

Work Permits for Migrant Workers in Thailand: Challenges and Recommendations for Implementation During the COVID-19 Pandemic

Nipapan Jensantikul¹

¹ Faculty of Humanities and Social Science, Khon Kaen University

Abstract

This article aims to examine the challenges faced by migrant workers in acquiring work permits during the COVID-19 pandemic through a documentary study that compiles data from secondary sources, including laws, regulations, relevant documents, textbooks, research papers, and academic articles, composed of 7 laws and 34 volumes of documentation about migrant workers in Thailand in 2019, employing content analysis for information synthesis. Addressing the critical research gap in policy implementation about work permits for migrant workers in Thailand. It is motivated by the significant increase in the demand for identity recognition to access rights, welfare, and fair remuneration.

The research revealed that the COVID-19 epidemic is restricting permit acquisition owing to governmental measures, notwithstanding the extension of the timeline. The service method is complex, the service channel is limited, and processing is lengthy; also, the evaluation of costs for migrant worker registration is inconsistent due to the COVID-19 pandemic. The regulations pertaining to the cost rate for migrant worker registration should be revised in accordance with current conditions. Government agencies should systematically establish a centralized technical system for foreign workers' data centers to collect information on both migrant workers and employers concerning current economic statistics and labour demand, thereby determining the necessary number of migrant workers to improve labour protection for migrant workers in all sectors and occupations, including the care in informal and non-standard forms of employment.

Keywords: Work Permits, Migrant Workers, Implementation, COVID-19, Thailand

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1. Introduction

The spread of COVID-19 in 2020 posed a serious global health threat. The pandemic has brought huge human and economic costs. The policy advice followed by many governments was to implement lockdowns affecting selected economic activities alongside with school closures and the restriction of movement. This early advice was later supported by reports of COVID-19 outbreaks that were registered in workplaces [1][2].

There are more and more migrant workers coming to work in Thailand nowadays. This is due to the expansion and economic growth from the agricultural sector to the industrial and service sectors [3]. The structure of the labour market creates a large demand for

labour, as well as economic factors that are expanding rapidly and continuously. With the presence of multinational business investors from the west and east to establish production bases, there is a large demand for labour. In addition, some types of jobs, which Thai people see as disrespectful jobs, also known as 3D jobs, namely dirty, dangerous, and difficult rely on migrant workers from neighboring countries such as Myanmar, Laos and Cambodia, etc [4][5].

Thailand is still a country with higher daily wages compared to the neighboring countries. As a result, the people of some neighboring countries such as Myanmar, Cambodia and Laos try to enter Thailand to come to work with a salary that is more than their own country by entering legally and

*Corresponding author; e-mail: nipajen@kku.ac.th

smuggled in illegally. For this reason, there is a policy to manage the challenges of migrant workers in Thailand as follows: 1) Strike a balance between law enforcement and migrant worker rights protection, as appropriate, by adhering to the principles of economic stability, national security, and the stability of the labour force to ensure proper integration. 2) There should be an additional sub-committee in the Royal Thai Air Force (RTAF), such as a sub-committee for overseeing the human rights of migrant workers to improve the working methods of the sub-committees or working groups that have been appointed by reporting the results to the sub-committee for facilitating the administration of foreign workers in the whole system and the sub-committee for facilitating and coordinating security issues related to solving the problems of migrant workers. 3) The government sector's resources, such as budgets, personnel, tools, and equipment, must be properly allocated so as to be in line with the management of more and more foreign workers entering Thailand, as well as to create cooperation with the public sectors and the Non-Governmental Organizations (NGOs). 4) The Ministry of Public Health should collaborate with other related government sectors, consider allocating budgets for health care services, determining more options for providing health insurance for migrant workers as well as relying on cooperation with private hospitals and clinics to participate in more migrant workers' health insurance programs. 5) The Department of Labour Protection and Welfare should play an active role in ensuring that migrant workers are protected in accordance with labour law. In general, it should increase the number of labour inspectors and monitor establishments that employ special migrant workers. 6) The government should protect migrant workers who come to work in the country. It should be monitored whether migrant workers are working as agreed with the recruitment agency or agencies and there should be clear sanctions against brokers who defraud migrant workers along with providing accurate information to employers and workers to prevent scams from recruiters. 7) Reducing the year-to-year pressure to hire greater number of migrant workers. It should speed up the restructuring of production allowing entrepreneurs to turn to technology instead of using cheap labour but

