

ASEAN Challenges on Illegal Migrant Workers in Fishing Industry: Case Study of Thailand

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Abstract: This paper argues that not only in the western countries where migrant workers play an important role in the lower jobs but in developing countries like Thailand are also in great need of migrant workers. At present, there are many migrant workers moving to Thailand especially from Myanmar, Laos and Cambodia. The number of migrant workers is expected to increase. After the opening of free movement of labor which one part of ASEAN Economic Community's goal is. ASEAN focused more on the skilled labor but in fact, low- skill workers are a significant group of people in the labor market who also deserve a good management. The research found out that the rise in global seafood demand gives the big opportunity to many countries to expand the export market and make more benefit to the country and without migrant workers the fishing industry in Thailand couldn't grow this fast but on the other hand this kind of opportunity also increase the problem of human right abuses in Thailand's fishing industry and the main reason is because of mainly of the workers there are illegal migrant workers. Case study of Thailand is examined, how the Thai government take an action on this issue after being pressured by the international organization and it concludes by the challenge for ASEAN to take an important role to find the long-term solutions to solve this problem without sending them back to their country but make a policy and migration system to be more effective.

1 INTRODUCTION

Modern transportation has made it easier, cheaper and faster for people to move in search of jobs, opportunity, education and quality of life. At the same time conflict, poverty, inequality and a lack of sustainable livelihoods compel people to leave their homes to seek a better future for themselves and their families abroad. (United Nations, 2017: 1). When talking about migrants most will think about security issues but on the other hand migrant workers are needed by developed countries. Migration is a feature of social and economic life in many countries but the profile of migrant populations varies greatly. This section is due to various migration sources. In most of Europe for example citizens enjoy extensive rights to free movement. In Australia, Canada and New Zealand migration labor is managed to play an important role. Other sources include family and human migration. Whatever the source, migration has an important impact on our society and this can be controversial, but the positive impact on the economic part of migration is very high (The Organisation for Economic Co-operation and Development, 2014). Borjas (2005: 77-95) argues

that migrants are an important group for the economic part especially low-skilled migrants because they benefit locals by doing jobs that are rejected by local people. Same with Legrain (2007) who state that because of the rising level of education across Western countries means that fewer local workers are willing to work in lower jobs, not only because of low wages but also because such jobs are often unpleasant and low status. From this opinion, migrant workers become the groups needed by the state.

However, migrant workers are also often associated with issues of human rights violations. Migrants in irregular situations tend to be highly disproportionate to discrimination, exploitation and marginalization, often living and working in the shadows, afraid of complaining and denying their human rights and fundamental freedoms (Office of the United Nations High Commissioner for Human Rights, 2018). Especially migrant workers who came to another country illegal are the first victims of human rights abuses. Many countries often viewing migrants as undesirable, many host governments make minimal effort to measure the social costs of migration for workers and their families, particularly regarding family unity; abuses during the migration

process; or discrimination, exploitation, and limited access to redress that migrants may face in their host countries. (Human Right Watch, 2010). The main argument in this article is that it's not just trying to protect the rights of illegal migrant workers but policy must be modified, establish a regional migration system in order for those illegal migrant workers to have a legal status.

This article begins with an exploring the background of illegal migrant workers from Myanmar in Thai fishing industry and why they are important. It then rising of rights abuses and forced labor issue, and how international organization brought this issue and force the government of Thailand to take an action and concludes by the challenge for ASEAN to take an important role to find the long-term solutions to solve this problem without sending them back to their country but make a policy and regional migration system to be more effective.

