



THE THAI GOVERNMENT'S MANAGEMENT OF MIGRANT WORKERS: A CASE STUDY OF THE MOU BETWEEN THAILAND AND MYANMAR MIGRANT WORKERS

Kaninnart Siriwat¹ and Sasiphattra Siriwato²

Abstract

In 2003, an MOU between the government of Thailand and the government of Myanmar for Cooperation in the Employment of Workers was signed to organize a system for legally registering migrant workers. This study examines the problems of the MOU system to identify existing obstructions and offer appropriate solutions for greater effectiveness of the system. The data were collected using semi-structured interviews with nine participants selected according to their relevant experiences in the area of migrant workers from Myanmar to Thailand. Five documented Burmese workers and four officers from the Ministry of Labor and the Ministry of Defense were interviewed. The results of the interviews illustrate the government's current efforts to manage the documented workers through the MOU system, such as solving social problems and human trafficking, and establishing transparent employment contract. The results also indicate that there are three problems with the MOU, such as overly complicated procedures, high and unregulated expenses, and long registration periods. After the MOU system was implemented, the government proposed solutions by arranging bilateral meetings, extending registration times, and solving exploitation of migrant workers by agencies. This study recommends two solutions for improving migrant worker management. The first solution is that the governments of Thailand and Myanmar must improve the details of the MOU for more suitable and practical benefits for workers and employers. The governments, through regular bilateral meetings with relevant officers, to share problems and discuss solutions for proper procedures, expenses, and effective management. The second solution is to improve public relations and public understanding of the MOU system to increase legal employment in Thailand.

Keywords: Myanmar, Burmese worker, migrant worker, worker-management, memorandum of understanding, MOU on migrant worker.

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บทคัดย่อภาษาไทย

ในปี 2546 รัฐบาลไทยและรัฐบาลเมียนมาได้ลงนามในบันทึกความเข้าใจ (MOU) ว่าด้วยความร่วมมือด้านการจ้างงานแรงงาน โดยมีวัตถุประสงค์เพื่อบริหารจัดการระบบการนำเข้าแรงงานอย่างถูกกฎหมาย งานวิจัยนี้ศึกษาปัญหาระบบการนำเข้าแรงงานผ่านระบบ MOU เพื่อระบุปัญหาและอุปสรรค รวมทั้งเสนอแนวทางแก้ไขที่เหมาะสม เพื่อเพิ่มประสิทธิภาพของการนำเข้าแรงงานผ่านระบบ MOU งานวิจัยนี้ได้ทำการรวบรวมข้อมูลโดยใช้การสัมภาษณ์แบบกึ่งโครงสร้าง (Semi-structured Interview) โดยคัดเลือกผู้ให้สัมภาษณ์ 9 คน ที่มีประสบการณ์เกี่ยวกับการเข้ามาทำงานในประเทศไทยของแรงงานชาวเมียนมา โดยเป็นแรงงานเมียนมาถูกกฎหมาย 5 คน และเจ้าหน้าที่รัฐ 4 คน จากการตรวจแรงงาน และกระทรวงกลาโหม ผลจากการสัมภาษณ์แสดงให้เห็นว่ารัฐบาลมีความพยายามที่จะบริหารจัดการในการนำเข้าแรงงานถูกกฎหมาย ผ่านกระบวนการ MOU เพื่อแก้ปัญหาสังคม การค้ามนุษย์ และมีการกำหนดสัญญาจ้างงานที่มีความโปร่งใส ผลการวิจัยยังแสดงให้เห็นว่า ปัญหาของการดำเนินการนำเข้าแรงงานผ่านระบบ MOU มี 3 ประเด็น คือระบบ MOU มีขั้นตอนที่ยุ่งยาก มีราคาแพงและไม่มีการควบคุม และการที่รัฐไม่มีความเด็ดขาดในการกำหนดการลงทบเป็น หลังจากมีการใช้งานระบบ MOU รัฐบาลมีการเสนอแนวทางการแก้ไขปัญหา โดยการจัดการประชุมหารือแบบทวิภาคี การพิจารณาขยายเวลาบังคับให้แรงงานลงทบเป็นผ่านระบบ MOU และการแก้ปัญหาการเอกสารเดาเบรียบของบริษัทนำเข้าแรงงานต่างด้าว งานวิจัยนี้เสนอแนวทางในการแก้ไขปัญหาในการบริหารแรงงานต่างด้าว 2 แนวทาง เพื่อเป็นการพัฒนาระบบการนำเข้าแรงงานนี้ แนวทางแรกคือรัฐบาลของประเทศไทยและเมียนมา ต้องปรับปรุงรายละเอียดของ MOU เพื่อให้มีความเหมาะสมและสามารถนำไปปฏิบัติได้จริง รัฐบาลต้องมีการแลกเปลี่ยนความคิดเห็นเกี่ยวกับปัญหาที่พบ และหารือเกี่ยวกับแนวทางแก้ไข เพื่อเป็นการกำหนดการดำเนินการ ค่าใช้จ่าย และการบริหารจัดการที่เหมาะสม แนวทางที่สองคือการเพิ่มการประชาสัมพันธ์และสร้างความเข้าใจ เกี่ยวกับระบบ MOU เพื่อเป็นการเพิ่มจำนวนการจ้างงานถูกกฎหมายในประเทศไทย