low productivity, which will help Thailand to maintain a competitive advantage in the global market. In other words, the government should vigorously support the reduction of the employment of low-skilled migrant workers by creating appropriate incentives as well as elevating the issue of migrant workers to the national agenda. 8) On the issue of the Memorandum of Understanding (MOU) proposal, the government should facilitate migrant workers from neighboring countries who enter legally to be able to apply for work permits in the country more conveniently. To reduce the process and cost of importing migrant workers from Laos, Cambodia and Myanmar and expedite the establishment of a One Stop Service (OSS) system between Thailand and neighboring countries of all nationalities for the process of nationality verification, work permit applications, and appointing officials to be directly responsible, as well as the decentralization of power to the provincial level, especially for early-morning workers and seasonal workers. 9) An efficient and clear database system should be created for migrant workers entering Thailand urgently. To use common goals for all parties involved in labour in security matters and the quality of life of workers. 10) Encourage and promote the Asian labour market's expansion and labour mobility in order to achieve more comparable skill standards [6].

For the registration of workers, workers can be registered per license in the country. Group 1: Domestic Memorandum of Understanding (MOU), signed four years ago on March 31, 2021. Group 2: People who had a pink card that must be carried out in accordance with the Cabinet Resolutions on August 20, 2020 (Nationality Proving Group OSS, Pink Card Group) but not implemented. Group 3: Notification of a Memorandum of Understanding (MOU) more than 30 days in advance, change of employer on time. Group 4: Aliens holding border pass cards.

The migrant workers must have a work permit, which is a document issued to foreigners or migrant workers to confirm that they can work legally. Work permit renewal allows them to apply for renewal before the license expires by one month and the work permit can be renewed for no more than 2 years at a time. Subsequently, the migrant work permit was converted into the E-Work Permit,

which is a work permit issued through a computer system in the form of a plastic card or smart card, which is easy to carry. There is a protection system against forged documents that is effective and efficient. The staff can use a smartphone to check the QR Code that appears on the card. This will greatly facilitate and support security officials in the investigation of migrant workers [7].

Nevertheless, there was still a challenge in the registration process and the process was delayed, although Thailand has several laws related to the management of migrant workers, including the Immigration Act, Migrant Worker Act, Foreign Worker Act, Labour Protection Act, Foreign Business Act, Occupational decree and professions that are prohibited by foreigners, Investment Promotion Act, Industrial Estate Authority of Thailand Act, Special Export Act and Human Trafficking Act. The management of migrant workers involves many laws, causing many agencies and government officials to be involved, therefore affecting management's effective law enforcement and compliance [8].

In addition, the COVID-19 pandemic caused many businesses to shut down for extended periods. As a result, workers lost their income, with some being laid off due to the prolonged business disruptions and government-imposed health measures. As a result, employers have to surrender to this situation. Workers are entitled to social security; however, it was found that these workers decided not to register for compensation because they did not understand their rights to social security payments, largely due to a lack of understanding of their rights and the inability of some workers to communicate in Thai. All registration documents are in the Thai language which made the registration process seem overly complicated and inaccessible for them. Additionally, accessing medical treatment often required long-distance travel, resulting in significant costs. As a result, most workers decided not to register for compensation [9] [10].

From the above-mentioned challenges, the authors gathered information from secondary documents such as laws, regulations, related documents, textbooks, books, research papers, academic articles in order to propose the recommendations in response to the relevant

challenges. The following data analysis methods were used.

2. Objectives of the Study

To analyze the challenges encountered by migrant workers in Thailand in obtaining work permits during the COVID-19 pandemic and to synthesize the recommendations in response to the challenges.

3. Data and Methodology

This study adopts a documentary research approach, collecting data from secondary sources such as laws, regulations, relevant documents, textbooks, research papers, and academic articles, employing content analysis for information synthesis.