2 ILLEGAL MIGRANT WORKERS IN THAI FISHING INDUSTRY

Since the early 1990's, the Thai government has attempted somewhat bringing order to an influx of undocumented migrant workers into Thailand to fill low skilled gaps in the labor market. Migrants are a crucial part of the Thai economy's success in recent decades but their accessibility to public health, safety and security are quite limited (Hall, 2011). Migrant workers come to Thailand in many forms. Current Guidelines for migrant workers who did not come yet, it is legal to come in under Section 11. The employer must apply for a permit and pay the fee. There are two types of migrant workers: first, the skilled migrants, workers who have the ability to use complex technologies. Migrant workers are required to apply the work permit within 30 days. Another one is migrant worker who comes to work in accordance with the Memorandum of Understanding (MOU). There are two types of permits for work in the home and the working class. Thailand has signed this type of MOUs with Laos and Cambodia (Ministry of Labour, 2018). According to International Labour Organization report (2017) showed that there are currently about 3.25 million legal and illegal migrants working in Thailand comprising about 8.5 per cent of the country's workforce and 3 million among them are from Myanmar. These migrants mostly work in low-level jobs in the fields of fisheries, agriculture, construction, manufacturing, household chores and

other services. Factors supporting the migration of workers from Myanmar to Thailand may split into two: (1) Pull Factor; rapid development expansion, labor shortage, modifications in population structure, higher wages and networks in the destination country. Thailand itself has higher economic growth compared to neighboring countries until there is a shortage of manpower in industry and agriculture. During the Thai economy in Thailand's heyday has turned into an industrialized country. We will see populations moving from rural to urban areas and from neighboring countries to Thailand. Currently, local workers in the Thai industry are not enough consequently there is a need for workers, especially from neighboring countries. So, the Ministry of Labor of Thailand has signed Memorandum of Understanding (MOU) with three countries namely Laos, Myanmar and Cambodia to import workers legally. But the main import workers are from Myanmar because the Laotian and Cambodian governments do not support workers to leave the country of origin. In addition, also many workers who come to Thailand illegally. This illegal group of workers who often face human rights violations in the workplace, they dare not report to the police when problems occur because fear of being arrested and sent back to the country of origin. Especially the country of unrestricted Myanmar, people who are a minority who live the border usually migrate to work in Thailand. These people do not have other options except to survive and work in Thailand under any circumstances. (2) Push Factor; low economic growth, high unemployment rate, labor export policies and political factors such as situations of unrest in the country of origin (Pasadilla, 2011). The main cause of migrant workers from Myanmar migrating to Thailand is the result of fear of persecution. Repression the Government of Myanmar has a policy of managing and controlling the territories inhabited by minorities. They are concentrated in new projects such as relocation projects. The project forces villagers to migrate from their homes and sometimes does not provide new addresses or allocate easily controlled addresses and the area is usually worse than the original address. There are also operations related to the daily lives of people such as labor or to serving as porters to Myanmar's military or Myanmar military attacking the people's bodies without being protected by any law. After the migrant worker decides to leave Myanmar to Thailand there are usually two approaches to migrant worker mobility: temporary mobility and permanent mobility. Regarding labor mobility methods it is found that most migrant

workers from Myanmar travel from their home country to border checkpoints and proceed to the city by car before moving to another workplace. The travel approach can be divided into three main ways as follows first, on foot; immigration workers usually access to Thailand via the border. Secondly, by bus; workers travel by bus accompanied by brokers, family members, friends or relatives who usually work in Thailand. And the third, by car or motorcycle; workers always come with their brokers by car or motorbike (Sukuntha, 2014: 45-63).

According to several studies in Thailand on the impact of migrant workers' arrival on local residents and workers, (1) Security issues: many illegal migrant workers coming to Thailand are scattered throughout the country. The number of migrant workers is not known to the real number and also includes their residence. In addition, the problem can also affect the relationship between Thailand and neighboring countries, (2) Health problems: increasing the number of illegal migrant workers in Thailand is a problem for the transmission of diseases such as malaria, tuberculosis, dengue, leprosy, malaria that previously Thailand is under control. The cause comes without a diagnosis, and there is no health insurance card that also affects the public health budget of Thailand, (3) Impact on local workers and the economy: on the positive side, migrants can replace labor shortages in the manufacturing sector especially in the dirtiest and most vulnerable sectors that local workers avoid doing. On the negative side, with the increase in the number of migrant workers in Thailand, employers in labor-intensive sectors have convenient access to the workers that they need. Since most of the jobs taken up by migrant workers are dirty, dangerous and difficult, employers do not have to worry about being able to hire sufficient numbers of local workers for such jobs. Hiring migrant workers in Thailand also means lower costs for employers. It is evident that migrant workers create a national wage differential as they are cheaper to hire than local Thai workers. Lower costs incurred by employers translate into lower prices of goods, which help to keep the country's national inflation rate low (Chalamwong et al, 2012: 450). In addition to the three greatest impacts there are also other impacts such as cultural differences which can lead to future conflicts if Thai government do not prepare and properly manage.