คำสำคัญ : เมียนมา, แรงงานเมียนมา, แรงงานต่างด้าว, การบริหารจัดการแรงงาน, บันทึกความเข้าใจ, บันทึกความเข้าใจด้านแรงงานต่างด้าว

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1. Background and significance of problems

Over the years, migrant workers working in Thailand have had several problematic impacts on Thai society, which can be divided into three areas: social, security, and public health (Ministry of Public Health, 2016). Burmese workers are mostly employed in the provinces along the border with Myanmar, such as Tak, Chiang Mai, and Ranong, and down to the lower central region, which is the economic center of the country and is a concentrated industrial area (Pruekudom, 2019).

To determine the appropriate employment procedures, the proper expenses, and efficient return methods for completed worker contracts, the Thai government signed the Memorandum of Understanding (MOU) on Employment Corporation between Thailand and neighboring countries. This MOU was signed in 2003 in order to solve chronic worker migration management problem. The main objective of MOU is to reduce the undocumented migrant workers. The MOU is designed to have complete entire operations to control process from the origin to the destination, until returning to origin when the contract expires. However, there are complicated processes such as expensive expense and inefficient protection of the rights of migrant workers (Taotawin, 2011).

This study examines those problems with the MOU system to identify existing obstructions and offer appropriate solutions for greater effectiveness of the system. The more effective of MOU is the more legal employment in the state. The MOU aims to controlling the appropriateness of the amount of worker, reducing the exploitation of employers, and also reduce human trafficking. After MOU was enforced, it could not success as its objective. Without the clearly identified problems of MOU and taking steps to solve them, MOU will be an unsuccessful tool of the government that is not able to control the illegal employment.

2. Research Objectives

- 1) To examine the situation of Burmese migrant workers in Thailand.
- 2) To analyze the management of migrant workers in Thailand after the application of an MOU.
- 3) To propose a solution for the Thai government to have a more productive worker management system.

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3. Background of Burmese Migrant Workers in Thailand

Thailand needs migrant workers to substitute the demand for workers in business and investment in the areas of agriculture, factory, and service sectors. The following section is divided into three main parts, which are: migrant workers from Myanmar in Thailand, Thai government action concerning migrant worker management, and documented workers in Thailand.

1) Migrant workers from Myanmar in Thailand

There are three to four million undocumented migrant workers smuggled into Thailand, most of them are low-skilled workers from neighboring countries (Myanmar, Lao PDR, and Cambodia). In Thailand, about 92 percent of migrant workers are Burmese. The causes of the migration of Myanmar people are the result of internal conflicts in their country, and most of them also experience severe poverty problems (Ministry of Labor, 2017). The number of Burmese workers in Thailand by the MOU system is gradually increasing in line with the growth of all migrant workers in Thailand. According to the Ministry of Labor (2019), there are 3,090,825 migrant workers registered through the MOU system working in Thailand. Approximately 989,145 workers are documented working under the MOU process; 504,996 are Burmese workers (Ministry of Labor, 2019).

