MISCONCEPTIONS OF MIGRATION:
CONTEMPORARY CAMBODIAN MIGRATION INTO THAILAND

by

SHANNON MARIE BULLOCK

B.A., Simon Fraser University, 1995

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July 2004

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Title of Thesis: Misconceptions of Migration: Contemporary Cambodian Migration into Thailand

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The University of British Columbia
Vancouver, BC Canada
ABSTRACT

With an estimated 88,000 Khmer migrants subject to situations of exploitation in Thailand’s unskilled labour market, cross-border migration from Cambodia into Thailand is becoming an increasingly serious issue. Governments, nongovernmental organizations and international organizations are focusing their efforts on preventing cross-border migration into Thailand, but, despite their efforts, policies and programmes have failed to produce the desired result—a decline in illegal migration, trafficking, and smuggling between these two countries.

I would argue that migration from Cambodia into Thailand is not preventable through policy and programmatic interventions. By using a tri-causal migration framework, based on push, pull, and network factors, to explain the causes of migration between these two countries, it becomes evident that pull factors play the greatest role in motivating Khmer migrants to search for employment in Thailand, but these factors are related to structural conditions reflective of the country’s greater level of development—conditions that cannot be altered through intervention. Relevant actors have primarily tried to prevent migration by addressing push and network factors, but this approach addresses global misconceptions of migration, trafficking and smuggling that are not reflective of current migration dynamics between Cambodia and Thailand. Misconceptions that poverty is the root cause of migration, trafficking is a separate issue from other forms of migration, and migration is preventable have detracted actors from addressing the more pertinent issue—the issue of migrant exploitation.

Migrant exploitation stems from the complex political, economic and cultural factors that shape Thailand’s current migration policies. While there is no simple solution for Thailand’s migration management problems, greater efforts should be made to create legal migration channels that protect Khmer workers from labour exploitation, while providing Thai employers with more legitimate access to low-cost labour supplies in the region.
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<table>
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<th>Abbreviation</th>
<th>Description</th>
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<tbody>
<tr>
<td>3D</td>
<td>Dirty, dangerous and difficult</td>
</tr>
<tr>
<td>ARCM</td>
<td>Asian Research Centre for Migration</td>
</tr>
<tr>
<td>ASEAN</td>
<td>Association of Southeast Asian Nations</td>
</tr>
<tr>
<td>CDRI</td>
<td>Cambodia Development Resource Institute</td>
</tr>
<tr>
<td>ESCAP</td>
<td>UN Economic and Social Commission for Asia and the Pacific</td>
</tr>
<tr>
<td>IDC</td>
<td>Immigration Detention Centre</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>ILO-IPEC</td>
<td>ILO International Programme to Eliminate Child Labour</td>
</tr>
<tr>
<td>IO</td>
<td>International Organization</td>
</tr>
<tr>
<td>IOM</td>
<td>International Organization for Migration</td>
</tr>
<tr>
<td>MHSSD</td>
<td>Ministry of Human Security and Social Development (Thailand)</td>
</tr>
<tr>
<td>MLSW</td>
<td>Ministry of Labour and Social Welfare (Thailand)</td>
</tr>
<tr>
<td>MoI</td>
<td>Ministry of Interior (Thailand)</td>
</tr>
<tr>
<td>MoL</td>
<td>Ministry of Labour (Thailand)</td>
</tr>
<tr>
<td>MOSALVY</td>
<td>Ministry of Social Affairs, Labour, Vocational Training and Youth (Cambodia)</td>
</tr>
<tr>
<td>MOU</td>
<td>Memorandum of Understanding</td>
</tr>
<tr>
<td>MWVA</td>
<td>Ministry of Women’s and Veteran’s Affairs (Cambodia)</td>
</tr>
<tr>
<td>NGO</td>
<td>Nongovernmental Organization</td>
</tr>
<tr>
<td>UN</td>
<td>The United Nations</td>
</tr>
<tr>
<td>UNESCO</td>
<td>UN Education, Science and Culture Organization</td>
</tr>
<tr>
<td>UNIAP</td>
<td>UN Inter-Agency Project on Human Trafficking in the Mekong Sub-region</td>
</tr>
<tr>
<td>UNICEF</td>
<td>UN Child and Education Fund</td>
</tr>
<tr>
<td>UNIFEM</td>
<td>UN Development Fund for Women</td>
</tr>
<tr>
<td>UNTAC</td>
<td>UN Transitional Authority in Cambodia</td>
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</table>
CHAPTER 1 Introduction: The Migration Dilemma

As the world becomes increasingly globalized, states have opened their borders to allow the exchange of goods, technology and information, yet despite these changes, states have demonstrated tremendous reluctance in opening their borders to human migration flows. The International Organization for Migration (IOM) estimates that as many as 175 million people are currently living outside of their country of birth, but the lack of legal forms of migration, especially for unskilled workers from less developed countries, has given rise to new forms of migration characterized by trafficking, smuggling and illegal migration.¹ As Western governments try to formulate policies to better deal with the large number of political refugees and economic labour migrants arriving at their borders each day, many in the international community tend to ignore the fact that migration is not exclusively a South-North and East-West phenomenon; migration also occurs within and between countries in less developed regions of the world.

Migration routes are closely linked to a state’s level of development; in the case of Asia, economic development is unevenly distributed between the East Asian economies, newly industrialized economies and less developed countries. Development, however, is neither static nor isolated. Over the past thirty years, Thailand’s economy grew rapidly, but similar improvements in development, democracy, peace and stability did not occur in neighbouring countries. Developmental discrepancies between states in the Mekong sub-region have created the supply and demand for migrant labour, with an estimated 1.2 million men, women and children from Myanmar, Lao PDR and Cambodia currently working illegally in Thailand’s

¹ The definitions of illegal migration, trafficking and smuggling, which will be used throughout this paper, are referenced in Box 4.1: Definitions of Trafficking, Smuggling and Illegal Migration. The global migration population is cited in the IOM. World Migration Report, 2003. Geneva: IOM, 2004.
unskilled labour market.\(^2\) Those from less developed neighbouring countries migrate for a number of reasons that can best be analyzed through a tri-causal migration framework based on push, pull and network factors. Migrants are pushed from their homelands by such factors as poverty and unemployment; in turn, they are pulled to Thailand by greater opportunities for employment and, in some cases, improved livelihoods. When these factors are combined with networks that facilitate migration, cross-border movements can result.

With no legal channels for labour migration from neighbouring countries into Thailand, migrants must enter the country illegally, often with the assistance of smugglers and traffickers. Once in Thailand, they are vulnerable to exploitative working conditions in Thailand’s 3D (dirty, dangerous, and difficult) labour industries. The large number of illegal migrants, and the situation of these migrants in Thailand, is a growing concern among the international community, regional governments, international organizations and nongovernmental organizations. In particular, the plight of the Burmese along the Thai-Myanmar border has gained much international attention, with the Thai government being accused of violating the fundamental human rights of Burmese asylum seekers and migrants, but there has been a near absence of research and international focus on the situation of Khmer migrants working along the eastern Thai-Cambodian border.\(^3\)

This paper aims to fill this void by investigating Cambodian migration into Thailand. As there is a paucity of resources, conclusions will be drawn from the limited information that does exist. Rather than analyzing this very specific migration route in the context of broad global trends, I propose that the best method of understanding Khmers movements is through analysis


\(^3\) Major studies that focus primarily on Burmese migrants and refugees in Thailand include: Hazel J. Lang (2002), Micheal C. Howard and Wattana Watanapun (2001), and Amornthip Amaraphibal, et al., (no date).
of aggregate data on labour market conditions in Thailand and Cambodia and migration flows, in conjunction with information collected directly from migrants. I intend to use micro-level data obtained during my experiences working for the International Organization for Migration (IOM) Regional Mission in Bangkok during 2002-2003 as a major source of information. While working on trafficking, smuggling and illegal migration issues in the Mekong sub-region, I collected an extensive number of research studies from NGOs, international organizations, universities and research centres on migration dynamics between these two countries. These sources, along with countless personal experiences and conversations with colleagues, international partner agencies, government officials, NGO staff, researchers and immigration police officers, form the basis for my assessment of migration misconceptions and realities.

Based on these sources, I have established a profile of Khmer migrants and the situations they encounter in Thailand, which will serve as the foundation for examining the characteristics of this migration route, as well as the responses utilized by various actors to address these cross-border movements. An estimated 82,000 and 88,000 illegal Khmer migrants are currently working in Thailand.4 While migration between these two countries was politically motivated during the 1970s and 1980s, when hundreds of thousands of displaced Khmers crossed the border into Thailand to escape atrocities committed under the Khmer Rouge regime, since the early 1990s, only 62,000 Khmers have attempted to claim asylum in Thailand; most in response to violence and political sensitivities arising during the 1997 political coup.5 Interviews with Khmer migrants reveal that political factors are no longer a direct cause of migration; improved economic opportunities are the new motivation.6

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6 Based on data collected in a Cambodia Development Resource Institute (CDRI) survey of 1,186 households with recently returned migrant workers, migrants’ motives are “overwhelmingly economic.” Cited in So
Khmers who migrate in search of employment opportunities in Thailand’s 3D industries are most often young men and women between the ages of 17-35 living in poverty near the Thai border. Male migrants work in construction, fisheries, farming and general labour, while women engage in agriculture, manufacturing, and domestic work. There are two kinds of Khmer migrants: long range migrants, those who travel deep into Thailand with a guide; and short-range migrants, those who choose to work on a daily or weekly basis in Thai border provinces. Regardless of the distance traveled, Khmer migration into Thailand is temporary, with few cases of permanent migration or resettlement.

Khmers migrants in Thailand experience systemic exploitation. They are forced to work long hours, with some reporting that they are forced to take amphetamines in order to work gruelling 24-hour shifts. If they receive a salary for their labour, it is 30-50% less than what Thai workers receive. Harsh working conditions and sporadic pay easily give way to situations of forced labour, slavery-like work conditions, and even murder. The worst forms of trafficking, particularly child trafficking into the organized begging or child sex industries, are also common between Cambodia and Thailand. Many Khmer children can be found begging or selling goods on the streets of Thailand. The International Labour Organization’s International Programme to Eliminate Child Labour (ILO-IPEC) estimates that there are as many as 500-1000 Khmer child

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7. In the CDRI migrant survey, of 81 journeys made by 54 long-range migrants, full payment of wages was made in only 42% of cases. Full payment means the agreed upon salary, which is consistently less than the amount paid to Thai workers. Referenced in Chan Sophal and So Sovannarith, *Cambodian Labour Migration to Thailand: A Preliminary Assessment. Working Paper 11*. Phnom Penh, Cambodia: Cambodia Development Resource Institute, 1999. According to So Sovannarith (2001): 7, at least 67 of the 1,977 surveyed male Khmer returnees from Thailand returned to Cambodia addicted to the drugs supplied by their employers.
8. The murder of migrant workers is referenced in Asian Legal Resource Centre, *Civil and Political Rights, including the Question of Disappearance and Summary Execution*. Hong Kong, 12 March 2003.
beggars in the country. There are also reports of growing numbers of young boys and girls being forced to work in the Thai sex industry. According to IOM data on Khmer children returned from Thailand, over 30% stated their occupation as selling flowers on the street; in Cambodia, “selling flowers” has become synonymous with child sex work. For Khmer men, women, and children, migration to Thailand is a high stakes undertaking; it can bring great financial rewards or it can result in trafficking, forced labour, exploitation and abuse.

The situation of these migrants has received the attention of relevant actors working on migration issues between the two countries, namely the Thai government, the Cambodian government, international organizations and nongovernmental organizations (NGOs). The migration interventions they use can be subdivided into three main categories: prevention activities aimed at stopping illegal migration, trafficking and smuggling, protection activities geared towards protecting migrants from exploitation and human rights abuses, and prosecution activities designed to indict those involved in trafficking, smuggling or exploiting migrants. Of these three possible types of interventions, prevention is the chosen solution to the problems of illegal migration, smuggling and trafficking. As a result, governments, donors and other humanitarian agencies have formulated extensive policies and programmes that attempt to stop migration mainly through poverty reduction, anti-trafficking programmes and transnational crime interventions. Despite their efforts, to date, there has been no noted reduction in cross-

\footnote{\textsuperscript{10} UNIFEM and UNIAP, \textit{Trafficking in Persons a Gender and Right Perspective: Briefing Kit}. Bangkok, no date.}

\footnote{\textsuperscript{11} There was a noted increase in young Khmer boys being trafficked to Pattaya to work in the sex industry in 2003-2004. Interview with IOM \textit{Return and Reintegration} project staff in Bangkok, 14 May 2003.}

border migration between these two countries. Why have interventions failed to eliminate, or at least reduce, cross-border movements between these countries?