3 HUMAN RIGHTS ABUSES IN THAILAND FISHING INDUSTRY

With disgusting working conditions caused the Thai fisheries industry to lack local workers and most of them are full of migrant workers, mainly from Myanmar. The fishing boats usually remain at sea for a long time. Migrant workers are often forced to work anywhere from sixteen to twenty hours per day with little or no wages. Many captains even store large quantities of amphetamine so workers can work longer hours. The ships themselves have no resemblance to the conditions of human life. While the conditions on each vessel are slightly different daily meals for workers usually consist of a bowl of rice mixed with boiled squid and discarded fish other than that the hard work also makes the wounded worker's hands from the scales of fish and friction from the fishing nets (Stephens, 2017). Greenpeace (2016) reports that many survivors say supplies will be delivered by aircraft carrier at sea every 90 days. The carrier will travel from Samut Sakorn port to Saya de Malha Bank. Vegetables will be empty in the first 10 days and fresh meat will run out within 20 days after that, eat them only white rice and fish. Hard work and rare food every day so they are sick and tired and can cause death

4 INTERNATIONAL PRESSURE ON THAILAND TO SOLVE ILLEGAL MIGRANTS' PROBLEM AND HUMAN RIGHTS ABUSES IN THE FISHING INDUSTRY

Issue of human rights violations that occurred in the fishing industry as a result Thailand is warned and the punishment directly and indirectly from many parties namely; (1) Ranks Tier 3 (lowest level) in the Trafficking in Persons report (TIP report) of the United States in 2014. TIP report is an annual issued by the U.S. State Department's Office to Monitor and Combat Trafficking in Persons. The report ranked governments based on the efforts they felt to recognize and combat trafficking. Because of the United States monitored though no punishment will be granted but human rights are a very important issue for developed countries. The issue of human rights violations that occurred in the Thai fishery industry

has received attention from governments and the media in many other countries, especially developed countries and this could lead to a contraction in Thai consumption and impact on the economy and exports, especially in the Thai fishery industry. (2) Given a yellow card by the European Union for the conduct of IUU (Illegal Unreported and Unregulated Fishing) in 2015 (Human Rights Watch, 2018). The fight against illegal fishing is part of the EU's strong effort to ensure sustainable marine governance and to project globally the sustainability principles contained in the Common Fisheries Policy. Between 11 and 26 million tons of fish - at least 15% of the world's catches are illegally captured every year and worth between 8 and 19 billion Euros. As the largest importer of fish in the world, the EU does not wish to engage and accept such products into its market or the so-called "IUU Regulations" which came into effect in 2010 to allow access to the EU market only for fishery products that have been certified as legal by the flag State concerned. When flag countries cannot certify their products, the commission initiates a process of cooperation and assistance with them to help improve their legal framework. This process milestone is a warning (yellow card), a green card if the problem is solved and a red card if the problem cannot resolve the latter leading to a ban on trade or trade tires (European Union, 2015). (3) Human Rights Watch, the International Labor Organization (ILO) and Greenpeace make a report showing the state of the issue of human rights violations and publish the report to the media to pressure the Thai government to resolve the issue immediately. In a report by Human Rights Watch, the 134-page report said the fishermen from neighboring countries are still trafficked to work on Thai boats, prevented from changing employers, not being paid on time and paying less than the minimum wage. Rights groups interviewed 248 fishermen today and former fishermen mostly from Myanmar and Cambodia in all major Thai fishing ports over the past three years including dozens of allegedly trafficked and 153 still looking for fish. They also spoke with Thai officials, boat owners and captains, civil society activists, representatives of fishermen associations and UN staff. The media exposed the murder, beating and virtual slave labor on Thai fishing boats requested the EU to issue a 'yellow card' in April 2015, a Thai warning that it could face a ban on seafood exports to Europe because of its illegal, unreported and unregulated nature (IUU) fishing practices. It said Thailand must reform to end the offense. The US also places the country on the Tier 2 Watch List in the Human Trafficking Report or TIP report (Pollard,

