



*Issue 1: June 2005*

## **Thai Government Announces Registration of Migrants:** *“Temporary” policy leaves uncertainty, excludes new migrants*

(Bangkok) On May 10<sup>th</sup>, the Cabinet passed a resolution regarding the next round of registration for migrants in Thailand. The resolution provides few changes to the current policy, except for the addition of a few confusing details such as a complicated set of fees, and the refusal to allow currently unregistered migrants to enter the registration system. Here is a quick review of what PHAMIT partners understand to be the migrant registration policy as it currently stands and a review of some of the rights and health issues affected.

### **Holding the Line**

The new policy appears to be temporary, allowing time for the formalized migration channels established under the MOUs signed in 2003 to be instituted. Ostensibly, this extension is meant to allow countries under the MOU to continue the process of verifying the nationality of registered migrants and issue them travel documents – a process that has been slow and is potentially controversial. (See later section on MOU)

The new resolution allows only migrants who are already registered under the state registry, known as “TohRohDor 38/1,” from 2004 to extend their status for up to one-year, without allowing unregistered migrants to enter the system. Only those who registered with a work permit the previous year and those who registered under the “TohRohDor 38/1” are permitted to apply for a work permit. In effect, this places a “cap” on the number of migrants allowed to register until formalized systems of migration are in place. A major concern with placing a cap on registration is that it leaves possibly hundreds of thousands of migrant workers and their families unregistered and

highly vulnerable to labor and rights violations, without access to health services. To give an idea on the possible number of migrants that will be left out of the system, in 2004, employers requested a quota of 1.59 million workers, but only half that amount (814,247) were issued work permits. This insinuates that demand for migrant workers was unfulfilled by registration. The question is – considering this gap, how many unregistered migrant laborers are there? This is an especially impending issue in the provinces affected by the tsunami where rebuilding efforts will heavily rely on an influx of migrant labor, yet where only a couple of hundred of migrants who remained have had their IDs reissued. (Click here for [update](#) on migrants affected by tsunami)

It should be noted that over the past year, NGOs working with migrants have seen an improvement in the situation of migrants who were registered under the state registry. (The way migrants have been treated in areas affected by the tsunami, however, has shown just how tenuous migrants’ situation is. Go to the [PHAMIT website](#) for the report.) Migrant workers, however, still regularly suffer labor and rights violations. A main problem is that channels to access rights and labor protection mechanisms in migrants’ language are largely absent.

### **Health Without Rights**

PHAMIT has been negotiating with the government for the addition of a registration category for “migrant health assistants.” Many NGOs and hospitals are currently using trained, migrant health volunteers to assist in health provision to migrant workers and their communities. Making an official registration

category for migrant health assistants would secure their position, decreasing turnover, and enable NGOs and public health providers to legally employ these people. In turn, this would acknowledge that incorporating migrants into the delivery of health services and disease control for migrants is an effective model. Although the Ministry of Health has backed this recommendation and the Cabinet has positively acknowledged this idea, the Ministry of Labour has yet to approve the measure. A law that prohibits the government from hiring migrant workers is just one of the barriers. Although it is unlikely that this measure will be passed this year, negotiations are continuing.

All migrants seeking to renew or apply for a work permit this year are required to have a health exam prior to August 30<sup>th</sup> and purchase health insurance. With the exception of a few locations and where NGOs are assisting, no information is provided in the language of migrants to explain the health exam process or the rules and rights governing the benefits of the health insurance. The related fees (600 Baht for health exam + 1,300 Baht for health insurance) have not been lowered even though many hospitals have large surpluses in their migrant health budgets from unused funds from the previous year's registration. (Migrant health budgets for both prevention and treatment are garnered directly from health insurance fees paid by migrants during registration, yet health providers' awareness and use of the health promotion budget has been low.)

Although the health exam itself is slightly contentious, there is considerable concern over the fact that pregnancy is still being tested. Even though pregnancy has been deemed a "non-exclusionary" condition, the results are made available to the employer. Beyond the concern that involuntary pregnancy testing violates the individual's right to privacy, an immediate concern is that migrant women who have either planned or unplanned pregnancies may feel compelled to have unsafe abortions for fear that they will lose their job for being pregnant. Although the Government says the testing is a way for them to prepare funding etc. for delivery and care of these babies, this has not been borne out. Moreover, although the government retracted a threat made last year to deport all pregnant migrant women (over 9,000 migrant women

tested pregnant last year), the incident points to the underlying rights concerns related to this practice.

### **The Uncertainty of Dependents**

The new migrant policy ignores, and perhaps even jeopardizes, children of migrants' well being. According to the new regulations, children who were born in Thailand after July 2004 and children of migrants who are not on the state registry from 2004, have no right to remain in Thailand and have no right to health care. Although no hospital fees will be charged for registered migrant women who give birth in Thailand, the child has no right to remain in the country(?!).

The new policy does allow for dependents and family members who are registered under the TohRohDor 38/1 to remain in the country for another year while their nationality is verified. The Cabinet has defined "dependents" as family members of migrants who registered last year under the TohRohDor 38/1, and have at least one relative with a work permit at the same address or under the same house registration. At many places around the country, however, migrants never received their work permit, or else their employer has withheld it, giving migrants little way of proving their status. Without this essential piece of proof, migrants may be extorted or family members may suffer indiscriminate arrest and deportation. Additionally, dependents and family members of migrants who entered the country after the state registration of July 2004 are not allowed to be in Thailand, and will be susceptible to being arrested and deported. When deportation separates families, women and children's vulnerability to trafficking, exploitation and abuse increases greatly.