I would argue that migration from Cambodia into Thailand is not preventable through policy and programmatic interventions. By using a tri-causal migration framework, based on push, pull, and network factors, to explain the causes of migration between these two countries, it becomes clear that pull factors play the greatest role in motivating Khmer migrants to search for employment in Thailand, but these factors are related to structural conditions reflective of the country’s greater level of development – conditions that cannot be altered through intervention. Relevant actors have primarily tried to prevent migration by addressing push and network factors, but this approach addresses global misconceptions of migration, trafficking and smuggling that are not reflective of current migration dynamics between Cambodia and Thailand. Misconceptions that poverty is the cause of migration, trafficking is a separate issue from other forms of migration, and migration is preventable have detracted actors from addressing the more pertinent issue – the issue of migrant exploitation. Migrant exploitation stems from the complex political, economic and cultural factors that shape Thailand’s current migration policies. While there is no simple solution for Thailand’s migration management problems, greater efforts should be made to create legal migration channels that protect Khmer workers from labour exploitation, while providing Thai employers with more legitimate access to low-cost labour supplies in the region.

In this paper, I will examine the current perceptions and approaches utilized by various governments, international organizations and nongovernmental organizations working on migration issues between Thailand and Cambodia to demonstrate how misconceptions have led to unsuccessful policy and programme responses, which ultimately pursue a course of action – the prevention of migration – that is ineffective and unfeasible. Chapter 2 will provide an
overview of the current perceptions and approaches utilized by scholars, governments, international organizations, and civil society to address Cambodian migration to Thailand. Based on an evaluation of these responses, Chapter 3 will demonstrate how three major misconceptions of migration have led to the failure of responses. Misconceptions are that poverty is the root cause of migration, trafficking is an issue separate from migration, and finally, that prevention is the solution to migration. Chapter 4 will provide recommendations on how relevant actors can better address the needs of migrants, employers, governments and the international community by developing legal channels for migration which will ensure greater protection of migrant workers in Thailand.

CHAPTER 2 Current Perceptions and Approaches to Migration

Migration is a global concern, with many states displaying a reluctance to accept immigrants for fear of strains on social welfare systems, the destruction of social order, the influx of foreign criminal elements and, in some cases, the demise of ethnic homogeneity. Based on these concerns, states are attempting to better control the in-flow of migrants through restrictive immigration policies, but these policies have not entirely prevented migration, instead they have pushed migrants to resort to illegal migration channels. A multitude of national, regional and international policies, conventions, memorandums of understanding and laws have been passed to combat illegal forms of migration around the world, but despite these efforts, illegal migration, trafficking and smuggling continue.

Those involved in developing and implementing illegal migration prevention measures must possess a better understanding of the specific causes of migration in order to determine whether interventions can actually stop illegal migration flows. Only through a thorough
analysis of the causes of Cambodian migration into Thailand can the conclusion be drawn that migration between these two countries cannot be prevented. Causal migration theories serve as a framework for understanding the interplay of push, pull and network factors and how they encourage and perpetuate migration.

The theoretical discourse on the causes of voluntary labour migration is expansive, but authors, such as Massey (1998) and Brettell and Hollifield (2000), note that the multidisciplinary nature of migration has led economist, sociologists, anthropologists and political scientists to broach the subject from diverse and sometimes contradictory standpoints. With traditional theories being based on historical immigration patterns, such as the settlement of North America and Australia, the bulk of theories remain somewhat antiquated and unreflective of current global migration dynamics. Nonetheless, theories can be subdivided into three major models: rational choice, structural, and network/globalization. A commonality among most theories is the contention that labour migration is the product of push and pull forces, forces that are based on labour supply and demand imbalances between states. Since labour migration is based on economic incentive, economic factors play the greatest role in influencing individuals' decision to migrate, though political, environmental, social, and personal reasons can also interplay to create the economic conditions leading to migration.

According to the neo-classical micro-economic theorists, such as M. P. Todaro and George J. Borjas, migration results from the rational cost-benefit assessment of local and foreign labour markets. If migrants believe that greater opportunities for employment and higher

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wages are available in other locations, they will make the rational choice to migrate. The simplicity of this model was challenged by theorists like Stark and Bloom who expanded the primary decision-making unit from the individual to include households, families and communities in their new economies of labour migration theory.\textsuperscript{16} The human capital model also adapted and expanded on classical theories by incorporating non-economic factors into individuals' decision to migrate, such as personal concerns, skill development and language acquisition.

While undoubtedly individuals, families and communities play a large role in migration decision-making processes, structural conditions also affect migration patterns. Neo-classical macro-economic theories on migration, which emerged out of the work of noted development economist Arthur Lewis, also postulate that migration is the result of push and pull forces, but they contend that these forces are the product of free market structures.\textsuperscript{17} Market forces will push and pull those from countries with an overabundant labour supply and high unemployment to countries with labour shortages. Migration is seen as a product of the natural flow of capital, with migrants' involvement in the decision-making process being insignificant. Structural factors undoubtedly influence migration flows; many of the world's migrants move from less developed countries to developed countries in search of improved economic opportunities. However, structural and ration-choice models rarely work as independent entities; the two must be considered as complementary aspects of causal migration patterns.

In comparison to the push-pull models, network theories offer a distinctive interpretation of migration, since they consider not only initial migratory movements, but their perpetuation


over time. "Migrant networks are sets of interpersonal ties that connect migrants, former migrants, and non-migrants in origin and destination areas through ties of kinship, friendship, and shared community origin."\textsuperscript{18} As migrants settle in new communities, they share information on labour market conditions and opportunities with family and relatives in their home country, spurring a chain of migration between linked communities. Networks can be a form of social capital that reduce the risks of migration; studies have found that a large percentage of migrants have family members, relatives or some contact in the destination country to assist them in migrating.\textsuperscript{19}

While the most common principles found in migration theory are based on push and pull factors, one theory alone cannot explain all migratory movements. "All theories play some role in accounting for international migration in the contemporary world ... different explanations carry different weights in different regions depending on the local circumstances of history, politics and geography."\textsuperscript{20}

Through closer analysis of the characteristics of Cambodian migrants, it becomes apparent that the typical push-pull model alone cannot explain labour migration patterns. Young Khmers facing poverty, un/underemployment and food shortages have few opportunities for improving their livelihoods in Cambodia. Though aware of employment opportunities in Thailand’s 3D industries, Khmers need networks to connect them with these job opportunities. A long history of cross-border exchange has resulted in information networks and guides who facilitate labour migration. Without these channels, few Khmers would be willing to risk

\textsuperscript{18} Douglas S. Massey et al., (1998): 42.
\textsuperscript{19} A survey of migrants from Turkey, Morocco, Egypt, Ghana and Senegal revealed that two-thirds gained information from family members or relatives prior to departure. Peter Stalker (2001): 46. Also, a survey of illegal Burmese migrants in Tak, Thailand revealed that 90% had a relative working in Thailand. Survey in Amornthip Amaraphibhal et al., \textit{Irregular Migration into Thailand: Dynamics, Policies and Protection}. Bangkok, Thailand: Asian Research Centre for Migration, Institute of Asian Studies, Chulalongkorn University, no date: 55.
migration. Consequently, a combination of push, pull and network factors is needed to create the tri-causal migration framework best suited for an analysis of the causes of Khmer migration into Thailand.  

Theoretical constructs of migration offer a structure for analyzing migration, but the perceptions and approaches used by all actors involved in formulating responses to migration between Cambodia and Thailand do not always reflect a clear understanding of the causes of migration in the local context. The actors that have the most direct impact on this migration route are the Thai and Cambodian governments and the numerous international organizations and NGOs that operate in both countries; however, global perceptions of migration adopted by more powerful Western states and the international community also shape the responses implemented by local actors. For major international players, such as the United States and the United Nations, migration is placed within the context of transnational crime.

In the past, crime was a domestic issue, but with rapid advancement in technology, international travel and business transactions, criminal activities can now easily transcend borders. In the simplest of definitions, transnational crimes are activities contrary to state and international laws that take place in more than one country, but the term has become an all-purpose container for a variety of crimes, such as terrorism, drug trafficking, weapons smuggling, money laundering, and the trafficking and smuggling of illegal migrants. Since 9/11, the international community has displayed vigour in its fight against global terrorism and transnational crime, but national law enforcement alone is ineffective in stopping these activities; greater collaboration in intelligence sharing and multilateral cooperation is required among states.

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21 Further application of this model in the Thai-Cambodian context will be undertaken in Section 3.1.
The smuggling and trafficking of illegal migrants is of utmost concern to Western democratic states, since these countries are the primary destinations for illegal migrants. International standards for state cooperation in the fight against transnational crime were formally established in the United Nations 2000 Convention Against Transnational Organized Crime, also referred to as the Palermo Convention, which includes two supplemental protocols the Protocol to Prevent, Suppress, and Punish Trafficking in Person, Especially Women and Children and the Protocol Against the Smuggling of Migrants By Land, Sea, and Air. Thailand and Cambodia have demonstrated their symbolic commitment to the principles outlined in these agendas by becoming signatories to the Convention and both migration-related protocols. These major international conventions have been used as a framework for producing regional instruments, which also focus on migration as a transnational crime issue. The Thai and Cambodian governments have been active in signing a series of declarations aimed at improving regional cooperation, such as the 1997 Manila Declaration to Prevent and Control Transnational Crime, the 1997 ASEAN Declaration on Transnational Crime, the 1999 Bangkok Declaration on Irregular Migration, and the 2002 Bali Regional Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime.

Despite pressure to comply with international and regional standards on smuggling and trafficking, both the Thai and Cambodian governments have demonstrated that acceptance does not necessarily equal compliance, especially when compliance is contrary to the financial interests of major political players. While international and regional attitudes and policies towards migration impact relevant actors concerned with Cambodian-Thai migration, the three primary actors, the Thai government, the Cambodian government, and the development community, each have their own perceptions of migration that ultimately shape policy and programmatic objectives.
2.1 The Thai Government: A Balancing Act

The Thai government’s perceptions and approaches to labour migration are reflective of the policies commonly employed by migrant-receiving countries throughout the world; policies remain centred in “older conceptions about control and regulation” that are not necessarily reflective of modern migration flows.\(^{22}\) The government has come to recognize the country’s need for migrant labour to fill shortages in 3D industries, yet there remain no legal migration channels for unskilled workers from neighbouring countries. Reflective of a balancing act, the government is attempting to simultaneously promote the economic development of the country, while protecting the integrity of Thailand’s borders; two objectives which are viewed as contradictory by many segments of Thai society. In a schizophrenic manner, the Thai government alternates between periods of harsh crackdowns, involving the arrest, detention and deportation of migrants, and leniency, dependent on labour needs and government perceptions of the magnitude of migration problems in the country.

While still in denial of migration realities, Thailand is clinging to the hope that migration can be prevented. One of their newest strategies to combat illegal migration from neighbouring countries is to promote capital export over labour import by moving 3D industries across the border into Cambodia, Lao PDR and Myanmar; thus preventing individuals from having to illegally enter Thailand to access jobs.\(^{23}\) Thailand’s National Economic and Social Development Board (NESDB) plans to invest 6.7 billion Baht (US$ 156 million) in the next five years to develop new economic zones across the Thai border.\(^{24}\) This strategy is reflective of the “flying geese pattern of development” originally coined by Japanese economist Kaname Akamatsu in

\(^{24}\) Chantrudee Theparat, “Thailand to Unveil Hub Aim at Summit.” *Bangkok Post*, 5 May 2003.
the 1930s. The model envisaged a V-shaped technological formation; Japan would play the leading role as the technological designer and delegate work to other countries in the region according to their level of development. Thailand is planning to copy this model and shift factories and agricultural productions to neighbouring countries. Whether this policy will prove successful, remains to be seen, but it is a preventative strategy focusing on addressing push factors for migration – a strategy that has not been particularly successful for the development community.

To provide a shadow of legality to the large number of illegal migrants in the country the government initiated a registration system that allows employers to bring their illegal migrant employees to specified government offices to register for temporary work permits. Registration periods have been held sporadically since 1992, but not until 1996 was registration opened to Khmer migrants. Inconsistencies are outlined in Table 2.1.1. Policy states that registered migrants are entitled to the same rights as Thai employees, including the right to receive minimum wage, with the one exception that registered migrants are banned from forming unions. However, policy has not been put into practise; migrants report that they are consistently paid less than Thai workers and continue to suffer police harassment, regardless of their registration status. In 2001, 57,556 Khmer migrants registered, but since the benefits of registration are minimal, the actual number of undocumented Khmer migrants in Thailand is probably significantly higher.