2) Thai government actions on Migrant worker management

In the last five years, Thai government try to solve the problems of undocumented migrant workers. The latest action was on 20 Aug 2019, when the Thai cabinet agreed on a resolution for the extension of the process to approve VISAs for migrant workers. After 31 March 2022, which is the end date of allowance, migrant workers who want to continue working in Thailand have to operate according to the MOU system (Ministry of Labor, 2019). Interestingly, the government has only focused on is the security implications by eradicating undocumented migrant workers.

3) Documented workers in Thailand

There are two main mechanisms to become documented worker in Thailand. The first mechanism is permission for undocumented workers through the Nationality Verification (NV) process, which will no longer be enforced by 2022. The second mechanism is registration through the MOU system (Ministry of Labor, 2019)

4. Research Methodology

Nine participants were selected and interviewed using semi-structured, open-ended questions. These participants were divided into two groups. The first group included five documented migrant workers from Myanmar. Three workers were registered through the MOU system, and the other two workers were registered through the Nationality Verification process



(NV). The interviewed workers have at least five years of work experience in Thailand in order to provide direct experiences regarding the legal registration process and work permit extension. Selected workers must have no criminal record and came to work by the agency.

The second group included four officers from the Ministry of Labor and Ministry of Defense. Two officers from the Ministry of Labor are Mr. Aranya Raksayon, chief of consideration for the migrant worker, work permit section, Department of employment, and Ms. Saowaree Pansri, chief of migrant worker section, Bangkok Employment Office seven. The other two officers from the Ministry of Defense are Myanmar interpreters who had direct experience with Myanmar workers: Squadron Leader, Tanawat Rattasamakke, an officer at the Armed Forces Security Center; and Flight Lieutenant, Noppadon Panlong Officer at External Relation, Office of The Permanent Security for Defense. These officers have work experience in the field of migrant workers for at least five years. In order to protect the anonymity of participants who are migrant workers, this research will identify them as follows: Worker A, Worker B, Worker C, Worker D, and Worker E.

5. Research Findings

The research results were collected by semi-structured interviews with the Burmese workers in Bangkok and government officials who are working relevant to migrant worker employment. There are three main reasons why Myanmar workers decided to work in Thailand which are 1) Myanmar does not have enough jobs. All interviewed workers mention that millions of Burmese workers decided to travel from Myanmar to work in Thailand because Myanmar has high unemployment rate. 2) Thailand has a higher minimum wage. The minimum wage in Myanmar is only 100 to 120 baht per day. The minimum wage in Thailand is higher at 300 baht per day and is equal to the minimum wage of a Thai citizen. In some case of experienced worker, they can receive a wage of 500 to 600 baht per day. 3) Thailand has a better living standard. The quality of life in Thailand is better than Myanmar. Interviewed workers stated that coming to work in Thailand means better welfare as they have social security insurance.

5.1 MOU system

The issues that have been mentioned in the MOU system are divided into three parts which are 1) Process of MOU: All interviewed Burmese workers commented that the MOU procedure is complicated and has a long process causing employers to give up and proceed by themselves. To employ migrant workers through the MOU system, both employer and worker must prepare the following official documents: documents of a registered business, clear employment contracts, and the MOU contract. 2) Expenses of the MOU process: Burmese workers provided information about the costs for the migrant worker through the MOU process. The situation is divided into two cases. The first case is the worker who gets into the MOU system the



first time they come to Thailand. The worker and the employer accept the worker's expenses and conditions before making a decision. The worker must pay about 20,000 to 30,000 baht to the agency. The second case is the worker who has already worked in Thailand and has to register through the MOU system. This case must pay for agencies both in Thailand and in Myanmar because they must return to complete the processes in Myanmar. The expense of agency service is obviously high. 3) Healthcare expenses for the documented migrant workers are protected by Thai law, and they have the right to social protection from the Social Security Office (SSO), which includes cases of illness, childbirth, disability, death, child allowance, elderly, and unemployment. To have social protection, the migrant worker must have a passport and work permit. However, even if documented migrant workers do not have social protection, they still have insurance coverage from hospitals.

5.2 Interview with relevant officers

The researcher interviewed four officers whose work is related to migrant workers. Two officers are from the Ministry of Labor and two officers from the Ministry of Defense. From these four interviews, all the officers mentioned the objective of the MOU system by providing the reason for using the MOU. Before the enforcement of the MOU system, Thailand faced a shortage of low skilled or unskilled workers.