4. Review of Literatures

Globalization and economic forces have resulted in migrant workers being smuggled in illegally, both registered and unregistered. The driving factors for migrant workers include the insecurity of life and property due to domestic conflict, unemployment and poverty, but migrant workers are also faced with exploitation by the agencies, negative working conditions, physical abuse and sexual harassment violence from officials, and also the ethnic bias.

The study found that the Royal Decree on Occupations and Occupations Prohibited for Foreigners, B.E. 2522, contains vague descriptions and ambiguous classifications for certain occupations.

The enforcement of the Foreign Worker Management Emergency Decree B.E. 2560 can be affected in consideration in terms of necessity. "The unavoidable necessity" and in Section 131 Paragraph 2, the employer has the power to seize the work permit or the employee's identity document if the employee agrees. The provisions herein are contradictory to the 1990 International Convention on the Protection of the Rights of Migrant Workers and Families (ICRMW) in Article 21, which states that: "Employers of migrant workers are prohibited from seizing passports and clearly states that only authorized government officials are allowed to seize or destroy licenses, a border pass, a residence permit or a work permit." And this provision is contrary to the provisions in Section 6/1 of the Anti-Trafficking in Persons Act B.E. 2551 stipulates

that "Confiscation of that person's identity document is a form of forced labour or service in which those who do so will be guilty of human trafficking." According to the Anti-Trafficking in Persons Act, B.E. 2551, the restriction of the employee's right to travel and the right to take advantage of their property.

In addition, in terms of materials, equipment and technology, it was found that the operators had a shortage of modern and efficient office supplies and technology. In terms of personnel, it was found that the operators still lacked of language skills. Language is an important element in the communicative process that has a profound influence on migrant workers' ability to modify ethnic identity [11]. While the threat of COVID-19 is indiscriminate, the impact of the virus does discriminate. Migrant workers' health, well-being and livelihoods, and that of their families and communities, are being disproportionately impacted, yet these workers are being predominantly excluded by government policy responses to the crisis. The pandemic has underlined that migrant workers, especially migrant workers, are often excluded from accessing the COVID-19 support measures implemented by the countries in which they work, including financial support packages, wage subsidies, income support, and social protection [12].

5. Results and Discussions

The results of the analysis of challenges and recommendations in the management of migrant workers found that:

5.1 Challenges in the work structure because applying for a foreign worker permit must follow bureaucratic steps. There is a lot of documentation, and it has to be carried out according to the prescribed procedures. Even during the COVID-19 outbreak, examples of the problems include: 1) incomplete documentation of migrant workers [13]. 2) during the COVID-19 epidemic situation, resulting in service restrictions and measures that must be followed by the government. As a result, migrant workers cannot access the foreign worker registration service. 3) The service process is complicated, and there are limited-service channels. 4) The calculation of the cost of applying for a foreign worker's registration is inconsistent with the COVID-19

epidemic situation; 5) Prolonged processing times [14] affected migrant workers' ability to access medical treatment, as they lacked valid labour licenses. Without access to treatment, they became more likely to spread the disease. It can be observed from the data on the outbreak in construction worker camps.

5.2 Challenges related to employer liability arise when foreigners work illegally. These workers lack valid licenses, and the penalties for employers are relatively low compared to the profits gained from their businesses. As a result, employers often neglect to renew labour permits.

5.3 Challenges of illegality of foreign workers in the case of not having a work permit. It may lead to social crimes because of a lack of income. It is a time when foreign workers lack income and have no stability in their lives. If you are sick, you cannot be cured. Therefore, it may cause crime and violence.

5.4 Challenges in the lack of knowledge about related laws of the officer to manage migrant workers, such as foreign labour law, immigration law, public health, work regulations, work procedures, announcements of the Cabinet, and lack of language skills for communicating with migrant workers. Migrant workers will receive treatment rights according to the type of health insurance they receive, depending on the nature of the work they do and the type of worker registration. In addition, most healthcare units in Thailand do not provide translation or interpreting services. This limits the right to access services because of communication between officials and migrant workers. The corruption of government officials has caused more illegal migrant workers to be smuggled into the country. A lot of information must be considered, including the amount of registered capital of the establishment, the type of business of the establishment, job positions and job descriptions, and the duration of permission, which will be determined by the performance of the establishment. This makes migrant workers a vulnerable group, and their livelihoods are at risk.