Table 2.1.1: The History of Thailand’s Registration Policy for Migrant Workers

<table>
<thead>
<tr>
<th>Year</th>
<th>Number of Provinces</th>
<th>Occupations and activities</th>
<th>Quota</th>
<th>Number Registered</th>
<th>Time Period</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996</td>
<td>43</td>
<td>27</td>
<td>No limit</td>
<td>N/A</td>
<td>No limit.</td>
</tr>
<tr>
<td>1998</td>
<td>54</td>
<td>47 activities 7 sectors</td>
<td>Based on provincial Thai: migrant worker decrees</td>
<td>90,911</td>
<td>1 year</td>
</tr>
<tr>
<td>1999</td>
<td>37</td>
<td>18 activities 7 sectors</td>
<td>106,684</td>
<td>99,974</td>
<td>1 year</td>
</tr>
<tr>
<td>2000</td>
<td>37</td>
<td>18 activities 7 sectors</td>
<td>106,684</td>
<td>99,656</td>
<td>1 year</td>
</tr>
<tr>
<td>2001</td>
<td>All provinces</td>
<td>10 sectors (inc. “special” labour)</td>
<td>No quota</td>
<td>568,249</td>
<td>6 months</td>
</tr>
<tr>
<td>2002</td>
<td>All provinces</td>
<td>6 sectors (inc. “special” labour)</td>
<td>No quota</td>
<td>409,339</td>
<td>3 months to 1 year</td>
</tr>
<tr>
<td>2003</td>
<td>All provinces</td>
<td>N/A</td>
<td>No quota</td>
<td>288,780</td>
<td>1 year</td>
</tr>
</tbody>
</table>

Table 2.1.2: Khmer Workers Registered in 2001 by Region

<table>
<thead>
<tr>
<th>Region</th>
<th>Male</th>
<th>Female</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Whole Kingdom</td>
<td>45,216</td>
<td>14,340</td>
<td>57,556</td>
</tr>
<tr>
<td>Bangkok Metropolis</td>
<td>4,982</td>
<td>3,612</td>
<td>8,594</td>
</tr>
<tr>
<td>Central Region</td>
<td>5,979</td>
<td>2,369</td>
<td>8,348</td>
</tr>
<tr>
<td>Eastern Region</td>
<td>23,517</td>
<td>7,630</td>
<td>31,147</td>
</tr>
<tr>
<td>Western Region</td>
<td>652</td>
<td>147</td>
<td>799</td>
</tr>
<tr>
<td>Northern Region</td>
<td>97</td>
<td>74</td>
<td>171</td>
</tr>
<tr>
<td>North Eastern Region</td>
<td>463</td>
<td>317</td>
<td>780</td>
</tr>
<tr>
<td>Southern Region</td>
<td>7,526</td>
<td>191</td>
<td>7,717</td>
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In comparison to Thailand’s contradictory and inconsistent illegal migration policies, the government has demonstrated greater unanimity in its efforts to eliminate the trafficking of women and children – due to the country’s lengthy history as a major source and destination for victims of trafficking. Large numbers of Khmer, Burmese and Laotian women and children are trafficked into Thailand’s commercial sex industry, but Thai and hilltribe women are also subject to domestic forms of trafficking. Trafficking is one area where the Thai government attempts to utilize all three forms of responses: prevention, protection and prosecution. Various national anti-trafficking laws have been formulated, but the policy most relevant to trafficking of Cambodian women and children into Thailand is the 2003 Thai-Cambodian MOU on Eliminating Trafficking in Children and Women and Assisting Victims of Trafficking. This Memorandum of Understanding (MOU) creates bilateral cooperation mechanisms, which provide for trafficked women and children to be treated as victims, not as illegal migrants. While there are problems with the implementation of these policies, trafficking remains the only form of migration where there is a unified attempt to assist migrant women and children.

The policy directives adopted and implemented by the government are reflective of political, social and cultural factors that influence perceptions of the role of migrants in Thai society. Globalization, capitalism and nationalism combine to create the government’s current policies that demonstrate a cultural and institutional indifference towards the situation of migrant workers in Thailand.

The Thai government’s push for rapid economic growth during the 1970s and 1980s gained the country a reputation as one of the fastest growing economies in Southeast Asia. With

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increased integration in the global market, the mass influx of consumer goods, technology, and information created major economic and social changes in the country, particularly evident from growing inequalities and consumerism. Thai economist Medhi Krongkaew sees inequality as the “flipside” of economic development in the country. Income inequalities between Bangkok and the periphery are substantial; average annual wages in Bangkok are as much as double that of rural wages. Growing disposable incomes in the capital have created an increasingly materialistic atmosphere, with spending on technology and imported designer goods rising dramatically. These exhibitions of wealth encourage some to seek out the opportunities to earn a greater income, in order to purchase readily available consumer goods and to acquire greater status and prestige.

Thailand’s unique form of capitalism offers the opportunity for those involved in the country’s informal political structure to accumulate wealth. While western-style capitalism has spread throughout the world since the end of the Cold War, capitalism cannot necessarily be branded as an example of convergence. Culture affects the characteristics of capitalism. Thailand’s unique form of capitalism is dominated by informal political structures, which give way to corruption and illegal economies. Informal politics involves the use of non-legitimate means to pursue public ends; whereas, corruption and illegal economies use illegitimate means to pursue private ends. In the case of Thailand, informal politics and corruption are so closely linked that they are virtually indistinguishable. Private individuals, such as police, border

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guards, employers, and corrupt government officials, all personally benefit from migrant exploitation, but these abuses are also beneficial to Thailand’s national development.

Integration in the global economy means that Thai businesses must find the means to reduce labour costs, in order to remain competitive with countries like China and Vietnam. By hiring migrant workers, Thai employers save an estimated US$ 3 billion per year – a savings that is beneficial for private businesses and the national economy.\(^{34}\) If Thai businesses are benefiting from migrant exploitation, corrupt Thai government officials are also benefiting, as cronyism between politicians and businessmen is the most pervasive form of corruption in Thailand.\(^{35}\)

As Pasuk Phongpaichit, a Thai scholar on police corruption notes, police and border guards’ salaries are on par with construction workers. Police in urban areas need to have their salaries tripled, if they are to cease relying on kickbacks.\(^{36}\) The ease with which employers can bribe police officers to avoid prosecution for employing illegal migrants creates little fear of encountering consequences as a result of cheating migrants.\(^{37}\) Based on a survey of available resources, there are extremely few references to employers being prosecuted for hiring illegal migrants or cheating them of salaries earned. Policies are not effectively put into practice, since police benefit more from allowing illegal migrants in the country than from preventing their entry and ensuring their swift deportation.

Despite the financial benefits of labour migration for many segments of the Thai economy, the Thai government contradictorily continues to work on preventing migrants from entering the country. A major cause of the government’s desire to prevent migration and protect


Thai borders from the "other" is based on the concept of nationalism. Nationalism shapes the policies of many migrant-receiving countries. For years, Korea and Japan have all struggled to find a balance between nationalism, which is deeply enshrouded in concepts of ethnic homogeneity in these two countries, and the need for migrant workers to fill labour voids.\textsuperscript{38} Malaysia has faced similar struggles in preserving the delicate balance between the ethnic Malay population and other ethnic groups when importing migrant workers.\textsuperscript{39}

In Thailand, the government consistently promotes the image of "Thainess" or the "Thai way of life" to instil Thai nationalism. According to Craig Reynolds, Thai nationalism has been "planted" in the minds of Thai citizens to "cultivate a sense of belonging that will make governing those fifty-five million people easier and more peaceful."\textsuperscript{40} Nationalism does not only flow from the top down to the masses, but nationalism among the masses can also be projected upwards to affect the actions of government.\textsuperscript{41} Flowing in both directions, Thai nationalism has its foundations in concepts of ethnic superiority over those from neighbouring countries. The Burmese and the Khmers have historically been the archenemies of the Thais; as such, numerous Thai governments and military regimes have used negative images of these neighbours to instil Thai nationalism. Since the capture of Angkor Wat in 1786 and the repeated carving up of various parts of Cambodia, the Khmers continue to be viewed as the weak and easily conquerable neighbour to the east. In the 1970s, the mass influx of unwanted Khmer refugees, with their horror stories of the atrocities committed just across the border from Thailand,

consolidated Thai opinions of the “barbaric” nature of Khmers. More recently, anti-Khmer statements allegedly uttered by a famous Thai actress ignited the January 2003 anti-Thai riots, which resulted in the destruction of the Thai Embassy and numerous Thai businesses in Phnom Penh.

With such negative perceptions of Khmers ingrained in Thai society, migrant workers are viewed as being illegal and inferior. According to one research survey, migrants’ illegal status raises questions in the minds of Thai people, be they officials, workers, service providers or local residents. For Thais, the idea of ‘migrant status’ being notionally lower than that of Thai nationals makes it difficult to accept that migrants should have the same access to services and protection as they do.\textsuperscript{42} The Thai government is ultimately the actor with the greatest power to determine the situation of Khmer migrants in Thailand, but complex cultural, economic and political factors shape attitudes and policies towards migrants. Thais do not want illegal migrants in their country, but the labour market’s need for unskilled workers has resulted in policies and practises that ensure the greatest benefit for the Thai economy, with little regard for the safety or rights of migrant workers. Migrant workers remain an easily exploitable human resource.

\textbf{2.2 The Cambodian Government: Negligence is a Response}

Cambodia remains a post-conflict state in economic, political and social disarray, with minimal infrastructure, an uneducated workforce, mass corruption, and recurrent violence. This situation is the cumulative effect of a century of external interventions and civil conflict, with the country enduring French colonization, American carpet bombs, Vietnamese occupation and one

\textsuperscript{42} Amornthip Amaraphibal et al., (no date): 55.
of the bloodiest regimes in memorable history – the Khmer Rouge. Despite the efforts of the 1993 United Nations Transitional Authority in Cambodia (UNTAC) peacekeeping mission and the international community to create a sustainable apparatus to support peace, stability, democracy, and economic development through market capitalism, Cambodia remains one of the poorest countries in Southeast Asia and the world. While there have been small incremental improvements in Cambodia’s economic situation, demonstrated by growth rates averaging around 6% from 1999 to 2001, 36% of the population is currently living below the poverty line. For those residing in rural border areas, Thailand is the proximal “land of opportunities” – one of the few places where Khmers have the opportunity to earn an income.

The Cambodian government’s policy is to ignore out-migration; as such, there are currently no laws preventing Khmers from leaving the country by illegal means. Unlike Thailand with a stable economic and political system, Cambodia has only experienced relative peace and stability since 1993. In those ten years, the government has had to focus the bulk of its efforts on rebuilding the country, but the civil service is undereducated, understaffed, and underpaid, resulting in a lack of capacity and political will to divert attention towards out-migration when domestic problems are so rampant.

Corruption and decentralized politics instil the benefits of ignoring cross-border migration in border provinces. Civil service salaries are low, with junior officials in border areas receiving monthly incomes as low as US$ 20 per month – an amount that is insufficient to cover more than basic subsistence. As a result, bribery is rampant. Migrants report that police, military, and border officials regularly facilitate the passage of illegal migrants and smuggled

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44 Salary information provided by Cambodian colleagues working in the civil service. Interviews, 3 February 2003.
goods into Thailand for a small fee.\textsuperscript{45} Corrupt entrepreneurs are not the only individuals benefiting from illegal migration; migrants and their families also profit. Remittance data is not available, since most migrants hand-carry savings across the border, but according to one study, Khmer migrants use remittances to cover basic consumption and investment costs.\textsuperscript{46} According to So Sovannarith, migration flows have played a significant role in the development of the Cambodian economy.\textsuperscript{47}

With the introduction of a capitalist free market system in 1991, the government has encouraged Cambodians to be self-sufficient, in part because of the government’s limited resources to assist those in need. The country lacks a basic social safety net to cover the costs of healthcare, education, and emergency situations, such as natural disasters, accidents or disability. With widespread poverty, out-migration is in many respects a source of relief for the Cambodian government.

Despite the negligence of illegal migration into Thailand, the Cambodian government has demonstrated far greater support for anti-trafficking efforts. In 1996, the National Assembly passed the \textit{Law on Suppression of the Kidnapping, Trafficking and Exploitation of Human Beings}, which was followed up by the 1999 five-year \textit{National Plan Against Child Trafficking and Sexual Exploitation}. Since funds are limited, the Ministry of Women’s and Veterans (MOWVA) and Ministry of Social Affairs, Labour, Vocational Training and Youth (MOSALVY) have focused their efforts foremost on eliminating trafficking within Cambodia. The trafficking of women and girls into Phnom Penh’s red light district besieges the country; the Cambodia’s commercial sex industry is currently characterized by child prostitution, child

\textsuperscript{45} Since the mid-1990s, the unofficial border-crossing fee was reported to be between US$ 30 to 100. Cited in So Sovannarith (2001): 7.
\textsuperscript{46} Of the 1.186 households surveyed by the CDRI, 11 bought farm/homestead land, 40 opened a small business or purchased a motorbike, and another 25 renovated or built a house. Cited in So Sovannarith (2001): 8.
\textsuperscript{47} Ibid., 8.
trafficking, child sex tourism and the highest HIV infection rate in Southeast Asia. As the government grapples to control the country's growing reputation as the paedophile capital of Southeast Asia, the problem of cross-border trafficking into Thailand remains a less urgent and contentious issue.

In the end, the Cambodian government is the actor with the least impact on the immediate situation of cross-border migration. While efforts have been made to coordinate with the international development community's humanitarian reconstruction agenda, the government lacks the political will and capacity to formulate or implement policies that are likely to have any real or immediate impact on cross-border migration.