All the interviewed officers mentioned the benefits of the MOU system and the latest policies of the Thai government to control the situation of undocumented migrant workers by creating standard regulations for migrant worker employment. The employment is under the control of and is acknowledged by the two governments. The worker and employer can have an explicit employment contract that specifies the employer profile, workplace, salary, days off, and working hours. When compared with the previous situation of the undocumented worker in Thailand, workers were arriving with no historical profile, and the employer had only a verbal contract. Pansri, ministry of labor, mentioned that:

The operation of the MOU system has been improved. The government agencies continue to work together to improve the documented status of migrant workers. However, there are millions of migrant workers in Thailand with different personal conditions causing delays in the registration processes for all workers. (Pimsri, Ministry of Labor)

The two officers from the Ministry of Labor explained that the expenses of MOU are divided into two parts. First is the expense of the formal process that has been set. The second part is the expense that workers must pay for agencies in Myanmar and Thailand. The agency will provide better



access to the employer by using their expertise and by working with the official to process large groups of 50 to 100 workers at a time. The prices vary depending on the agency company.

All interviewed officers provided information on the process of the MOU that takes two to three months as the government must approve the process of Thailand and Myanmar. The process on the Thai side takes about 15 days, which has been determined by the Ministry of Labor. The process in Myanmar takes about two months because of the management.

Raksayon, Ministry of Labor, recommended that the Thai government should develop a better public relations program because many employers still do not know that the MOU system is being enforced and that workers must register before the deadline.

6. Discussion

6.1 Current situation

Four essential points will make the MOU better for migrant workers: The first point is solving social problems and human trafficking. The implementation by the two governments makes the employment legal with transparent registration programs and by establishing a continuous process that will not open the opportunity for human trafficking. The second point is the employment contract will specify the details of employment. The explicit contract will reduce confusion and disagreement between workers and employers. The documented workers also have the right to social welfare programs, including social insurance and medical care. The third point in the MOU system is that migrant workers cannot bring their family to Thailand. The reason is due to cases of unemployment among the family members. The last point is that the agencies must be registered with the Ministry of Labor to avoid the risk of human trafficking by procuring migrant workers for illegal employment purposes.

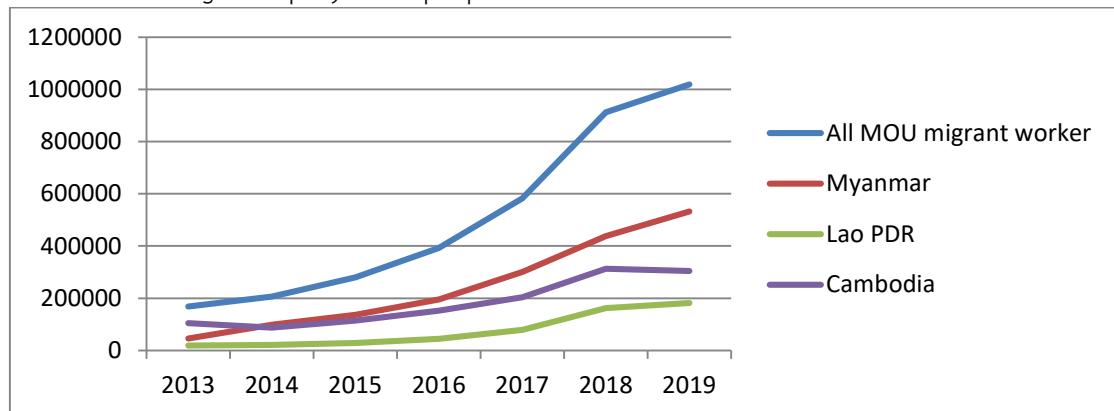


Figure 1 MOU migrant workers from Myanmar, Lao PDR, and Cambodia

Figure 6.1 shows that there is an increasing number of Burmese migrant workers registered through the MOU process every year. Also, there are more workers from those countries with MOUs with Thailand, including Myanmar, Lao PDR, and Cambodia, which represent most of the



migrant workers in Thailand. The result from the effort of the government that has helped migrant workers into legal employment under the joint agreement of the MOU.