2018). In addition, Greenpeace also made a report entitled "Turn the Tide" in 2016. Greenpeace Southeast Asia investigations into IUU fishing, trafficking and other rights violations including deaths due to negligence on Thai fishing vessels operating in the Indian Ocean. The research and analysis of fleet movements between 2014 and 2016 shows how overseas Thai fishing vessels that fled from oppression in Indonesia and Papua New Guinea arrived in an area in the Indian Ocean called Saya de Malha Bank in the latter half of 2015 (Greenpeace, 2016).

Currently, the value of the fishing industry in Thailand is about 3.285 million Euros or about 114.975 million Baht. Thailand has the potential to produce and process marine and fishery products of about 3 million tons per year. The sea accounts for about 1.5% of Thailand's total exports. Getting a yellow card from the European Union and a Tier 2 ranking in the TIP report resulted in the Thai fishery business becoming sluggish. Thailand will soon have to solve the problem, otherwise the EU will suspend seafood imports from Thailand and will make the tax wall triple

5 THE ROLE OF THE THAI GOVERNMENT

With pressure from many International Organizations pushing the Thai government to raise the issue into a serious issue to safeguard the national economy as well as humanity. Human Rights Watch (2018) said that the Thai government responded by abolishing the old fisheries law and issuing new regulations to regulate the fishing industry. The old fisheries law has no enforcement of workers' protection from forced labor, law enforcement, the establishment of trade unions and the protection of labor rights. The Government is expanding the application of key provisions of the labor law governing wages and working conditions for fishing vessels and establishing in law several provisions of the International Labor Organization (ILO) agreement through the application of Ministerial Regulation 2014 on the Protection of Labor in Employment Sea Fisheries. Migrant workers are required to have legal documents and be recorded in the crew list when the ship departs and returns to the port. Doing so will help end some of the worst offenses such as captains that kill migrant workers. Thailand also created a Port-in, Port-out (PIPO) system to require ships to report for inspection as they depart and return to the port and

establish procedures for inspection of fishing vessels at sea. The system is available in 28 national marine provinces to improve surveillance and monitoring including fishing vessels with a tonnage of more than 30 tons. They must provide crew information to the control center within 24 hours before entering or leaving the port. Illegal fishing has been added to increase illegal fishing fines by up to thirty million Baht from the previous two hundred thousand Baht. In addition, on the Thai government's grievance channel also partners with various non-governmental organizations (NGOs) in establishing the Migrant Workers Migrant Work Centers in 10 provinces. By 2017, a total of 57,498 migrant workers are provided with assistance by the Center, doubling the number of migrant workers assisted by 2016. Four hotlines available in the languages of Thailand's neighboring countries have been established to serve as a channel for complaints and consultations for both employers and employees and has gained more attention and usage. By 2017, the hotline receives a total of more than 130,000 calls including reports of human trafficking cases leading to more than 60 prosecution cases (Ministry of Foreign Affairs of the Kingdom of Thailand, 2018).

6 THE CHALLENGE FOR ASEAN TO TAKE AN IMPORTANT ROLE TO FIND THE LONG-TERM SOLUTIONS TO SOLVE THE PROBLEM

Migrant workers are a regional problem that ASEAN member countries must recognize and work together to address. Since joining the ASEAN community, there is a need for a strong foundation. Especially the people in ASEAN. At the heart of the third pillar is the ASEAN Socio-Cultural Community (ASCC), which deals with migrants such as protecting and promoting the rights of migrant workers. Include appropriate skills development and employment. To achieve equality. Respect for human rights and reduce the development gap of member countries. In order to achieve this goal ASEAN established a mechanism for the protection and promotion of migrant rights in 2004 and in 2007 ASEAN approved the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers. It has established a committee to carry out its mission. Calls on migrant countries to make full efforts to protect basic human rights. Promote social welfare. And respect the dignity of the migrant workers. There has