2.3 The Development Community: Eradicate Poverty to End Trafficking

The Thai government's inconsistency and general lack of regard for the situation of migrant workers, coupled with the Cambodian government's lack of resources and capacity to effectively respond to cross-border migration, leaves the development community with a major role to play in shaping migration policies and practises. The development agenda first emerged in the late 1940s when US President Harry Truman called for the United States and other Western powers to solve the problems of the "underdeveloped areas" of the world. The modernization goal in this era was to replicate the features of "advanced" societies throughout the world – industrialization, urbanization, rapid growth, improved living standards and the

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48 Two surveys in 1994 and 1995 found that approximately 35% of Khmer prostitutes were between the ages of 12-17. Referenced in Cambodia Women's Development Agency, *The Prostitution and Traffic of Women: A Dialogue on the Cambodian Situation*, no date: 2-3. Girls as young as seven can now be found in Svay Pak - Phnom Penh's famous red light district catering to sex tourists. Cited in Donna Hughes et al., *Factbook on Global Sexual Exploitation: Cambodia*. Coalition Against Trafficking in Women, no date. Cambodia is reported to have the highest HIV infection rate in Southeast Asia at 2.6% of the total population and 30-60% of sex workers. UNDP, *Cambodia HIV Vulnerability Mapping: Highways One and Five*. Phnom Penh, Cambodia: National Centre for HIV/AIDS, Dermatology and STD, January 2000: 2.
widespread adoption of modern values. In many respects, the development agenda has not changed significantly over the past fifty years. Developed nations, such as the US, Australia, Japan and Canada, lend and donate millions of dollars to less developed countries, while international organizations and countless humanitarian organizations vie for access to this funding to assist less developed countries in “catching up.”

Since the 1970s, there has been some expanding of the concept of development away from the Washington Consensus to examine not only GDP growth rates, but also the basic needs of humans in developing countries, needs such as education, health, clean water and vaccinations. Social and political concepts of development have been incorporated into an economic development agenda; as such, the development community primarily approaches migration as a poverty problem and as a gender and child rights issue through anti-trafficking interventions.

Donors play a major role in assessing the needs of less developed countries, but assistance is not necessarily purely humanitarian; aid serves the interests of developed countries as well. The Australian aid agency, AusAID, clearly states that their objective is to advance Australia's national interest by assisting developing countries to reduce poverty and achieve sustainable development. For Australia and other developed nations, it is in their national interest to reduce the number of illegal migrants trying to enter their respective countries. Neoclassical macro-economic theories provide the “intellectual basis” for developed states' perceptions of migration; migration is viewed in the framework of unequal development. Based on a survey of immigration policies around the world, Saskia Sassen concludes that

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migrant-receiving countries are seen as "passive agents" in the migration process. In essence, the problem of illegal migration stems from poverty in less developed states in the world, rather than the greater level of development found in wealthier nations; as such, the promotion of poverty reduction through the development agenda is seen as a method of deterring migration flows. The US$ 4,116.4 million in financial aid Cambodia received between 1992-2001 can, therefore, be viewed as addressing the push factors that cause Khmer migration.

Since illegal migrants cross the border voluntarily and with free will, those individuals who are forced, coerced or deceived into migration receive greater sympathy and concern. The development community targets the worst forms of trafficking between Cambodia and Thailand, namely the trafficking of children and the trafficking of women into the sex trade. As trafficking is a crime against individuals, the greatest efforts are made to prevent trafficking before it occurs; thus, most anti-trafficking responses are prevention activities implemented in Cambodia. Since many Khmer parents rent their children to a relative, neighbour or stranger to be taken to Thailand, prevention activities emphasize providing information to parents on the dangers of child trafficking, building community networks to detect traffickers and vulnerable families, and providing assistance to poor families liable to traffic their children. Since child trafficking is closely linked to poverty, NGOs can better access the massive amounts of anti-trafficking funds by shaping poverty-reduction projects into anti-trafficking projects; micro-credit, vocational training and free education for poor families, when provided to families in rural areas near the Thai border, can also be labelled as anti-trafficking projects. These forms of prevention

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activities address trafficking, but also provide communities with alternatives to illegal migration.55

The development community is also involved in protection and prosecution activities. Care is provided to victims of trafficking in Thailand prior to their return home; most Thai-based NGOs focus their efforts on assisting the many young women trafficked into the Thai sex industry. Under the government sponsored framework of the 1999 Thai MOU on Common Guidelines of Practices among Concerned Agencies in Case Women and Children are Victims of Human Trafficking, trafficked individuals can receive special assistance from Thai government and NGO shelters.

Prosecution consistently remains the least utilized form of intervention; only recently have trafficking experts begun to shift attention towards the demand dynamics of trafficking.56 The first major donor funded project to promote the prosecution of traffickers in the region was initiated in 2003 by AusAID, but prosecution is heavily reliant upon cooperation from all levels of government, including the judiciary and the police force – making it the most difficult part of any anti-trafficking agenda.57 Unfortunately, minimal information is publicly available on the prosecution of traffickers, but in 2002, Thai police made 504 trafficking-related arrests, which resulted in only 42 prosecutions and 21 jail sentences.58 In 2002 in Cambodia, only 75 individuals were prosecuted under the 1996 trafficking law; however, this number also includes those prosecuted of non-trafficking-related forms of sexual exploitation, such as pimps and

55 Ibid., 11.
57 The Asia Regional Cooperation to Prevent People Trafficking project, which includes a prosecution component, began 1 March 2003 and includes a prosecution component. AusAID. http://www.ausaid.gov.au
brothel owners. NGOs estimate that only nine traffickers have actually been prosecuted in Cambodian courts.\textsuperscript{59}

The development community tries to fit migration into its own programmatic agenda. Whether their focus is on reducing the push factors causing migration or addressing trafficking through prevention, protection and prosecution measures, interventions reflect the perception that the prevention of illegal migration, trafficking and smuggling is the most appropriate intervention in the case of Cambodian migration into Thailand.

CHAPTER THREE The Misconceptions of Cambodian Migration into Thailand

The differing characteristics of migration routes around the world reveal the falsity in assuming that one migration model can be used to explain all forms of international migration. While the causes of migration can be reduced to push, pull and network factors, the characteristics and strength of these factors are dependent upon local characteristics of migration. The majority of actors concerned with Cambodian migration to Thailand see prevention as the solution to illegal migration, trafficking, and smuggling, as such, millions of dollars have been spent on preventing cross-border movements, but these efforts have produced no noted reduction in illegal migration, trafficking and smuggling between these two countries.

Illegal migrants and trafficking victims movements are clandestine, so precise figures are nonexistent; however, based on available migration indicators, prevention efforts have proven unsuccessful. According to the Cambodia Development Resource Institute’s study on migration

\textsuperscript{59} Ibid., 2003. According to the report, the number reported by the Cambodian government includes all prosecutions under the 1996 \textit{Law on Suppression of the Kidnapping, Trafficking and Exploitation of Human Beings}. Considering the prevalence of child trafficking within Cambodia, many of these cases likely involve child sex trafficking within the country.
to Thailand, cross-border labour migration has been prevalent since the early 1990s. The number of migrants peaked in 1997, but fell sharply in 1998 as a result of the Asian financial crisis. In 1999, the number of Cambodians rose rapidly again, almost to 1997 levels.60 Local authorities in Cambodia concur that the number of long- and short-term migrants to Thailand will continue to increase.61 Furthermore, statistics from the Bangkok Immigration Detention Centre (IDC) indicate an increase in the annual number of Khmers in detention between 1999-2001.62 If migration is increasing, then the responses formulated to prevent migration must be failing to produce the desired results.

I would argue that efforts to address smuggling, trafficking and illegal migration have failed because they are based on global misconceptions of migration, which differ significantly from the actual causes and consequences of Cambodian migration into Thailand. The three major misconceptions of migration affecting responses are that poverty is the root cause of migration, trafficking is an issue separate from migration, and prevention is the solution to migration.

3.1 Misconception One: Poverty is the Root Cause of Migration

Poverty is the most frequently cited cause of migration, and with millions of individuals from less developed countries struggling to reach Western “lands of opportunity”, poverty does appear to be a major factor. According to the tri-causal migration model, those facing poverty, unemployment and food insecurity are pushed across the border in search of improved economic

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61 Ibid., 6.
62 10,006 Khmer nationals were in the Bangkok IDC in 1999, 14,185 in 2000 and 16,488 in 2001. These figures are likely due to increases in the number of Khmer migrants in the Bangkok area, as there were no consistent long-term efforts to arrest larger numbers of illegal migrants during this time period. Statistics from an unofficial report submitted by IDC police to IOM, August 2002.
livelihoods. However, poverty alone cannot explain the current migration patterns between Cambodia and Thailand; such a simplistic reduction of the causes of migration leaves many unanswered questions. If poverty is the root cause of migration, then why have 36% of the Cambodian population, those living under the poverty line, not migrated to Thailand? Why does one Khmer migrate when his or her neighbour does not? Why do Khmer migrants travel to Thailand, when neighbouring Vietnam is also substantially more developed than Cambodia?

These questions cannot be answered easily by looking at global conceptions of migration based on such concepts as the international division of labour, globalization and global development patterns. Universal explanations are not very useful in exploring new patterns of international movements; as such, Massey calls for migration theorists to explore the "nature of migrant decision-making" if the field of migration theory is to advance and evolve to reflect migration in the twenty first century.63 Comparative analysis of micro-level structural causes, such as unemployment levels, wage differentials, quality of life, in conjunction with an examination of rational-choice causes of migration through migrant surveys and interviews in the local context is the best method of determining the more specific root causes of migration.64

Based on an assessment of push factors, underemployment, landlessness and debt are the three major characteristics that distinguish Khmers who migrate from those who choose to remain in Cambodia. Seventy-four percent of the total population is reliant upon the agricultural sector for their main means of employment.65 Rice production is the primary source of livelihood, but Cambodian rice yields are among the lowest in Southeast Asia. Most villages only produce one rice crop per annum, leaving Cambodians to rely on other sources of income

64 Ibid., 15. Massey proposes that a renewed interest in the "nature of migrant decision-making" and in "migrants themselves" will offer better insight into the causes of migration.
for the remaining three-quarters of the year.\textsuperscript{66} Low rice yields and poor market prices mean that agricultural earnings amount to only one-third of rural families' income, resulting in 35\% of Khmers working two or more jobs to maintain basic food security. Yet, there are few non-agricultural opportunities in border provinces – only 15.3\% of rural Cambodians are wage employees.\textsuperscript{67}

As the country develops and integrates into the global economy, new industries emerge, but few employment opportunities have materialized in the provinces bordering Thailand. Over 160,000 Khmer workers are employed in the country’s fastest growing revenue earner – the garment industry, but garment factories are primarily located in and around Phnom Penh.\textsuperscript{68} Tourism is another rapidly expanding employment sector, but these opportunities are concentrated around Angkor Wat complex in Siem Reap, resulting in few tourism-related opportunities in common migrant-producing border areas.\textsuperscript{69} With extremely limited employment opportunities, Khmers have few options other than cross-border migration.

Khmer migrants possess one major characteristic that distinguishes them from their neighbours who chose to remain in Cambodia; migrants come from Cambodia’s newest class – the landless farmer. Approximately one to twelve percent of rural households in Cambodia are landless, but around 47\% of cross-border migrants possess no land and an additional 23\% possess less than one hectare.\textsuperscript{70} In 1989, the country embarked on a shift from a centralized command economy to a free market capitalist system; land was decollectivized in the process.

\textsuperscript{67} Mark Godfrey et al. (2001): 8-9.
One to two hectare plots were distributed, with all Cambodian citizens receiving full land use and inheritance rights. Landlessness is particularly prominent in Cambodian-Thai border provinces due to prolonged Khmer Rouge violence in this region. Many of the Khmer refugees forced to flee to Thailand originated from border provinces. When land was distributed in 1989, many had not yet returned to Cambodia, so they could not receive their entitlement. Ninety-two percent of interviewed returnees from Thailand remain landless today. Many of these same individuals are among those most likely to migrate to Thailand.

Two other factors contribute to landlessness: population growth and distress sales. Cambodia experienced a post-war baby boom, with 69% of the total population currently being under thirty years of age. Khmer parents traditionally offer a portion of their land to their children when they marry, but as large numbers of children reach marrying age, land becomes subdivided to such an extent that family plots are insufficient in size to enable family subsistence. Many parents have had to stop this tradition, which has led to landlessness becoming pervasive among young Khmer families. The correlation between population growth, landlessness and migration has been documented. Youth aged 15-24, who comprise 18% of the total population, represent 30% of Khmer migrants to Thailand, and young adults aged 25-29, who comprise less than 8% of the population, represent 13% of migrants. Land constitutes most Cambodians' only valuable asset that can be sold for revenue. Official policy forbids the sale of land, but officials disguise land sales as "gifts"; a de facto policy which is problematic in

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a post-conflict country plagued by poverty.\textsuperscript{74} Distress sales become a common means for immediate survival.\textsuperscript{75}

As such, distress sales and high-interest loans are the two most common means for Cambodians to instantly raise cash. Without a social safety net, Khmers are left with few other sources of credit in emergency situations, such as sudden medical expenses, poor crop yields, and gambling debts. Formal credit channels are not open to rural Khmers, as farmers lack sufficient collateral, so local moneylenders are the main source of credit, but these private businessmen charge exorbitant interest rates of 10-30\% per month.\textsuperscript{76} Interviewed migrants listed debts as a primary reason for migrating to Thailand.\textsuperscript{77} In the CDRI migrant survey, of the total 81 journeys, 60 were financed by moneylenders.\textsuperscript{78} IOM reports further confirm that half of families who send their children to Thailand have substantial debts to moneylenders.\textsuperscript{79}

The perception that poverty causes migration, while accurate, does not precisely enough explain the individual factors that push Khmers to migrate to Thailand. Underemployment, landless and debt, as well as geographic proximity, distinguish migrants from non-migrants, but few of the development community’s interventions target those Khmers most vulnerable to migration, focusing instead on nationwide poverty reduction; as such, the development community’s interventions create little impact on the number of cross-border migrants.

