officials, diplomats, politicians, NGOs and the public-at-large, nationally and internationally.

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Opinion Piece

SURPRISING, BUT UNFORTUNATELY NOT UNUSUAL

We have chosen a slightly different format for this issue of Step-by-Step. Although the amount of text makes for quite a 'heavy' edition, it gives us the opportunity to include a couple of very thought-provoking articles.

ILO's excellent report 'Getting at the Roots', which we have attempted to summarise in this issue, provides an overview of the links between globalisation, labour standards, migration policy and trafficking.

Inclusion of this paper reflects our concern that reports on human trafficking documents repeatedly pay little attention to the connection between migration policies and human trafficking. The US State Department's recently released Second Report on Trafficking in Persons is one example and this omission is also notable in recent project design documents, legal guides and even speeches by senior UN officials.

It is similarly uncommon to find the Convention of the Rights of Migrant Workers and Their Families listed among the international instruments relating to human trafficking. This omission is particularly strange when it comes from agencies which pride themselves on rights-based approaches. In practical, if not political terms, 'migrant rights' might be a more useful concept than rights of trafficked persons, given the retrospective nature of the latter.

The fact that only nineteen countries have ratified or acceded to the Convention in twelve years is nothing to write home about. Or perhaps it is. For among its arti-

cles relating to all migrants, documented and undocumented are:

- No migrant worker or member of his or her family shall be held in slavery or servitude.
- No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.
- Migrant workers and members of their families shall have the right to liberty and security of person.
- Migrant workers and members of their families shall be entitled to effective protection by the State against violence, physical injury, threats and intimidation, whether by public officials or by private individuals, groups or institutions.
- Any verification by law enforcement officials of the identity of migrant workers or members of their families shall be carried out in accordance with procedures established by law.
- Migrant workers and members of their families who are arrested shall be informed at the time of arrest as far as possible in a language they understand of the reasons for their arrest and they shall be promptly informed in a language they understand of any charges against them.

Might not practical acknowledgement of these rights make a difference to human trafficking?

The phrase 'surprising, but not unusual' in my view applies very well to the overlooking of the Migrant Rights Convention. But it actually comes from the second main article, written by Phil

Robertson, concerning the role that labour unions could play in working against human trafficking. I am particularly pleased to have the chance to include such a paper as it now seems, and the ILO paper reinforces this, that, for all the nuances involved in human trafficking, it remains at the core an issue of labour exploitation.

As some readers will know, the IAP is already taking up one of the recommendations of Phil's paper by establishing a small pilot translation service for migrants from Myanmar, which will be linked to legal services. As well as providing interpretation services for a range of different languages, this service will translate key policy documents such as the Labour Protection Act. Please contact IAP for additional details.

Phil Marshall
Programme Manager
UNIAP

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ployment scale. Such employment needs are only partially met or unmet by available or unemployed national workers, for reasons of minimal pay, degrading and dangerous conditions, and/or low status in those jobs and sectors, as well as alternative access available for the unemployed in some countries to social welfare. The resulting demand for migrant workers provides a significant impetus to labour flows and facilitates the incorporation of undocumented migrants, even in some countries with relatively high unemployment.

The importance of labour standards

A major incentive for trafficking in labour is the lack of application and enforcement of labour standards in countries of destination as well as origin. Tolerance of restrictions on freedom of movement, long working hours, poor or non-existent health and safety protections, non-payment of wages, substandard housing, etc. all contribute to expanding a market for trafficked migrants who have no choice but to labour in conditions simply unacceptable for legal employment. Worse still is the absence of worksite monitoring, particularly in such already marginal sectors as agriculture, domestic service, sex-work, which would contribute to identifying whether workers may be in situations of forced and compulsory labour. Tolerance of such conditions appears to be all but official policy in some countries, in order to maintain marginally productive economic activity that nonetheless provides employment, export products, etc.

ILO concern is also being directed at forced prostitu-

tion and sex work as well as other forms of forced labour. In the case of Europe, a great deal of evidence indicates that much trafficking of women is into the sex sector. Growth in many countries of a visible but legally restricted "sex industry" has expanded a major area of demand for foreign 'workers' not subject to any inspection or regulatory control, and thus more highly exploitable.