5.5 Challenges related to the working law of foreign workers found that the Royal Decree on Occupations and Professions that prohibits foreigners from doing B.E. 2522, as a result, restricted the employee's right to travel and the right to take advantage of their property.

Problems with the structure of benefits and policy-level problems were found. For example, migrant workers often work in industries that pose high health risks, such as construction, marine fishing, or industries that require high exposure to chemicals. There is the possibility of risk occurring at any time, but the social security criteria require that migrant workers have made contributions for at least three months before they can use their medical treatment rights. During these three months, the Ministry of Public Health requires them to purchase temporary health insurance worth 1,047 baht instead, which can be considered an increase. The cost burden on workers has increased [15].

Kaewna [16] suggested that entrepreneurs should be encouraged to learn migrant languages. Both entrepreneurs and migrant workers in neighboring countries must learn migrant languages. Additionally, Nakaray & Benjarongkij [17] argue that using different accents can lead to racial discrimination, stereotypical views, and Thai employers reflecting the top-down power distancing. There is a hierarchical work structure that requires employees to remain under employer control and follow directives.

Thongpan [18] further explained the challenge of workers who still lack understanding of common policy, and fees for preparing licenses. In addition, bail fees for foreign workers are high according to Guadagno [19]. In some countries, migrants are still being asked to comply with administrative requirements for status determination, visa application, and renewal. However, complying with procedures and schedules became challenging as offices and service providers closed or limited their operating hours, and movement was restricted. Office closures and appointment rescheduling translate into delayed procedures and prolonged uncertainty, and risking stays in detention and reception centres.

Based on the above analysis, the following proposals are recommended for improving migrant worker management: 1) The Foreign Workers Administration Office should improve its internal management systems, including implementing job rotation to enhance staff capacity. 2) Rules should be changed to regulate the cost of filing migrant workers registration, the conditions for migrant workers

requesting a license's period of registration, and the preparation of various documents to prove nationality, including the process of returning migrant workers to their country of origin. 3) There should be rules or guidelines for promoting migrant workers' rights, equality, and opportunity, including treating migrants and Thai workers equally in terms of employment conditions, organization, and collective bargaining. 4) There should be more channels for migrant workers' registration [20]. 5) The central technology system of the migrant labour data center should be systematically built to collect information for both foreign workers and employers. Current economic data and labour demand should be surveyed and analyzed to determine the appropriate number of migrant workers and to be used as information to adjust policies and measures to manage migrant workers appropriately in accordance with the International Labour Organization (ILO) [21]. 6) The penalty rate for employers should be increased in cases where foreign workers do not have a license [22]. This additionally involves in improving labour protection for migrant workers in all sectors and occupations, including the care, green, and digital economies, as well as in informal and non-standard forms of employment. Where practical, the protection should be gender-responsive and equal to the protection of national workers and should cover issues such as fundamental workers' rights, an adequate wage, limits on hours of work, and safe and healthy workplaces. What's more, all relevant laws, rules and regulations both national and international levels should be consolidated into the same alignment and direction.

6. Conclusion

The COVID-19 pandemic significantly impacted migrant workers in Thailand, leading to a reduction in working days and subsequent revenue decline. A notable challenge identified was the inability of migrant workers to communicate in Thai, which hindered their access to vital information, partly due to registration documents being exclusively in Thai and the complexity of processes such as acquiring medical treatment. The management of migrant workers faced intricate issues, mostly categorized into legal obstacles, deficiencies in equipment and technology, and constraints in personnel. These structural

deficiencies collectively obstructed migrant workers' access to essential benefits and welfare. The insights obtained from this analysis seek to enhance the implementation of labour management techniques, highlighting a persistent focus on human security. The paper advocates for a paradigm shift, asserting that migrant workers should be regarded not alone as economic assets but also in relation to the advancement of human rights protection principles. It emphasizes the imperative of establishing effective mechanisms to appropriately distribute migrant labour legislation, guaranteeing sufficient education for both employers and migrant workers.

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