Based on the tri-causal migration model, push factors alone cannot explain Khmer migration, network and pull factors must also be factored into an analysis of the local causes of

\textsuperscript{74} Viviane Frings (1994): 56.
\textsuperscript{75} According to the Oxfam landless survey conducted with 4,000 landless households throughout the country, 87\% of Khmers who lost their land, had lost it due to distress sales. The survey is cited in Jacqueline Desbarats and Sik Boreak, “People and Land in Rural Cambodia.” Cambodia Development Review Vol. 4, Issue 3 (September 2000): 6-10.
\textsuperscript{76} Chan Sophal and So Sovannarith (1999): 3.
\textsuperscript{77} Ibid., 4.
\textsuperscript{78} Ibid., 8.
migration to establish the reasons why Khmers almost exclusively migrate to Thailand. If improved employment opportunities are the major pull factor for migration, then more Khmers would migrate to countries with higher wage rates in the unskilled labour market, such as Singapore, Taiwan and South Korea. Malaysia's need for unskilled labour resulted in a bilateral MOU between Malaysia and Cambodia, which allows for limited legal forms of migration, but there are currently only about 11,000 Khmer workers in the country.  

Since few Khmers can afford the fees associated with migration to Thailand, even fewer numbers can afford migrating to more distant locations. With geographic proximity comes centuries of shared interaction, which have resulted in network linkages between countries with common borders. These network linkages facilitate and perpetuate migration patterns – patterns that have not yet been developed between Cambodia and Malaysia.

Neighbouring Vietnam has reached a far greater level of development than Cambodia, but research indicates that the only Khmers working in Vietnam are Khmer beggar children in Ho Chi Minh City. The Khmers and Vietnamese have a long history of cross-border interactions and rivalries, which culminated with the Vietnamese occupation of Cambodia (1979-1989) following their defeat of the Khmer Rouge. Shifting borders and turbulent wars resulted in large numbers of ethnic Khmers residing in the region of Vietnam known as Kampuchea Krom and, similarly, large numbers of ethnic Vietnamese residing in Cambodia.

Despite Vietnam's greater level of development and the established transnational networks between Cambodia and Vietnam, there are no employment opportunities for Khmer migrant workers. Vietnam began on the “new socialist path to market capitalism” in 1986, with

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the government’s initiation of *doi moi* reforms. While these reforms have improved Vietnamese’ earning potentials, the shift from state-owned to private enterprises has led to increasing unemployment.\(^{82}\) As such, there is not a strong demand for migrant labourers. Furthermore, the Hanoi government exerts strong pressure on the south to control “social evils.” Illegal migration falls under the jurisdiction of the Services Against Social Evils Section of the Department of Labour, Invalids and Social Affairs (DOLISA), making it a priority concern. With no serious demand for migrant workers and strict enforcement of immigration laws, there is no incentive for Khmers to migrate to Vietnam, even for those Khmers living near the Vietnamese border.

Based on an assessment of Khmer migration patterns, I would argue that while a combination of push, pull and network factors is needed to facilitate cross-border migration, the pull of Thailand’s employment opportunities ultimately has the greatest impact on migration patterns between Cambodia and Thailand. Thailand’s demand for migrant workers in the unskilled labour market is directly correlated with the country’s current stage of development. Despite the country’s reputation for coups and constant changes in government, since the 1970s, various Thai administrations pushed towards rapid economic development by seeking out foreign direct investment, opening domestic markets to greater integration in the global market, and following the lead of other Asian economies in shifting from an agricultural to a manufacturing economy. Thailand soon earned a reputation as one of Asia’s miracle economies, with one of the highest GDP growth rates in Southeast Asia.\(^{83}\)

Developmental growth leads to the migration transition, a condition associated with demographic change. In early stages of economic growth, states have high birth rates and declining mortality rates, leading to population growth and out-migration – similar to


Cambodia’s current stage of development. In latter stages of growth, falling fertility rates and declining population growth lead to labour shortages and in-migration – Thailand’s current stage of development. Changing demographics, rising income levels and increasing university enrolment all contribute to fewer numbers of Thais willing to work in the country’s unskilled labour market. Even when Thailand became the centre point of the 1997 Asian financial crisis and official unemployment figures increased from 1.5% to over 4%, Thais largely refused to take up 3D employment.

Labour shortages in Thailand’s 3D industries are substantial. According to estimates cited by the Thailand Development Resource Institute (TDRI), Thailand needs at least 86,895 workers to perform 3D jobs in 18 activities throughout 37 provinces to rectify the current labour shortage crisis. The millions of poor individuals from less developed countries become the much-needed supply to fill these labour shortages; thus, by-products of development create the pull incentives for Cambodian migration. When these by-products are compounded with the cultural, political and economic conditions which lead to readily available jobs opportunities, weak enforcement of immigration laws, and easy access to network conduits, pull factors induce Cambodian migration into Thailand.

To validate this contention, the only time over the past ten years when the number of Khmer migrants in Thailand declined was following the 1997 financial crisis. With the temporary collapse of the economy, the demand for migrant workers to fill labour voids

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84 The migration transition is referenced in Stephen Castles, “New Migrations, Ethnicity and Nationalism in Southeast and East Asia.” Transnational Community Organizations, no date: 2.
86 Ibid., 13.
diminished; Khmer migrants noted a significant reduction in the ease of securing employment. Careful analysis of migration patterns reveals that there is a direct correlation between the strength of the Thai economy and the number of migrant workers. As job prospects significantly declined between July 1997 and December 1998, immediately following the crisis, so did the number of illegal migrants.

Table 3.1.1: Changes in Prospects of Finding Work and Securing Payment

<table>
<thead>
<tr>
<th>Percentage of Journeys</th>
<th>Before July 1997</th>
<th>July 1997 to December 1998</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total percentage of journeys</td>
<td>100</td>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td>( \cdot ) in which jobs were easily found</td>
<td>88</td>
<td>40</td>
<td>59</td>
</tr>
<tr>
<td>( \cdot ) in which jobs were not easily found</td>
<td>12</td>
<td>60</td>
<td>41</td>
</tr>
<tr>
<td>( \cdot ) in which more than half of payments were not provided</td>
<td>21</td>
<td>58</td>
<td>43</td>
</tr>
</tbody>
</table>

Despite indicators that substantiate the strong effect of pull factors on Khmer migrants to Thailand, interviews with these migrants best reveal the true motivations for migration. In the CDRI survey of 1,467 return migrants from Thailand, four main reasons for migration were given: a lack of opportunities in Cambodia, higher wage rates in Thailand, inspiration from the success of other return migrants, and a means to repay severe debts. The last three of these four reasons are directly linked to greater earning potentials in Thailand. Khmers typically earn three to five times more in Thailand than they do in Cambodia, as outlined in Table 3.1.1.

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89 Ibid., 4.
Table 3.1.2: Comparative Daily Earnings of Cambodians Working in Cambodia and in Thailand (April/May 2000 in USS Per Day)

<table>
<thead>
<tr>
<th>Type of Work</th>
<th>Average Earnings in Cambodia</th>
<th>Type of Work</th>
<th>Average Earnings in Thailand</th>
<th>Both</th>
<th>Men</th>
<th>Women</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fishing</td>
<td>0.5</td>
<td>Fishing</td>
<td>3.5</td>
<td>3.5</td>
<td>--</td>
<td>--</td>
</tr>
<tr>
<td>Agriculture</td>
<td>0.8</td>
<td>Agriculture</td>
<td>2.2</td>
<td>2.1</td>
<td>2.2</td>
<td></td>
</tr>
<tr>
<td>Construction</td>
<td>1.6</td>
<td>Construction</td>
<td>3.7</td>
<td>3.8</td>
<td>3.1</td>
<td></td>
</tr>
<tr>
<td>Food Processing</td>
<td>1.5</td>
<td>Food Processing</td>
<td>3.9</td>
<td>4.0</td>
<td>3.7</td>
<td></td>
</tr>
<tr>
<td>Hunting/gathering</td>
<td>0.5</td>
<td>Porter</td>
<td>6.1</td>
<td>6.2</td>
<td>3.9</td>
<td></td>
</tr>
<tr>
<td>Firewood collection</td>
<td>0.7</td>
<td>Garments</td>
<td>3.5</td>
<td>--</td>
<td>3.5</td>
<td></td>
</tr>
<tr>
<td>Motortaxi driver</td>
<td>1.9</td>
<td>Shop Work</td>
<td>3.2</td>
<td>3.9</td>
<td>3.2</td>
<td></td>
</tr>
<tr>
<td>Handicrafts</td>
<td>0.8</td>
<td>Other</td>
<td>4.8</td>
<td>5.4</td>
<td>4.6</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>0.9</td>
<td>Average</td>
<td>4.0</td>
<td>4.3</td>
<td>3.3</td>
<td></td>
</tr>
<tr>
<td><strong>Average</strong></td>
<td><strong>0.8</strong></td>
<td><strong>Average</strong></td>
<td><strong>4.0</strong></td>
<td><strong>4.3</strong></td>
<td><strong>3.3</strong></td>
<td></td>
</tr>
</tbody>
</table>

This explains why so many Khmers are willing to risk migrating into situations of exploitation, cheating of salaries and trafficking, when the “migration lottery” can yield such substantial payouts.

If wages offer the greatest incentives for migration, reduction in wage rates should reduce cross-border movements, as was the case following the 1997 financial crisis. Some Khmer migrants have become increasingly leery of undertaking migration, as instances of exploitation, cheating of salaries, and police harassment have risen since 1997. Some have decided not to risk re-migrating to Thailand until they are sure that the economy has improved. Others are only

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travelling across the border as short-range migrants to reduce the risks of returning with no earnings. However, encouraging the increased cheating and exploitation of illegal migrants is obviously not an appropriate response to illegal migration, nor is discouraging Thailand's national development. Strategies, such as Thailand's proposed investment projects and the development community's poverty reduction programmes, are not the most effective solution to illegal movements into Thailand, since they focus on push factors which are not the primary cause of migration; yet, limiting the incentives that pull Cambodians to Thailand is not a feasible option.

3.2 Misconception Two: Trafficking is a Separate Migration Issue

The modern-day slave trade evokes international and regional responses that display unanimity and commitment to the anti-trafficking agenda. Thailand has become a focal point for anti-trafficking interventions due to its reputation as a major sending, receiving, and transit country for the trafficking of women and children into the sex industry. Media images of young girls kidnapped or forced to serve a procession of men only to return home to die of AIDS are a "powerful driving force" for the elimination of trafficking. While these images are common, but it is unclear how representative they are of trafficking realities.

Unfortunately, no accurate data exists on numbers of victims of trafficking. The US estimates that close to one million women and children are trafficked annually, including 250,000 from Southeast Asia, but the clandestine nature of movements, widely divergent

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definitions and interpretations of trafficking, and confusion over the distinction between trafficking and smuggling creates misconceptions of the nature of trafficking.\footnote{Trafficking numbers from the U.S. Department of State. \textit{Trafficking in Persons Report, 2003}. Washington D.C., 11 June 2003.} According to UNESCO, “When it comes to statistics, trafficking of girls and women is one of several highly emotive issues which seem to overwhelm critical faculties. Numbers take on a life of their own gaining acceptance through repetition, often with little inquiry into their derivations.”\footnote{Trafficking numbers from the U.S. Department of State. \textit{Trafficking in Persons Report, 2003}. Washington D.C., 11 June 2003.}

Trafficking is considered in a separate context from smuggling and illegal migration, but the causes and consequences of trafficking are not different enough from other forms of migration to justify a clear separation in responses. I would argue that trafficking, smuggling and illegal migration share one commonality – migrant exploitation. Focusing on trafficking as a separate issue perpetuates the misconception that trafficking is purely a women and children’s problem. While most organizations have the best interests of women and children at heart, Western cultural and contextual perspectives on such controversial issues as prostitution and child labour create myths of trafficking, which may not accurately reflect the realities of trafficking between Cambodia and Thailand.

All Khmer migrants to Thailand are illegal migrants, but the distinction between smuggled and trafficked migrants is central to an analysis of trafficking realities. According to the \textit{UN Protocol Against the Smuggling of Migrants By Land, Sea, and Air}, smuggling occurs when a migrant procures the services of an individual (smuggler) to facilitate illegal entry into another country.\footnote{Trafficking numbers from the U.S. Department of State. \textit{Trafficking in Persons Report, 2003}. Washington D.C., 11 June 2003.} Virtually all Khmer migrants, especially those travelling deep into Thailand, solicit the services of a guide, who can also be labelled a smuggler; as such, most Khmer illegal migrants have been smuggled into Thailand. Only those traveling short distances are able to cross the border without assistance, but even then, border gangs are known to roam the Thai-
Cambodian border to solicit ransom from Khmers attempting to migrate to Thailand or re-enter Cambodia.97

The UN views trafficking as an issue separate from smuggling, evident from creation of two separate protocols on smuggling and trafficking. The 2000 UN Protocol to Suppress, Prevent, and Punish Trafficking in Person, Especially Women and Children offers the most widely accepted definition of trafficking. According to the Trafficking Protocol, trafficking more or less possesses similar characteristics to smuggling, with the exception that trafficking is explicitly for the purpose of exploitation and it implies a greater degree of coercion. The distinction is problematic, since the protocol does not provide a clear definition of exploitation. According to the Oxford Advanced Learner’s Dictionary, two relevant definitions of exploitation are: “a situation in which someone treats someone else in an unfair way, especially in order to make money” and “the fact of using a situation in order to get an advantage for yourself.”98 As such, exploitation is a highly relative concept; Thai employers may be able to personally justify their inhumane treatment of illegal Khmer workers, while the international community criticizes them for trafficking.