However, similar coercion, deception and exploitation constituting trafficking of migrant agricultural workers, domestic workers, sweatshop workers, and particularly those in the informal sector, has been detected on many continents. Research in Europe and elsewhere has highlighted that investor interest in higher capital returns from informal activity not subject to employment standards or regulation has encouraged shifts of capital and employment creation towards informal sector activity, where employment itself is clandestine or 'illegal,' and largely invisible or practically unreachable by current labour standards inspection and enforcement. Irregular migrants are preferred employees due to their vulnerability and their inability to protest, denounce or call in regulatory inspection.

While there are laws in place in many countries to prosecute employers who profit from forced labour, they are rarely implemented in practice since uncovering the proof of exploitation is difficult in the face of quick deportation practices.

Restrictive migration policies fuel markets for smuggling and trafficking of migrant

Trade and finance have become increasingly deregulated and integrated across regions and globally. By contrast, however, migration policies have not been liber-

alized, nor have they otherwise addressed the gulf between continued demands for cheap labour and the increasing supply of such labour in other countries. On the contrary, most industrialised countries imposed restrictive immigration laws and policies over the last decade, and many developing countries across the South appear to be following suit.

These restrictive measures often appear to have been established with little or no consideration of labour domestic labour demand and supply considerations. In some regions, imposition of tighter border controls and restrictions on movement have frequently cut across traditional routes and patterns of labour and trade migration. To put it in perhaps oversimplified terms, basic labour economics theory would suggest that placing barriers between high demand and strong supply creates a potentially lucrative market for services of getting the supply to where the demand is.

Tighter border controls have not halted migratory flows nor have they had projected results in reducing the number of workers crossing borders. Instead they have put more pressure on those who migrate. With few options available for legal migration in the face of strong pull-push pressures, irregular migration channels become the only alternative, and one which presents lucrative "business" opportunities for helping people arrange travel, obtain documents, cross borders and find jobs in destination countries.

Further to this, restrictions on entry, admission and work affect men and women migrants differently. For instance most legal channels of migration offer opportunities in typically

male-dominated sectors (construction and agricultural work). As a result women typically lack even more access to legal labour migration channels compared to men. This situation seems to marginalize female migrants even further and exposes them to the worst forms of abuse. Gender-selective migration policies and regulations for admission and entry often reproduce and intensify existing social, economic and cultural inequalities between male and female migrants; e.g. the right to entry does not necessarily mean the right to work for women in certain Western European countries.

Testimony to the fact that restrictive immigration policies fail is the fact that the trafficking and smuggling 'business' is considered to be worth 7 billion US dollars, second only to drugs and arms smuggling. As noted by the ILO report on Forced Labour, "the recent rise in labour trafficking may basically be attributed to imbalances between labour supply and the availability of legal work in a place where the jobseeker is legally entitled to reside."

What Places People at Risk?

Data from the Philippines indicates that where there are cooperative agreements between the Philippine Government and the receiving state, there in fact seems to be a lower incidence of trafficking. The incidence of trafficking reported generally among Filipino irregular migrants is low, although probes to date have largely focused on the sex sector whereas Filipinos are concentrated more on domestic help and the service sector. Nonetheless, the Filipino situation is characterized by ample channels for regular labour migration monitored

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through government supervision, extensive experience with migration, and the amplitude of consequent contacts and connections to Filipinos.

Similarly, data on the US indicates that few if any of the hundreds of thousands of Mexican nationals who enter the US irregularly every year are trafficked. While many may use the services of smugglers to cross the border, most end up in jobs that, while exploitative, don't constitute coerced or forced labour. Again, the absence of trafficking in this irregular labour migration is attributed to the many connections between Mexicans in the two countries, to extensive employment recruitment of Mexicans through cross border networks—recruitment that appears to treat the border as another business obstacle to circumvent. The absence of trafficking is also attributed to the relative ease to leave abusive situations, as well as to the considerable attention given to migration by both governments.

Meanwhile, current research indicates that a large proportion of women moving from Eastern to Western Europe are prey of trafficking. *It is certainly no coincidence that they originate from countries and situations with no history, experience, or connections for migration, where government supervision, regulatory mechanisms or attention to protection of nationals is absent, and where few concrete measures have been put in place for regular migration.*

The absence of regular migratory channels combined with non-existent supervision of labour conditions and non-attention to protection of migrants in the face of strong push-pull factors

play directly into the hands of criminal groups.