### **Lingering Concerns over the MOU**

Lastly, Thailand's migrant policy seems precariously reliant upon the success of the MOUs with neighboring countries. The keystone of the MOUs is the process of verifying nationalities of registered migrants by the country of origin and issuing travel documents accordingly. (For English version of MOU, go to [PHAMIT website](#)) Although this process is in progress with Lao PDR and Cambodia, it has been slow and there are questions about the methods used to verify nationality, and the impact this process will have on families of migrants in those

countries. Lao PDR has been the most active, yet has only been able to process a couple of thousand applicants out of the 179,887 migrants from Laos currently registered (around 1%).

The greatest concern about the process is the uncertain status of the MOU with Myanmar, where over 70 percent of all migrants registered in Thailand originate. If the MOU is left unresolved, and Myanmar is unable to or unwilling to process citizenship claims of the

over 900,000 people registered in Thailand, what will become of those migrants? This leads to the unanswered question looming over the process - "what happens if a country fails to recognize a migrant as a national of that country?" The insinuation is that individual will go from being a documented migrant to a *stateless person*.

- *Brahm Press (Raks Thai Foundation)*

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## NGO Concerns and Recommendations...

### **\* Allow all migrants the opportunity to register**

Capping the number of migrants allowed to register under the state registry increases unregistered migrants' vulnerability to labor and rights violations, as well as health problems and trafficking.

### **\* Open registration in tsunami affected provinces**

The rebuilding of areas devastated by the tsunami will require migrant labor, however there are few migrants remaining from prior to the tsunami. If a cap remains on the original number of migrants, there will either be major labor shortages or there will be numerous unregistered migrant workers, accompanied by possible rights and labor violations, including trafficking.

### **\* Allow for the registration of "migrant health assistants"**

Allowing migrants who are contributing to their community to be officially hired by health providers and NGOs will make it easier to provide health services to migrants, and control contagious diseases.

### **\* Stop testing for pregnancy in the health exam**

Although pregnancy is not an exclusionary condition, mandatory testing for pregnancy increases the chances that migrant women will seek unsafe abortions. Pregnancy testing should be voluntary and supported by a full set of services for mother and child.

### **\* Implement measures to improve migrants' labor rights**

In addition to regularly suffering labor rights violations, migrant laborers commonly work in unhealthful conditions. Mechanisms need to be put in place to allow migrants equal access to labor rights protection mechanisms and occupational health and safety measures.

### **\* Prepare contingency plans for the MOU**

There is concern that implementation of the MOU by neighboring countries will be unsuccessful or extremely limited. Thailand is too reliant on migrant labor to simply deport hundreds of thousands of migrants, and an act of that sort would surely injure Thailand's already fragile human rights' record. The Thai government should avoid being unprepared for such an eventuality.

## Details Of Migrant Registration – 2005

Only migrants who fall under the following categories will be permitted to remain in Thailand for one year as follows:

- Only those already with a work permit and those registered under the TohRohDor 38/1 from last year are eligible to apply for a work permit. Those with a work permit and those who have changed employer must re-register; those without an employer can register at the provincial department of employment before June 30.
- Those renewing their work permit and those applying for a new work permit must take a health exam screening for seven diseases (600 Baht) and purchase health insurance (1,300 Baht).
- The cost of registration is very complicated. There are three different rates for those registering for work permits (*based on a one-year work permit with health fees (1,900) included*): for those who are re-registering for one-year = 3,800 Baht; for those re-registering for one year but with a new employer = 4,250 Baht; for those who have a 38/1 and are applying for a one-year work permit for the first time = 5,350 Baht. (Work permits are also available in three-month increments at 450 Baht per increment, plus a 100 Baht application fee).
- “Dependents” are defined as those not of working age who are registered under the 38/1 or are registered under the same house registration or address where at least one related person has a work permit from last year. “Dependents” of those with a work permit from last year are allowed to stay temporarily for one more year, while “dependents” of those requesting a work permit for the first time this year or who are not registered from last year will not be allowed to stay.
- During the next year, the process of verifying registered migrants’ nationality and issuance of travel documents by the country of origin will continue as articulated under the MOU.
- Those migrants not registered under the TohRohDor 38/1 from last year cannot enter the system and are considered by the Thai government as “*illegal*.”

*This information comes from the understanding PHAMIT implementers have of the government’s resolution on migrant workers, and is subject to change.*

### PHAMIT

The Prevention of HIV/AIDS Among Migrant Workers in Thailand Project (PHAMIT), funded by the Global Fund to Fight AIDS, TB and Malaria (GFATM), is a collaborative project of eight NGOs working in partnership with the Ministry of Public Health and local health providers. PHAMIT partners are working in over twenty provinces throughout Thailand to prevent the transmission of HIV/AIDS and improve the quality of life among migrant workers, their families and sex workers.

PHAMIT partners use four main strategies to achieve the project’s objectives: focused interventions in the language of migrants; development of health systems for migrants; development and support of migrant communities; and advocacy on migrant-related policies.



*For more information please go to our website which is currently being renovated*  
[www.phamit.org](http://www.phamit.org)