The research titled, The Analysis of trends and impacts on Offenses in Thailand by migrant workers entering the ASEAN Community by Jomdet Trimek, Suppakorn Poonyarith, and Sasiphattra Siriwato (2017) identifies the Myanmar government's support of Myanmar workers to have legal employment in Thailand by issuing a purple covered passport to work only in Thailand. Myanmar authorities issued a purple Passport to workers who have passed NV. Today, Myanmar does not issue purple passports anymore. Burmese workers must have the red cover passport to register with the MOU. A migrant worker who is holding a purple passport needs to return to Myanmar to acquire a red cover passport. Unfortunately, issuing the passport in Myanmar is challenging, and requires too many documents, time, and expense. These burdens on the migrant worker may be why many migrant workers do not choose to register with the MOU system.

In the problems of the expenses of the MOU process, Worker C and Worker E have not chosen to complete their registration through the MOU system because they do not want to waste time and pay a lot more money. They decided to continue their work by extending their NV registration, which is easier and cheaper. Even though the government has regulated its fees, the agency cost is still expensive. In 2016, the Ministry of Labor announced new service rates and cost of agency fees be set at 25% service charge for 1 to 12 workers, 20% service charge for 13 to 45 workers, 15% service charge for 46 to 90 workers and 10% service charge for more than 91 workers. If there is a violation, the agency company will be found guilty and forfeit its security deposit with the Ministry of Labor in the amount of five million baht (Ministry of Labor, 2019). The result is that workers are still paying exorbitant fees to agencies. Therefore, the government must develop a more useful measure that can control the high service charges of agencies.

Although the Thai government requires workers to register through the MOU, there has always been an extension for registration time. The latest announcement on 20 August 2019 that the Thai cabinet approved guidelines for work management of migrant workers (2019 to 2020) stipulates that workers are allowed to extend their legal employment for one to two years. That means documented migrant workers (NV) can continue their legal status until 2021 to 2022. After that, workers have to register through the MOU system. However, this extension has been announced by the Thai cabinet several times in the past five years. Unfortunately, this multiple extension of registration announcements results in some workers and agencies do not see registering through the MOU as an urgent matter.

There are studies that identify the complicated and expensive process of MOU, such as Migrant worker problems of three nationalities in Thailand by Sirimachan, P. (2013) identifies that



MOU are not reach its achievement as the readiness of Burmese government, the complicated process, and expensive payment. Also, the research of MOU for transnational labor employment neoliberalism, labor protection, and adjustment of the state's regulation strategy by Taotawin, P., and Satrakom, S. (2011) mentioned about there are too much processs of MOU which cause its expensive and wasting much time, and can not attract undocumented migrant worker to see the benefits of being documented worker. In the past, the government policies have been aimed at solving immediate problems by issuing the temporary measures, not looking into the long term solution. These show that the government policy is discontinued. The government only defensive for the entering of migrant worker without the state's policy of migrant worker management. There are still the ineffectiveness between official to solve the problems.

6.2 The management of Thai government

When compared to the number of all workers in Thailand, the MOU process is not working very well. Three operations have been done by the Ministry of Labor which are:

1) Finding the solution by the bilateral meeting. The latest meeting is the Myanmar-Thailand Technical Meeting that was held in Nay Pyi Taw, Myanmar, 13 to 14 January 2020. The meeting considered all relevant factors, such as procedures, costs, public relations, guidelines for changing employers, medical service and training course. The bilateral meeting is definitely an appropriate solution. However, the results from the former meetings are only short term solutions such as providing convenience for migrant workers to easily extent their work permit or an extension of time forcing migrant worker to register through the MOU.

Bilateral Meeting is a collaboration to solve the problem of worker shortage in Thailand, protection of worker rights and benefits, including register through the MOU with convenience and transparency. (Pornchaiwiseskul, Director-general Department of Employment, 2020). Panlong, Ministry of defense, mentioned that the development of the MOU depends on the implementation of each country's management. Some problems still exist, such as the long process partly as a result from the difficulty in Burmese citizenship approval process. Also the high cost problem that neither goverment can solve the problem effectively.