Ultimately, labour trafficking would not take place if job-seekers had more freedom of geographical movement and freedom of access to employment. Smuggling occurs because borders have become barriers between jobseekers and job offers. *Smuggling per se will be all but unavoidable and unstoppable until labour market imbalances in a globalized economy are addressed through regular and transparent mechanisms.*

Trafficking occurs not only when borders are barriers to labour supplies meeting demands, but when no knowledge is available about proper migration channels, when employment is itself illegal and/or underground, and where conditions of work are worse than legal minimums and are tolerated or ignored. *The exploitation, deception, coercion combined with multiple other violations of human rights must be combated by all means.*

Alternative approaches

If stricter immigration policies are not a successful means for combating trafficking and smuggling, but in fact intensify the activities of such groups, is there reason to suggest that more liberal migration regimes would diminish the incidence of trafficking or smuggling? Some evidence in Central Europe might indicate that this may already have happened.

In the early and mid-nineties, many victims of trafficking to Western Europe Central and Eastern Europe were Polish, Czech, Slovak and Hungarian women. However, the latest data indicate that victims of trafficking to Western Europe from Eastern Europe are almost exclusively Moldovan, Romanian and Ukrainian. It is observed

that one of the main reasons for this change is that the first group of countries now comprise candidate countries to the EU. Nationals of these countries no longer require visas to enter for a stay of up to three months. Women are continuing to migrate from these countries and finding employment as baby sitters, in domestic work, sex work and other services, albeit irregularly, but they are able to do so without requiring the labour broker services offered by smugglers or worse, by a trafficker.

In contrast, current main source countries of trafficked victims in Europe are on the "black list" of countries that require visas for any visit, even for short tourist stay of less than three months. The list of requirements for visas is long (return travel tickets, certification of regular income, etc.), the rejection rate is high and the time involved and lack of required documentation deter many from even bothering. This factor alone creates a substantial market for the trafficker.

Recommendations

Policy responses to trafficking must address that the major abuse comprising trafficking is the exploitative or forced labour outcome rather than movement across a border. A migration policy framework for effectively combating trafficking must be a comprehensive and integrated package and must include the following elements:

1) An informed and transparent labour migration admissions system, based on regular labour market assessments and designed to respond to measured, legitimate needs, taking into account domestic labour concerns as well. ILO research underlines this as a fundamental starting point: legal

labour migration channels contribute to both reducing trafficking in children and women and the smuggling of migrants.

2) A standards-based approach to combating trafficking and exploitation of migrants, together with protecting basic rights of all migrants.

3) Enforcement of minimum national employment conditions standards in all sectors of activity, to serve as a complementary system of criminalizing abuse of persons and of discouraging irregular employment. A necessary complement is monitoring and inspection in such areas as agriculture, domestic work, sex industry and other sectors of 'irregular' employment.

4) Institutional mechanisms and practical measures including public advocacy and awareness raising to cover prevention, protection, rights restoration, recovery and healing services addressing victims of trafficking. However these measures will not protect new recruits from the abuse of traffickers.

The nature and predominance of abuse of women in the trafficking phenomena require elaboration of gender sensitive migration policies which recognize gender equality as integral to the process of policy making, planning and programme delivery at all levels, focusing not only on providing equal treatment, but on ensuring equal outcomes.

Patrick A. Taran & Gloria
Moreno-Fontes, ILO

The Missing Piece in the Solution to Trafficking – Worker Empowerment

In discussions to combat trafficking in the Mekong region, it is surprising, but unfortunately not unusual, to find that labor unions are not involved in the conversation. While efforts by the ILO and other UN agencies to engage labor movements have resulted in some limited successes here and there, by and large these outreach efforts meet with frustration when workers plead they have limited amounts of time and other pressing concerns to deal with before they can turn their attention towards 'trafficking' as a priority. What accounts for this polite yet firm brush-off, this general lack of interest in trafficking issues by organized workers in the formal sector? After all, despite an over-whelming emphasis by some on trafficking into sex work to the exclusion of other forms, the fact is that trafficking results in subjecting persons to exploitative work conditions, whether it be as a maid in Bangkok, a garment worker in a non-descript Samut Prakan shop house, a crewmember on a fishing boat out of Mae Klong or Trat, or an agricultural worker in any remote provincial area. And aren't labor unions organized, as one of their core missions, to combat labor exploitation?

There are two interconnected problems that need to be examined to get to the bottom of this mystery. One is the wrong message which is being conveyed by international organizations and NGOs to organized labor. Humanitarian appeals that focus on assisting victims do

evoke sympathetic responses among Thai labor leaders I've met, but for Thai workers who every day see varying degrees of injustice on and off the job, it fails to receive an organizational response because the perception is that they can do nothing about it. Even the most horrific cases publicized in the Thai language press – such as the death from burn wounds of Ba Suu, a trafficked Burmese Mon house maid in Lopburi – don't raise a significant stir, much less the public statement one might expect to see from Thai unions.