The widespread exploitation of virtually all Khmer migrant workers matches the general definition of exploitation, but also the more specific examples cited in the Trafficking Protocol. According to interviews with migrant returnees, the greatest problems encountered in Thailand are smuggling fees, cheating of salaries, threats of arrest by Thai authorities, and forced drug use.99 If most Khmer migrant workers experience situations of exploitation, then the lines between trafficking and smuggling become blurred. Violence, coercion and exploitation are also

96 See Box 4.1: Definitions of Trafficking, Smuggling and Illegal Migration.
an integral part of smuggling, making it problematic to discuss smuggling separate from trafficking. To better describe the complexity of distinguishing trafficking from other forms of migration, Kritiya Archavanitkul developed a continuum of trafficking which emphasizes the victim’s awareness of potential forms of exploitation prior to migration.\textsuperscript{100} As such, the line between trafficking and smuggling is dependent upon the individual circumstances of each migrant. In most cases, the causes of trafficking and other forms of migration are the same, except for in the rare situations of abduction or kidnapping.\textsuperscript{101} Based on this continuum, most Khmer migrants fall in the middle of the spectrum, which is a grey area somewhere between the worst forms of trafficking and voluntary migration.

The international community has made great efforts to distinguish trafficking as a separate issue from smuggling and illegal migration; trafficked migrants are viewed as victims and smuggled migrants are seen as voluntary lawbreakers. Groups concerned with the rights of marginalized and vulnerable segments of society are the organizations most prominently involved in anti-trafficking programmes; as such, trafficking has become a prostitution, a women’s and a children’s issue – an agenda that does not reflect the realities of trafficking into Thailand.

There is a tendency amongst those working on the issue of trafficking to equate trafficking with prostitution. Virtually all articles on trafficking interchangeably use the concepts of trafficking and prostitution. The concept of trafficking first surfaced at the turn of the twentieth century with the “white slave trade”, which involved the abduction and transport of European women to the colonies for prostitution. The first ever convention on trafficking, the

\textsuperscript{100} See Box 4.2: The Trafficking Continuum.

\textsuperscript{101} Of those victims of trafficking returned through the IOM Return and Reintegration project, only 7\% reported being “sold, abducted, and physically or sexually abused by the trafficker prior to their journey.” IOM (2003): 7.
International Convention for the Suppression of White Slave Traffic, was passed in 1910, followed by the subsequent 1921, 1949 and 2000 conventions on trafficking. Even in the early twentieth century, these conventions were criticized, as they “failed to recognize less visible forms of coercion – economic, cultural, social, and psychological” which push women into prostitution. Abolitionist attitudes towards prostitution dominated with the implicit assumption that no women would voluntarily enter the profession of prostitution.

In the 1980s, the growing attention of Western feminists and the development community towards the issues of women and development (WID), HIV/AIDS and sexual exploitation, led to a re-emergence of the trafficking discourse. It was not until this time that “non-white” women were added to discussions on trafficking, since trafficking was perceived to be correlated with the low status of women in underdeveloped countries. Western attitudes and biases on women’s rights and prostitution still enter into the modern-day trafficking debate, since trafficking programmes are for the most part designed and run by international, Western dominated organizations.

The historical links between trafficking and prostitution shed light on the connection between these two concepts, but trafficking does not always equal prostitution. There are two major problems with this assumption: first, it neglects to consider the large number of women who voluntarily enter the sex industry, and secondly, it neglects the vast other forms of labour trafficking that likely represent the majority of trafficking cases.

The image of young girls forced into prostitution ignores the cultural, social and economic factors that push many women to enter the sex industry. The concept of prostitution

102 Follow-up conventions were the 1921 International Convention for the Suppression of the Traffic of Women and Children, the 1949 UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the 2000 UN Protocol to Suppress, Prevent, and Punish Trafficking in Persons, Especially Women and Children.

implies a coercive form of employment, but many women voluntarily enter the sex industry. As a result, a distinction must be made between prostitution and sex work based on the concept of agency. There are thousands of migrant women in Thailand’s commercial sex industry, but to assume that all of these women are there under duress would be a naïve denial of the complex situational motivations that attract women to the sex industry. Many “trafficking victims” and their families are aware that the jobs offered to them are in the sex industry. With limited employment opportunities in their home countries, families are enticed by the wealth other female migrants have accumulated in the Thai sex industry. “If they are successful, they will be able to buy a house, consumer goods, and the respect of their family and neighbours.” However, the links between traffickers and sex workers are not as clear as many working on the anti-trafficking agenda would anticipate. In one study of sex workers in Thailand, only 13.5% of women working in brothels had been introduced to the sector by agents or middlemen – most entered through introductions by friends or by self-arrangement.

Governments and NGOs often treat sex workers as “vulnerable and passive objects who are incapable of making reasonable judgements”; women who consequently need to be rescued and rehabilitated. Raids on brothels can result in migrant women struggling with NGOs for their right to continue working at their place of employment, demonstrating that victimization is a relative concept. Of course there may be girls in a brothel against their will, but in that same brothel there may be girls working there willingly, which needs to be taken into account.

According to Loff and Sanghera, “arbitrarily picking out one subset of trafficking as an issue of greater worthiness has a distorting effect.” While anti-trafficking programmes undoubtedly assist many women in need, they most often target Thai, hilltribe, Burmese and

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105 In this survey, the nationality or ethnicity of sex workers was not specified. Ronald Skeldon (2000): 18.
Laotian women, as these are the women most commonly engaged in the Thai sex industry. According to those working on trafficking issues in Thailand, there are relatively small numbers of Khmer women working in the sex industry.\(^{108}\) This is likely due to Thai cultural preferences for light skin. Khmer women typically have darker skin; as such, they are considered to be less beautiful. In the context of Khmer migration into Thailand, prostitution is not a priority issue; as such, Khmer migrant women are not likely to be the beneficiaries of assistance from anti-trafficking programmes.\(^{109}\)

Since few Khmer female migrants have been trafficked into the worst forms of labour, instances of trafficking into other sectors have gone unnoticed due to an overemphasis on prostitution. Increasing numbers of women are migrating to Thailand to fill voids in the unskilled labour market, demonstrative of a growing feminization of labour migration. Khmer women are most often employed in the manufacturing and domestic work sectors in Thailand – two sectors that are internationally recognized as having high instances of exploitation. Manufacturing sectors around the world almost exclusively hire female workers, especially in underdeveloped nations where women are considered to be the reserve workforce to be hired and laid off in correlation with global export trends. According to Khmer workers in the manufacturing sector in Thailand, factory owners often call police to arrest illegal migrant employees when wages are due to be paid; the fees for bribing police are less than the total amount of back wages.\(^{110}\) Since most Khmer migrants use networks of smugglers and illegal


\(^{107}\) Bebe Loff and Jyotia Sanghera (2002): 566.

\(^{108}\) According to IOM staff who regularly interview Khmer migrants at the Bangkok Immigration Detention Centre (IDC) and staff who assist at Ban Kredtrakarn, the primary government shelter housing foreign victims of trafficking, there are few noted cases of Khmer women working in the Thai sex industry. Interviews with IOM Bangkok staff, 14 May 2003.

\(^{109}\) For example, the IOM *Return and Reintegration* project for the Mekong Sub-region aims to assist trafficked women and children; however, only 4% of those assisted were women, the remaining 96% were children. Data from IOM (2003): 4.

employment recruiters to secure work in Thailand, these factory workers can be considered victims of trafficking; they were deceived by a trafficker and transported across the border to work as slave labour.

NGOs speculate that migrant women working in Thailand as domestic workers endure some of the most potentially exploitative situations. As more Thai women enter the workforce, migrant women from less developed neighbouring countries are needed to perform domestic work. Female domestic workers are subject to isolation and dependency on their employer for the fulfilment of their basic human needs, which increases their vulnerability. These women work behind closed doors, out of the public eye, in situations ripe for exploitation and violence, yet relatively little is known of the conditions of Khmer domestic workers, since they are not a primary concern for anti-trafficking programmes. Female migrant workers, whether they are engaged in the sex industry or any other labour sector, are vulnerable to harassment, physical abuse, sexual abuse and trafficking.\footnote{Khmer female migrants report instances of physical abuse and sexual harassment. So Sovannarith (2001): 7.}

The recognition that women may be particularly vulnerable to instances of trafficking has led to the rider “women and children” being added to most anti-trafficking conventions, reports, documents, and programmes, but this rider turns trafficking exclusively into a women and children’s issue. The reality exists that women may be more prone to greater instances of exploitation than male migrant workers, but equating trafficking with women perpetuates the myth that women are victims. Only recently have some women’s groups begun to move away from the “woman is victim” interpretation and move towards a greater understanding of the complexities of migration, trafficking and prostitution.\footnote{Ronald Skeldon (2000): 18.}
Even in the case of child trafficking, there are misconceptions that all Khmers under the age of 18 years of age working in Thailand are victims of trafficking. Children are more vulnerable to situations of exploitation, especially when parents are the ones involved in placing them in those situations, such is the case of Khmer children who are rented or sold by their parents to work in the organized begging industry or the child sex industry. Child trafficking is a serious crime, but there are problems in assuming that all child migrants are victims of trafficking. Many Khmer children accompany their parents to Thailand in search of employment opportunities; children who work alongside their parents are not victims of trafficking. Of Khmer children assisted through the IOM Return and Reintegration project, 28% migrated with their parents.\textsuperscript{113} While many organizations, such as ILO-IPEC and UNICEF focus on child labour issues, Khmer children who accompany their parents to Thailand are not representative of child labour.

Child labour is defined as work performed away from the family that is detrimental to the child’s development, whereas child work is work done at home or with the family.\textsuperscript{114} Cultural factors are central to distinctions between child labour, child trafficking and child work, since poverty and tradition encourages children to begin working at a very young age. According to the UN Trafficking Protocol, “The recruitment, transportation, transfer, harbouring or receipt of a child (anyone under 18 years of age) for the purpose of exploitation shall be considered ‘trafficking in persons’”, but the age of 18 is a contentious issue, as cultural factors greatly influence perceptions of adulthood. While “voluntary” migration is subjective, the degree of exploitation encountered in Thailand may be significantly less than that experienced at home, particularly in the case of abusive family environments. The trafficking of children is not always

\textsuperscript{113} IOM (2003): 7.
negative – it can offer improved living conditions. Some teenage Khmers have spent more time in Thailand than in Cambodia. For them, Thailand offers the opportunity to escape poverty, boredom and unemployment back in Cambodia. Age does not necessarily correlate with greater degrees of exploitation anymore than gender does.

Based on migration misconceptions, women and children are victims of trafficking, while men are smuggled; yet, if trafficking means that an individual is exploited and unable to change his/her situation, many male workers in Thailand are victims of trafficking. Those working on Thai fishing vessels experience some of the most exploitative working conditions of all Cambodian migrants in Thailand. Khmer fishermen report that they must sign a one-year contract with total pay being disbursed at the end of the year. Many fishermen finish their contracts, but do not receive any salary in return – a situation equivalent to trafficking into slavery-like work conditions. In the CDRI study, villagers reported that some of their sons and husbands had never returned home, speculating that that they were used and dumped at sea. Male migrant workers also experience high degrees of exploitation and coercion, which according to the UN protocols is the primary distinction between trafficking and smuggling, but no consideration is given to the situation of male migrants in the anti-trafficking agenda for Thailand, Cambodia or the rest of the world.

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115 Thirty-nine percent of Khmer children participating in the IOM Return and Reintegration project did not want to return to their families; they preferred to remain at an NGO shelter so they could attend school or else return to Thailand. Data from IOM (2003): 9.

116 According to Raghu (1997) trafficking “includes any situation where women or girls cannot change the immediate conditions of their existence, regardless of how they got into those conditions.” Cited in Andrea M. Bertone (2000): 6. This definition is also reflective of the main concept found in Box 4.2: The Trafficking Continuum.

117 In one instance, 76 Khmer fishermen were rescued in Indonesian waters after being denied wages and an opportunity to leave the vessel. Cambodia. Ministry of Foreign Affairs and International Cooperation. Press Release. 18 May 2001.

By making trafficking a separate issue from smuggling and illegal migration, there is a much greater consensus from the Thai government, the Cambodian government and the development community as to who victims of trafficking are – they are sex workers and children. However, profession, gender and age are not necessarily valid criteria for determining the degree of exploitation encountered by Khmer migrants in Thailand. By focusing responses on select target beneficiaries, relevant actors have perpetuated the myths of trafficking, which are not reflective of the realities of migration. Virtually all Khmer men, women and children in Thailand encounter exploitative situations; migrant exploitation is the real problem.