2) The government always extends the time of registration with the MOU because the policy to encourage the worker to register the MOU system and have the legal working status as much as it could. This is an effort to prevent human trafficking. In 2015, Thailand was ranked by The Trafficking in Persons Report (TIP Report), an annual report issued by the U.S. State Department's Office to Monitor and Combat Trafficking in Persons, to be Tier 3. Tier 3 means the government is not fully complying with the minimum standards and is not making significant efforts



to do so. To solve the situation, the Thai government has improved the policy of prevention and suppression of human trafficking by using law enforcement and providing assistance to victims of human trafficking. In 2019, Thailand's rank in the TIP report was lowered to Tier 2 which is countries whose governments do not fully comply with minimum standards but are making significant efforts to bring them into compliance with those standards.

3) To solve the exploitation among agencies by overcharging for document and registration in the MOU, or the exploitation of migrant workers for human trafficking, the government has issued a Decree on Importing Migrant Workers to Work with Employers in the Country (2016) which forces every agency to proceed according to the law and regulations that the government has set for the procurement of migrant workers. However, controlling the price of agency was not very successful. Migrant workers who come to work through an agency still have to pay extra charge. If there are many agencies in the process, the payment will be increased (Prachachart, 2017). Some workers are still unaware of the MOU expense that specified by the government. Worker A mentioned that he need to pay a commission to agency both in Myanmar and Thailand, which was very high. However, he wants the government to control the price the agency to be cheaper.

6.3 The appropriate solutions

There are two appropriate solutions for migrant worker management. The first solution is that the governments of Thailand and Myanmar must arrange a bilateral meeting with the relevant officers. The Ministry of Labor must improve the details of the MOU to be more suitable and practical for workers and employers. Data sharing is essential in order to improve the MOU system. The second solution is to increase the effective public relations of the MOU system. Migrant workers must know their benefits from the MOU system, such as safety in work, income, work hours, welfare, and many other rights.

7. Recommendations

For Government

Promoting and developing the MOU system, the implementation of the cooperation of migrant workers has been continuously improved. These improvements can be seen from the increase in the number of workers registering in the MOU system every year. If the MOU system is developed to be more suitable for the current situation, it will result in the success of international worker-management cooperation.

However, it cannot deny that the MOU process is a mutual cooperation in solving international problem. Therefore the effectiveness of MOU must come from the effort of the governments of both countries. From conducting interviews with government officers, this research found that one of the



most difficult process is the nationality identification of Burmeses which their government is facing the problems of nationality approval as the various of ethic groups.

For the Ministry of Labor

1) Reducing the procedure to be concise and more convenient. The problems of complicated procedures must be solved both in Thailand and Myanmar.

2) Consider setting up appropriate expenses and improving better services. The payment must be fair and keep service procedures transparent with no corruption.

3) Controlling the expense of agencies by regulating charges for services. There are two factors in the difficulty of controlling expense of MOU. First factor is there are agencies from Thailand and Myanmar that need to be controlled by both sides. Second factor is it needs seriously actions from authority officials which are immigration bureau and local police officer to control agency, employers and workers. However, many government officials are reported on corruption in both countries.

4) Review complaints from workers and employers for lessons learned and distribute to employers and workers as a case study for migrant worker employment. In some cases, workers decided not to complain in the unfair treatment or even being exploited as they are fear of being depatriated if there is a problem during employment. The government must ensure that the worker who make complaint will be protected. Including the guarantee of employment in the matter of termination. In addition, it is the duty of government officials to increase inspection areas for migrant workers out of working hours or outside the working place to search for the offenses without waiting for migrant worker to submit a report to the official.

For Burmese migrant worker

1) Register for employment through the MOU system.

2) Understanding the benefits and state welfare of being a documented worker of the MOU system as a documented migrant worker has the rights equal to Thai people in welfare, social protection, and medical service.

For employers

1) Hiring a documented worker through the MOU process. The employer will know the background of worker that has been checked by their government.

2) Choose to hire a reliable employment agency that has registered with the government. The legal agency will provide consulting services to the employer for all the MOU processes.

3) Understanding the regulations of employment of the migrant worker. Legal employment comes with a contract that has to be enacted under the law. From conducting interviews, this



research found that most employers did not update new regulations and processes. Therefore, employers sometime did not understand updated regulations and processes very well.

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