The wrong message problem results from the second and more fundamental problem. This is the failure to boil the issue down to its core, to the common problem in the Mekong region that affects both host country workers (and their labor unions) and the groups of both voluntary and trafficked migrant workers. This problem is a systematic and fundamental failure of most governments in the region to enforce the basic tenets of labor laws. There are multiple and overlapping reasons for the failure of enforcement, including a lack of personnel and government resources to conduct inspections, corruption of inspectors and the greed of employers, language barriers between migrants and local officials, and a lack of information about labor laws and regulations in the language of migrants. Compounding the problem is the fact that some countries deprive workers of

their fundamental right to freedom of association.

Even in Mekong countries where there are independent union movements, labor law enforcement is particularly weak. In Thailand for example, using Royal Thai Government statistics, the World Bank found in 2000 that 30.1% of all working Thais are not even paid the minimum wage. Overtime violations are rife throughout the region. Workers are regularly fired for trying to form unions, despite protections in the law. Occupational safety and health concerns are daunting, and mental and physical abuse of workers not uncommon. Illegal requirements for security deposits or other 'hiring' payments in order to be hired on a job (often equal to several months pay) often bind workers to their employer and put them in debt to loan sharks charging exorbitant rates. Union density (and hence, worker empowerment) remains low.

In this generally dismal situation, there is an urgent need for bottom-up pressure for justice, re-instatement, and restitution that only comes when workers know their rights and initiate actions to protect them. Project interventions that serve as a catalyst for demand by workers – whether host country nationals or cross-border migrants – for better law enforcement need to be seriously considered. Building grass-roots worker empowerment programs can effectively complement the sorts of capacity-building projects for government departments that international organizations often conduct.

Since many of the trafficked persons (as well as voluntary migrants) end up in Thailand, employed in "3-D" jobs, it is particularly important to focus attention on the Thai labor movement's views on this situation. With the right approach, Thai labor could serve as an important partner in programs to deal with trafficking and migration. The Thai labor movement speaks the language of "rights" afforded under core labor laws – the Labor Protection Act of 1998 (LPA 1998) and the Labor Relations Act of 1975 (LRA 1975) – because these are the things that they fight for, day in and day out. As Parliament President Uthai Pimchaichon said at a hearing on labor law reform before the House Committee on Labor and Social Welfare in April 2002, the labor movement is one of the few segments of Thai society that often views law positively. This is in part because they see law (when supported by joint action) as the one of their few avenues for effective redress despite all the shortcomings in enforcement. International organizations and NGOs should realize that when seeking the support of the Thai labor movement, it is the concept of rights extended by law to ALL persons, the basic concept of equal rights under law – whether a woman or man, whatever nationality, whatever linguistic basis – that appeals most. Making comparisons between the treatment faced by those migrants trafficked into involuntary into employment, when accompanied by clear references to the ways that employers continually break

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the laws with impunity, have particular power with these labor constituencies.

Yet reaching Thai labor unions and their members with an effective message is not enough. The migrant workers cannot also remain a passive, voiceless block, without any knowledge of their rights. Just as a lack of law enforcement affects both Thai workers and migrants, so any solution must benefit both of them. More effective law enforcement for Thais in the absence of the same for migrants will not bring sustainable improvement in standards and working conditions. The incredible (and growing) prevalence of subcontracting in the Thai light manufacturing sector, combined with decentralization of light industry towards Thailand's borders with Burma and Cambodia, will ensure that any line between standards for Thai and migrant workers quickly blurs.

Too few people remember that when the original decision was made by the Royal Thai Government in 1995 to allow migrant workers to register to work in Thailand, there was an explicit promise made directly by the Prime Minister at the time directly to concerned Thai labor leaders (who petitioned him at Government House) that all migrant workers would be treated in full accordance with all Thai laws. Sadly, that promise has never been fulfilled. While the Thai Ministry of Labor and Social Welfare continues to state (often quietly,

and only when asked) that all Thai labor laws equally apply to alien migrant workers, this in practice never occurs. Indeed in some cases regulations set in place supposedly to protect migrant workers through the registration process can actually lead to further abuse of their rights such as the involuntary repatriation of registered migrant women who become pregnant. These same regulations state that any migrant worker who is fired by his employers' hands. Fifty Burmese immediately deported puts all the power in employers' hands. Fifty Burmese workers at a large knitting factory based in Mae Sot learned this the hard way on May 13, 2002 when they were deported at the factory owners' request after they led a protest at the factory against late payment of wages.