3.3 Misconception Three: Prevention is the Solution to Migration

Governments, international organizations and nongovernmental organizations have consistently tried to prevent Cambodian migration into Thailand, but improving livelihoods in Cambodia is a slow process and reducing the demand for unskilled workers in Thailand is a condition that cannot easily be altered through intervention. The final factor in the tri-causal migration model, networks, offers the last piece of the puzzle that demonstrates that migration between Cambodian and Thailand cannot be prevented through intervention. Based on the global transnational crime agenda, major state actors have chosen to view the networks that facilitate the smuggling and trafficking of migrants across borders as a global problem, but in the case of these two countries networks are not part of global criminal operations.

The United States estimates that the trafficking of women and children generates US$ 6 billion per year for criminal syndicates; the third largest source of profits for organized crime, after guns and narcotics.\textsuperscript{119} International criminal networks smuggle and traffic migrants across

multiple borders and continents to reach their final destination; in the early 1990s, US investigators identified over 60 different smuggling routes from China to the US.\textsuperscript{120} There are some links between smuggling networks and organized crime syndicates, but these networks do not appear to be well enough established to support a migration–transnational crime nexus.

Publicly available intelligence on crime networks is limited, but it would be presumptuous to assume that the same transnational crime syndicates that are involved in terrorism and the arms trade also control most trafficking and smuggling networks. Major criminal networks are comprised of highly organized, internationally connected groups who often commit crimes with political or ideological purpose. In contrast, smuggling is an operation that requires minimal start-up or organizational capital. Small-time entrepreneurs and petty criminals can easily facilitate the cross-border movement of goods and people, especially in geographically proximate countries plagued by corruption and illegal economies.

Of the few studies that reference the migrant smugglers involved in Khmer migration into Thailand, there is no evidence to suggest that these individuals are linked to more organized international criminal groups.\textsuperscript{121} Transnational crime between these two countries is better described as small-scale, isolated activities that do not require organizational or physical capital from larger international syndicates. The most serious of crimes occurring across the Thai-Cambodian border are gun smuggling and drug smuggling, but these activities are rare in comparison to the daily smuggling of illegal goods, wildlife, antiquities and migrants.\textsuperscript{122} All of these transnational crimes, however, are more accurately described as a bilateral problem, since their activities rarely have far reaching impacts on the international community. Addressing

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{120} Ibid., 14.
\item \textsuperscript{121} References to smuggling networks are provided in Chan Sophal and So Sovannarith (1999), So Sovannarith (2001), Anneka Farrington (2002), and Sonia Margallo and Lath Poch (2002).
\end{itemize}
\end{footnotesize}
illegal migration and trafficking through the transnational crime agenda is based on a major misconception of migration that better serve the interests of more developed states in the world; the transnational crime agenda is not applicable in the case of Cambodian-Thailand cross-border movements.

While Cambodian migration into Thailand is not an organized transnational crime issue, networks still facilitate and perpetuate the movement of Khmer workers across the border into Thailand’s unskilled labour market. Networks were originally formed from the constant shifting of the Thai-Cambodian border, reflective of the relative strength or weakness of the Thai and Khmer kingdoms throughout history. During the sixteenth century, the invading Thai army captured Khmers and transported them back to Thailand to work as slave labour. Transnational communities of ethnic Khmers emerged in Thai border provinces. More recently, new ethnic Khmer communities cropped up, after thousands were displaced because of Khmer Rouge violence; despite the efforts of the Thai government and UNTAC to repatriate all remaining Khmers in 1993, ethnic Khmers residing in Thai border regions continue to make up one of the country’s many minority ethnic groups. These transnational communities help create networks that link Khmers to jobs in Thailand. With regular interactions and cross-border exchanges between these two countries, networks of buyers, sellers, agents, employers and workers spread and perpetuate migration, but attempting to cut these links is impossible; networks are the unbreakable by-product of history, globalization, development and geography.

If migration cannot be prevented through the many policies and programmes that address the push, pull and network causes of migration, then the central issue becomes one of understanding why actors continue to support prevention efforts as a solution to migration. Prevention efforts serve the interests of those involved in formulating responses to migration; as such, there is little desire to divert from the status quo when misconceptions of migration
perpetuate donor priorities and current policy and programmatic approaches. Migration prevention efforts in less developed areas of the world potentially benefit developed countries. Developed countries turn migration into a transnational crime issue in order to gain greater cooperation from less developed countries in preventing illegal migrants from reaching developed countries. Despite evidence that Cambodian migration into Thailand is an isolated occurrence with few global repercussions, developed states are unwilling to alter a policy that benefits their interests – whether that policy be applicable or not.

For the development community, Cambodia remains a country plagued by poverty, social problems, corruption, lawlessness and violence, as such international organizations and nongovernmental organizations aim to promote the economic, social and political development of the country, with a particular focus on protecting children and women from encountering instances of trafficking. There is an emphasis on prevention activities in Cambodia, but interviews with migrants and victims of trafficking reveal that pull factors play the greatest role in inducing migration. Since Thailand is no longer in need of development assistance and Cambodia is, shifting from prevention to protection would require a shift in funding from a priority country to middle income country – a proposition that does not fit into the concept of development assistance; as such, prevention efforts in Cambodia remain a major focus of interventions.

For the Cambodian government, any form of external finance, whether it arrives in the form of technical assistance, donor-funded projects, loans or migrant remittances, is beneficial for reconstruction efforts. The government will continue to willingly agree to the international agenda, so long as funds continue to flow into the country; however, this “official” commitment does not necessarily translate into cooperation and implementation at all levels of governments.
In most migrant-receiving countries around the world, immigration is a hotly debated topic. Xenophobia creates fears that countries will be overrun by immigrants from far off nations, fears that manifest in the emergence of right wing anti-immigrant groups in countries like the Australia, Austria, Canada, Germany and the US. Similar attitudes are reflected in Thai government policies towards migrant workers. Workers are viewed as being detrimental to Thailand – they take jobs from needy Thai workers, spread communicable diseases, cause social unrest, and engage in criminal activities, but there is little evidence to substantiate these claims.

Migrants do not steal jobs. Evidence has already demonstrated the unwillingness of Thai workers to engage in 3D labour, which results in a strong need for migrant workers. Despite public fears of migrants reintroducing previously eradicated diseases and other communicable diseases into Thai host communities, of a sample of 63,878 migrants' medical records, only three migrants were forced to leave the country due to infection and an additional two percent of workers were forced to undergo treatment; as such, 98% of sampled migrant workers were free of communicable diseases – evidence which weakens the government’s position that migrants present a serious public health threat.123

Migrants are accused of causing social unrest, based on prevalent essentializations of those from neighbouring countries. Media reports perpetuate these stereotypes by depicting migrants in a negative light – focusing on the few migrants involved in criminal activities rather than the greater number of migrants who are victimized by Thai employers.124 In general, the


124 The 2003 destruction of the Thai Embassy in Phnom Penh received mass media coverage in Thailand. In comparison, the report of a single instance in which 21 Burmese migrant workers were found murdered was only covered for one or two days in January 2002, after which the incident was no longer mentioned. No suspects have yet to be apprehended. Data based on regular surveys of the Bangkok Post and The Nation, 2002-2003.
Thai public sees migrants as the unwelcome “other”, but in one study conducted in major migrant host communities, the opinions of local Thais depended on whether they had regular contact with migrants; those who had not, viewed migrant populations as producing “adverse consequences”, but the few who had interacted with migrants saw them as an extension of traditional networks and exchanges, since they have been working in Thailand for over 100 years.125

Furthermore, a clear correlation between migrant populations and crime has not been established. Few foreigners from neighbouring countries are currently serving time in Thai correctional facilities for non-immigration related criminal activities, such as murder or drug-related offences. The Burmese are the largest group of foreign detainees in Thai prisons, with 3,967 incarcerated; only 362 Khmers are currently in Thai prisons.126 With an estimated 1.2 million migrants from neighbouring countries in Thailand, these numbers are quite low; however, it is unclear exactly how representative these figures are of migrant criminal activities.

The Thai government has also been incredibly anxious about the availability and use of amphetamines, such as *yaba*, among the Thai population – an anxiety which has prompted the recent “war on drugs.”127 In an effort to eradicate all drugs from the country, Prime Minister Thaksin Shinawatra gave Thai police the authority to use any force necessary to apprehend those involved in drug smuggling; over 2,000 drug criminals have died, including those shot by police.128 Most *yaba* is reportedly manufactured by the Wa Army in Myanmar’s Golden

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125 This field research study was conducted in Samutsakhon and Tak near the Myanmar border. Unfortunately, data from host communities near the Cambodian border could not be located. Amornthip Amaraphibal et al., (no date): 40.
Triangle region and then smuggled into Thailand. While foreigners are undoubtedly involved in the drug smuggling business, drug use is based on demand, but the Thai government prefers to label the country’s *yaba* problem as a foreign problem rather than a reflection of changes in Thai society and youth culture. Through the transnational crime agenda, the smuggling of drugs and migrants are linked, but interviewed migrants do not report being asked to transport drugs when they migrate in search of employment. A direct correlation between drug smugglers and migrant workers has never been established. With most migrants merely seeking an opportunity to earn a living, many travelling to Thailand with their spouses and children, it seems unlikely that many are involved in criminal activities; their motives are to avoid police detection not encourage problems.

Thai attitudes towards migrants manifest in policies reflective of the securitization of migration – an agenda common throughout Asia and the world. Politicians maintain “symbolic control over territorial boundaries” to “reassure the integrity of what is ‘inside.’” Creating outside threats, whether real or imaginary, justifies the continued need for a protector state.\(^\text{129}\) However, there is little to substantiate Thai claims that Khmer workers pose a threat to Thailand’s prosperity, security or social order. The only real threat is the potential for migrants to weaken the ethnic homogeneity in the country; Thailand has spent over 70 years attempting to culturally assimilate minority groups, such as the Chinese, Laotians and hilltribe groups. Yet, the financial benefits of migrant workers seem to outweigh most “social” concerns, evident from the Thai government’s weak and contradictory position on labour migration.

The justifications used by the Thai government and other organizations to support continued prevention efforts are weak. Migration from Cambodia to Thailand cannot be

prevented. The solution to migration is not found in improving the quality of life of Khmers in Cambodia. The solution is found in policies that protect Cambodian workers from exploitative situations and prosecute those involved in mistreating migrant workers. Migrant rights groups have tried to petition the Thai government to improve the treatment of migrant workers, but the Thai government is the actor with the ultimate power to change labour migration policies. For the government, there is little incentive to change current policies, when policies are shaped by cultural, political and economic factors that perpetuate migrants' unequal status in the country.

CHAPTER FOUR Alternative Solutions: Legal Channels for Migration

A small number of NGOs focus their efforts on improving the situation of migrant workers in Thailand through activism activities, consistently broaching the subject from a human rights standpoint. Organizations, such as Human Rights Watch, the Asian Legal Resource Centre, Asian Forum for Human Rights and Development, and the NGO Network on Migrant Workers, see migrant exploitation as a violation of fundamental human rights, but the human rights agenda is not the most appropriate framework for addressing migrant exploitation.

Human rights emerged as a major discourse following World War II, with the United Nations taking on the primary responsibility of developing and elaborating human rights concepts through a series of legally and morally binding instruments. Two basic schools of thought emerged: the universalists and the cultural ethicists/relativists. Universalists believe in the fundamental importance of human rights irrespective of locality and region; cultural ethicists look at the values found in local cultures.\(^{130}\) Based on these different constructions of freedom

and human rights, some Asian governments, such as the Thai government, have argued in favour of cultural relativism in the application of human rights standards.

To challenge the standard international human rights convention, the *Vienna Declaration on Human Rights*, Asian countries created the *Bangkok Declaration on Human Rights*, which was the first of many messages sent by state representatives that Asia intended to set its own standards for human rights, even if they were contrary to the “universal” human rights created by the West. While there are numerous differences in these two conventions, the main distinctions are that the *Bangkok Declaration* places a greater emphasis on collective rights over individual rights, and it strongly supports notions of cultural relativism, sovereignty and the right to development – ideas which are often associated with the “Asian values” debate. According to numerous prominent Asian leaders, including Singapore’s Lee Kwan Yew, Malaysia’s former Prime Minister Mahathir and Thailand’s current Prime Minister Thaksin Shinawatra, “Asian values” are the unique political, economic and cultural values found in Asia, values that are contrary to Western individual-based conceptions of human rights. While the concept of Asian values is a subject of much debate, with authors such as Simon Tay and Mark Thompson questioning this use of cultural relativity, it nonetheless is a principle that is demonstrative of the cultural relativity and lack of universality of the human rights concept.

Government attitudes towards human rights have obvious impacts on the applicability of the concept of migrant rights in Asia. Migrant rights emerged out of growing international concern over racism, discrimination and the inhumane treatment of migrant workers around the

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world. As a result, the 1990 UN *International Convention on the Rights of Migrant Workers and Members of their Families* was designed to create “measures to improve the situation and ensure the human rights and dignity of all migrant workers.” The convention sets out the obligations and responsibilities of states through the concept of “equality of treatment.” Article 25, paragraph 1, establishes that “Migrant workers shall enjoy treatment not less favourable than that which applies to nationals of the State of employment in respect of remuneration and other conditions of work and terms of employment.” Migrant rights are grouped in two categories: rights available for all migrant workers (including the undocumented) and rights only available for documented workers. Even in the Convention there is an emphasis on preventing illegal migration, but basic human rights are still accorded to migrants in an illegal situation.