been a discussion on migrants every year since 2008. However, most migrant workers have not received the attention and lack of publicity. The issue of migrant workers is a difficult issue to solve. All countries aim to develop their economies in order to achieve the ASEAN Economic Community (AEC) goals by the end of 2015. They do not give importance to the management of migrant workers seriously, leading to the neglect of ASEAN. The community is not strong. Because the people lack understanding and do not respect the fundamental freedoms of the community, it can cause conflict. It is like a tree that has stunted roots and may fall in the future (Tassanaipitukkul, 2014). Related to this issue, Kampan and Taneilian (2017) asserted that it should be the responsibility of the government in each country to take immediate and comprehensive action to provide citizenship to all persons presently stateless, and to ensure statelessness will not persist in the AEC. But another problem, the ILO study show that only eight high-skilled professions which are doctors, dentists, nurses, engineers, architects, accountants, surveyors, and tourism professionals that cover within ASEAN mutual recognition arrangements (MRAs) that existing MRAs only represent 1.5% of labor force across the region. Low-skilled workers are not governed by regional arrangements. Same with the World Bank (2017) who argues that The ASEAN Economic Community has taken steps to facilitate mobility, but these regulations only cover certain skilled professions or just 5% of jobs in the region.

To fill the gap ASEAN should make a policy and migration system to be more effective. The fact that migrant workers come to the country has become one of the ways of earning state income. There is corruption within the state mechanism, such as the deduction of labor queues. If migrant workers come into the system, it is legal and the corruption will be less. As a result, the beneficiaries are trying to keep migrants from entering the legal process. What is to be worked on is the cooperation of labor leaders. Workers' organizations and NGOs to develop legal frameworks for protection and offer through political parties for legal representation. This is a mechanism that can be pushed together at one level. In addition to reviewing the laws related to labor mobility in each country. ASEAN is taking a shared interest. Social security and protection and welfare, Ministry of Labour suggest to developing a central database on the labor market in the country and the labor market in ASEAN by setting up a coherent standard data structure. Between production data, manpower development and human resource needs data. And

develop the potential of information technology in linking labor data and economic data with other relevant agencies. It also coordinates and links with ASEAN member countries to set policies and guidelines for labor development and coordination of vocational training. Thus, establish a data center to link the labor database system. For example, labor market information, labor demand, labor demand, etc. And to keep ASEAN member countries updated, the labor market database is always in place, as well as ensuring data integrity. Labor market at the macro level and data needs. ASEAN member countries should exchange information on capacity building, labor movement of ASEAN through national and regional learning exchanges as a means to increase the capacity of workers to meet the demand of the labor market in ASEAN. And the last, it should be outreach and create awareness about labor mobility, free trade under the ASEAN Economic Community including culture as well as knowledge and understanding of the laws and regulations applicable in ASEAN countries to educational institutions, practitioners and people involved in the development of professional markets in each branch.

7 CONCLUSION

In this context it will be seen that migration is a continuous phenomenon happening all over the world with different reasons. Migrant workers, especially low-skilled workers who migrate from home countries to countries where better economic conditions have become victims of human rights abuses. However, the presence of International Organizations such as the European Union, Human Rights Watch, the ILO and Greenpeace made the issue closely monitored and resulted in pressure on the Thai government to immediately resolve the issue by changing relevant legislation including the creation of a system to accommodate the arrival of workers migrants in the future. In this study the role of ASEAN still not clear since we know that AEC still focus on only eight skilled professions. Illegal migrant workers problem requires further steps, a strong political will and cooperation among ASEAN range states. The difference between ASEAN member countries is diverse. It is the challenge of ASEAN to find a balance between driving the economy through liberalization under the ASEAN Community. The right to receive benefits and benefits to workers, both economic and production. And people in large groups in the country.

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