Since 1995 there have also been regular Thai policies to limit the geographical areas and types of work that alien migrant workers are permitted to do. This policy has also faced problems, in part because the lack of law enforcement has made hiring alien migrant labor such a bargain for employers. In many cases, alien migrant workers are being paid only 50 to 80 baht per day, and receive no benefits. Obviously, trafficked workers often get nothing. By not enforcing the laws with regards to the wages and working conditions of migrant workers, a situation has developed that encourages the active import of more and more alien migrant workers.

Put simply, by firing Thai workers, and hiring alien

migrant workers, an unscrupulous employer can immediately cut his salary expenses of his enterprise in half! This phenomenon could be called the "Migrant Worker Premium" (MWP), defined as the money the employer of alien migrant workers expects to save by hiring alien migrant workers and breaking the Thai labor law. With that kind of economic incentive, accompanied by a very small risk that the employer will actually be caught and fined, how will administrative procedures restrict the spread of migrant labor to only certain categories of labor? Certainly, they may continue to catch some of the worst abusers - the perpetrators of the worst trafficking crimes - but it will not be systematic, and it will not be sustained.

An important initial stumbling block is the failure of law enforcement to target factories with migrants. The LPA 1998 and LRA 1975 have never (to my knowledge) been translated and printed in Burmese, Mon, Karen, Shan, Khmer, Lao, or any of the other native languages spoken by significant groups of migrants in Thailand. It is likely that fewer than 1 in 1,000 migrant workers in Thailand knows that s/he can be a member of a Thai labor union (though not a union executive committee member). And even fewer know the legal options potentially available to them if they can avoid immediate deportation and can find legal representation. So why not translate and print these laws and put them into the hands of migrants, where a single copy will be read by dozens of persons in concen-

trated migrant housing areas? And why not establish centers of free translation services and legal counsel, offering migrants the possibility of gaining a real voice within the Thai system? A few empowered migrant groups already exist but they are too far and few between. Such organizations provide critical information and insight into trafficking patterns, operations of agents, and cultural and social understanding - from the point of the trafficked person - that are critical parts of any solution. They also become an avenue of hope, and an escape route, for trafficked workers. It's time to develop more of them, and give them the tools they need to work.

It's time for a new approach - that combines bottom-up worker empowerment for labor law enforcement, and international protection for migrant labor unions/organizations, with a serious political commitment by the governments of the region to really implement the laws governing wages and conditions of work. With this approach to complement the work already being done, the tide can be turned in the fight against trafficking and exploitation of migrant workers in the Mekong basin.

By Philip S. Robertson Jr.

Philip S. Robertson Jr. is the Country Director for Thailand of the American Center for International Labor Solidarity (ACILS). The views expressed are his own.

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Editor's Notes

The Newsletter is published four times a year by the UN Inter-Agency Project on Trafficking in Women and Children in the Mekong Sub-region. The views expressed in the Newsletter do not necessarily reflect the views of the Editor or the Project.

What's coming Up?

Date and Venue	Title/Activity	Organization
August 2002 Vientiane, Lao PDR	ESCAP National HRD Course on Psychosocial and Medical Services for Sexually Abused and Sexually Exploited Children and Youth in Lao PDR	ESCAP HRD, UNIAP
18-20 September 2002 Brussels, Belgium	European Conference on Preventing and Combating Trafficking in Human Beings: Global Challenge for the 21st Century	IOM
4-7 September 2002 Bangkok, Thailand	2nd Annual ECPAT International Assembly	ECPAT
7-9 October 2002 Bangkok, Thailand	ASEM: Promoting Gender Equality to Combat Trafficking in Women and Children, Swedish Ministry of Foreign Affairs and UNIFEM	Swedish Ministry of Foreign Affairs, UNIFEM and UNESCAP
14-15 October 2002 Chiang Mai, Thailand	Special Issues Related to Minorities with Regard to Trafficking—Expert Technical Meeting	
13-15 November 2002 Honolulu Hawaii, USA	The Human Rights Challenge of Globalization in Asia-Pacific-US: the Trafficking in Persons, especially Women and Children	Globalization Research Center, University of Hawaii-Manoa
5-9 January 2003 Chiang Mai, Thailand	8th Biannual International Conference on Forced Migration and Global Processes	IASFM, ARCM

WE ARE ON THE WEB!



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