Thus far, the convention has gained little international acceptance, with many states reluctant to guarantee equality for migrants and their families, especially in regards to minimum wage and social welfare benefits. Not until July 2003 did the Convention finally have the 22 ratifications necessary to make it enforceable, but none of the signatories are economically or politically powerful states. Most ratifying states are poor countries with vested interests in migrant rights, since they are major exporters rather than importers of migrant workers, such as Mexico and the Philippines. Thailand is not a signatory. States around the world have demonstrated a lack of support for this convention, which demonstrates a lack of international consensus on the rights of migrant workers. Thus, when international human rights groups criticize Thailand for migrant rights abuses, their criticisms are largely based on Western

133 U.N., *International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*. New York: The United Nations, 1990. Other relevant international instruments are the ILO *Migration for Employment Convention* No. 97 (1949) and the Migrant Workers (Supplementary Provisions) Convention No. 143 (1975), but this convention also has received few ratifications.

134 Ibid.

“norms” of human dignity, but these criticisms lack the backing of any universally agreed upon standard for the treatment of migrant workers, especially the treatment of illegal migrant workers.

The human rights agenda is a problematic vantage point from which to address migrant exploitation. As Gurowitz notes, increased migration and a growth in civil society organizations has created a convergence in the form of migrant activism in Asia, but activism has not been well received by many governments in the region. In northern Thailand, rights groups known for assisting Burmese refugees and illegal migrants have been harassed and even closed down by Thai police. Despite the good intentions of these groups to petition governments to improve human rights, even scholars disagree as to whether international norms on migrant rights have any real positive impact, especially outside of Europe and North America. With the concept of human rights being steeped in Western connotation, I prefer the term exploitation to describe the situation encountered by migrant workers in Thailand, since it possesses less of a western-biased connotation. While the concept of exploitation is also vague and open to interpretation, it nonetheless provides a more acceptable framework from which to examine the instances of abuse, debt-bondage, cheating of salaries and forced labour encountered by migrant workers in Thailand.

If the Thai government holds the power to ultimately determine the status and situation of illegal Cambodian migrants in Thailand, efforts need to be made to create policies and programmes which better reflect the realities of cross-border migration, while protecting migrants against extreme situations of exploitation. According to the Asian Legal Resource Centre,

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137 Instances of police harassment of migrant activist groups in Thailand cited at monthly Burmese Border Consortium (BBC) meetings in Bangkok, Thailand. Personal Attendance at Meeting, October - November 2002. Unfortunately, there are few activists working on improving conditions for Khmer workers in Thailand.
human rights abuses are committed against migrants in Thailand, without fear of legal or judicial intervention, as these migrants cannot avail of protection under domestic law due to their illegal status in the country. As such, providing unskilled workers from Cambodia, Lao PDR and Myanmar with legal channels for migration is the most effective and plausible solution to Thailand’s current migration situation.

Since 1992, the Thai government has demonstrated its acceptance of limited forms of legal labour migration through the migrant registration system. According to policy, registered migrants are entitled to equal pay and equal rights with Thai workers, but the system has failed to protect migrants on two major counts. The registration system does not establish official channels for labour recruitment, meaning all migrants must illegally enter the country to obtain temporary legal status – a situation that might actually encourage illegal migration. Secondly, the registration system has never been fully implemented. Registered migrants are still paid less that Thais and continue to be subject to exploitation and police harassment. With few incentives for registration, the number of registering migrants has consistently declined since 2001; as a result, the Thai government announced that it plans to cancel the registration system as of 2004.

This acknowledgement of the system’s failure has encouraged the Thai government to look to other Asian nations for examples of more successful migration management practises. While not one Asian country today operates an active immigration policy, more developed countries like Japan, South Korea, Hong Kong, Singapore, and Taiwan have accepted that unskilled migrant workers serve a necessary function in their respective economies. All have programmes that allow some form recruitment and temporary employment of unskilled workers.

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139 Asian Legal Resource Centre. Civil and Political Rights, including the Question of Disappearance and Summary Execution. Hong Kong, 12 March 2003.
Following their lead, in 2003, the Thai government embarked on a new policy direction by signing an MOU with Lao PDR to initiate the country’s first temporary guest worker programme – subsequent MOUs are planned for Cambodia and Myanmar.

Under Thailand’s bilateral MOU system, a provincial ceiling for the number of migrant workers will be set each year. If employers are unable to find Thai workers to fill 3D positions, they can specify the skills required and the labour-sending country will select suitable migrants. Migrants will then travel to Thailand without their families to work for an initial two years, with the possibility of a two-year renewal, followed by a mandatory three-year stay at home. While employed under contract in Thailand, migrants are to be treated as local workers and guaranteed the same wages and benefits.\textsuperscript{141}

Guest worker programmes, such as this one, have been used in countries around the world for more than half a century, with some being more successful than others. The most common criticism of these programmes is that there is nothing temporary about guest workers. Large numbers of Turks remain in Germany, Mexicans linger in the United States, and Southeast and South Asians overstay in many East Asian countries following their temporary placements.\textsuperscript{142} Regardless of criticisms over temporary guest worker programmes, Thailand’s MOU policy is a significant improvement over the registration system. It establishes formal recruitment procedures, allows migrants to legally enter the country, and sets out a consistent employment period; however, it remains uncertain whether the new guest worker programme will actually have a positive impact on the situation of migrant workers in Thailand.

While undoubtedly a triumph on paper for migrant workers, I speculate that the MOU system will face the same fate as the registration system. I assert that the registration system

\textsuperscript{141} Ibid., no page.
failed to translate into the improved treatment of migrant workers because it over-ambitiously guaranteed migrants equal pay with Thai workers, a policy contrary to the primary cause of migration – the Thai labour market’s need and desire for low-cost labour. The only effective means of improving migrants’ work conditions in Thailand is to develop a migration management policy that will actually be put into practise. Unless policies are in the best interests of the government, employers, police and border guards, they will not be implemented. For these Thai actors, there are no incentives for paying or treating migrants as equals. Thai employers want to maximize their profits, but hiring official migrants through the MOU programme requires compliance with minimum wage standards; as such, it will be cheaper to hire illegal migrants than to hire official temporary workers. Illegal migration and migrant exploitation will continue unabated.

I propose that the most realistic means of ensuring the compliance of Thai officials and employers with any legal system of labour migration is to legally allow employers to pay migrant workers less than minimum wage. Other countries around the world possess two tiered pay systems. Migrants in Japanese and South Korean apprentice programmes are paid a special reduced rate.\textsuperscript{143} Migrant domestic workers in Hong Kong are also paid at a lower rate than national workers.\textsuperscript{144} In principle, all workers should be treated as equals, regardless of ethnicity, but in practise, unskilled labour migrants are often paid less, whether they possess legal or illegal status in the host country.

While a somewhat controversial opinion, I believe that any policy that guarantees equal wages and rights for migrant workers in Thailand will fail. The Thai government should stop

\textsuperscript{143} Katherine H. S. Moon (2000): 149.
\textsuperscript{144} In February 2003, the Hong Kong government announced that it would cut migrant domestic workers salaries by HK$ 400. Hong Kong’s labour migration policies are outlines in Hong Kong.Labour Department. Importation of Labour: Foreign Domestic Helpers, 2 June 2004.
trying to appease the international community by promising the equal treatment of migrants and instead create a system that better reflects the actual needs of migrants, employers and the government. While human rights groups would consider paying migrants less than minimum wage, contrary to the principle of equality and a form of exploitation in itself, I would argue that the best way to protect migrants from severe instances of exploitation, such as trafficking, debt-bondage, and slavery-like work conditions, is to allow Thais to "exploit" them by paying them less than Thai workers. After the policy gains acceptance and migrants have been legally working in the country for some time, then greater efforts can be made to increase wages and improve opportunities for migrants. In the meantime, providing legal forms of migration will offer more immediate relief to exploited migrants in Thailand.

Cambodian migrants, Thai employers and the Thai government would all benefit from a guest worker programme that pays migrants less than minimum wage. Khmer migrants earn significantly more in Thailand than they earn at home, so long as they are not cheated out of their salaries. Migrants merely want to earn an income adequate to remit savings to their families. Provided migrants continue being paid at current levels, which are still on average 30-50% less than what Thai workers earn, but three to five times more than they earn in Cambodia, workers will be satisfied with their wages. Khmer workers are not demanding equal rights nor are they seeking to permanently migrate to Thailand. They are merely seeking a means of earning an income, while escaping arrest, police harassment, and cheating by smugglers and employers. With legal channels, migrants would be less prone to cheating by smugglers and traffickers and they would be able to seek police assistance and prosecute employers in situations of abuse.

Thai employers want to maintain access to low-cost labour from neighbouring countries. They might be more willing to comply with labour migration laws if those laws better represented their financial interests. In general, businesses want to avoid legal complications and
costly encounters with corrupt officials. Providing employers with low-cost labour within a legal policy framework will offer them legitimate access to migrant workers that will still satisfy their labour needs.

While my proposal offers a plausible solution to Thailand’s migration problems, there are some challenges in ensuring its implementation. Police and border guards financially benefit from the in-flow of illegal migrants, providing legal channels would cut them out of a significant source of supplemental income. Police compliance in ensuring the implementation of any policy is dependent upon the will of higher levels of government. Since the government and businesses would benefit from my proposed scheme, there might be more incentive for government to crackdown on police corruption involving migrant workers. I also speculate that by creating legal channels for migration, fewer migrants will see the benefits of risking illegal migration; as such, police and border guards will not have as many opportunities to corrupt the system.

The Thai government’s main source of anxiety is how to avoid an uncontrollable flood of illegal migrants entering the country. With less developed, politically and economically unstable countries surrounding much of Thailand, the perceived threat of migration is a serious concern for the government. The best method of preventing illegal migration, smuggling and trafficking is to allow legal forms of migration. The primary cause of migration between Cambodia and Thailand is the strong demand for migrant workers. By satisfying this demand with legally recruited migrants, the incentives for illegal migration will be reduced. When 3D jobs are adequately filled with legal workers, migrants will be less willing to risk searching for employment in Thailand since the opportunities will be few – a situation reflective of the decline in migration following the Asian financial crisis.

Alas, there is no perfect solution to Thailand’s migration dilemma. With so many different actors broaching the subject from diverse and often contradictory standpoints,
misconceptions of migration have clouded responses; responses that have sought to prevent migration through poverty reduction, anti-trafficking programmes and the anti-transnational crime campaign, despite the inapplicability and ineffectiveness of these agendas. Opening the country to legal forms of migration is the first step, not only in preventing illegal migration, trafficking and smuggling, but also in protecting migrants from situations of exploitation.

Providing legal status to migrant workers, however, will not change negative perceptions of those from neighbouring countries that manifest in mistreatment and abuse, but racism and discrimination are global problems with few immediate solutions. Few countries actively support immigration policies that allow unskilled migrant workers to fill labour voids, despite the willingness of these countries to allow the inflow of goods, technology and information. With most countries adopting market capitalism as their chosen path to development, migration management policies should be tailored to more accurately reflect global labour supply and demands. Migration is not a “crisis” in need of preventative interventions; it is the natural product of development. As long as there are improved opportunities for employment in other countries, individuals will continue to migrate, such is the nature of global capitalism. Rather than denying global realities, countries should embrace migration for the vast array of benefits it can offer, not only for migrants but also for receiving countries.
### Box 4.1: Definitions of Trafficking, Smuggling and Illegal Migration

#### UN Protocol to Suppress, Prevent, and Punish Trafficking in Person, Especially Women and Children

Article 3, Section (a) – Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or the use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

Section (b) – The consent of a victim of trafficking to the (intended) exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means, set forth in subparagraph (a) of this article, have been used.

Section (c) – The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article.

Section (d) – “Child” shall mean any party under eighteen years of age.

#### UN Protocol Against the Smuggling of Migrants By Land, Sea, and Air

Article 2 – “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.

#### Working Definition of Illegal Migrants

Illegal migrants, also called undocumented or irregular migrants, are those individuals who do not possess legal status in the receiving country as a result of illegal entry or overstay.

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Box 4.2: The Trafficking Continuum

<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
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</thead>
<tbody>
<tr>
<td>Totally Forced</td>
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<td></td>
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<td>Voluntary Migration</td>
</tr>
</tbody>
</table>

A = Victims are forced and/or kidnapped, and trafficked.

B = Victims are given false information, and are trafficked into a type of business other than the type promised, i.e. unknowingly being trafficked into the sex industry.

C = Victims are aware of the kind of work, but not the conditions.

D = Victims are aware of the kind of work and the work conditions, but they are not aware and/or able to foresee the difficult situations they may encounter.

E = The workers are aware of the kind of work and the work conditions, but are not given an alternative work site, i.e. lack of freedom of movement.

F = The workers are aware of the kind of work and the work conditions, and they are able to select their work site.

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Map 4.1: Map of Cambodia, including provinces

Map 4.2: Map of Thailand

The boundaries and names shown and the designations used on this map do not imply official endorsement or acceptance by the United Nations.

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Department of Peacekeeping Operations
Cartographic Section


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