THAI OVERSEAS JOB SEEKERS: A STUDY OF THEIR EXPLOITATION AND VULNERABILITIES BEFORE DEPARTURE

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Thesis
Entitled

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ABSTRACT

For centuries Thai people have migrated both internally and to a lesser extent, externally. In the earlier stages during the 1950s Thais migrated to North America as well as to Europe in professional capacities. Since the 1970s, however, a new form of migration has prevailed, which has seen hundreds of thousands of unskilled Thai workers seeking employment abroad, often taking up jobs that are 'dirty, dangerous, and difficult'. It has been during this time that rampant violations of human rights of these workers in the host countries have been documented. However there has been very little study done on what happens before workers depart to work overseas. As a result of exploiting the vulnerability of Thai overseas jobseekers it is not only the individual jobseeker that suffers but also his or her family and community as well. Often jobseekers take out huge loans that they cannot repay no matter how hard they work putting them further into debt. Many even lose their land title and vital family savings, pushing them further into poverty.

This thesis studies the underlying issues of exploitation and vulnerabilities of Thai workers seeking employment abroad. It looks at the current system under which Thai workers can secure jobs abroad, putting special emphasis on the broker system, the private employment agencies, and the government's existing policies for regulating migration. The study also explores international human rights standards as they relate to the rights of overseas jobseekers.

For this research a number of case studies were conducted. The individuals were from Khon Khen, Mahasalakan, Chiang Rai and Bangkok provinces. In total, 21 people were interviewed in-depth. This study found that most of them had experienced some form of fraud as well as human rights violations. The most common form of violations included excessive recruitment fees, excessive interests on loans, payment of recruitment fees but not departing for jobs, illegal brokers and arrangements, and no government support when problems were encountered.

In order to protect Thai overseas jobseekers from exploitation, it is argued that, government policies need to be strengthened and better implemented. While government policies exist to protect the rights of oversees jobseekers, their weaknesses and lax implementation allow private recruitment firms and brokers to exploit jobseekers, who often come from poor communities, with low education and low awareness of their legal rights.

KEY WORDS: THAI OVERSEAS JOB SEEKERS / EXPLOITATION / VULNERABILITIES BEFORE DEPARTURE

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CHAPTER 1
INTRODUCTON

Migration in Thailand has a long history. For decades a large number of people have moved to seek better employment opportunities both internally and externally. Those who chose to leave their home area to seek better opportunities elsewhere are often faced with multiple challenges. In many instances, in order to secure a position abroad families take out loans, sell their land, and withstand long periods of separation to work in a country where they are confined, do not know the customs and do not speak the language.

While in some instances the returns of such sacrifices are considered plenty, in many instances those wishing to work abroad find themselves in debt and their families pushed further into poverty. There have been a number of studies conducted to examine the human rights violation of overseas Thai migrant workers in countries such as Japan, Korea, Taiwan, and Singapore.

However this thesis aims to examine the situation from a different angle not so widely explored. It aims to address the situation of Thai overseas jobseekers before their departure to the host countries. It aims to study the current system of private employment and investment agencies, brokers, as well as looking at the policies of the Thai government on migration and its performance to protect those seeking employment abroad from fraud at home.

1.1 History Background of Thai Overseas Jobseekers

Though the people of Thailand have been mobile throughout history; their mobility to other countries is, however, recent. Thai migration can be divided into three broad phases, the first phase is decade of the 1950s and the 1960s, second the

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phase between 1972 and 1991, and the third phase from 1991 onwards. These phases are unique in themselves in respect to the categories of people migrating, the destination for these migrations, and the level of government support.

The **first phase** of Thai job seekers to go overseas were professional and skilled workers, and they mainly went to Europe and North America (Luewirojn, 2002). Formal evidence suggests that significant numbers of Thai nationals began moving abroad only in the decades of the 1950s and the 1960s.

During this period, the movement was restricted to students pursuing tertiary education; a majority of them went to the United Stated (Stern 1997). Many of them stayed and undertook jobs there. These migrant workers worked in hospitals, hotels and factories,[1] and most of them went overseas on their own initiative, without either private brokers or agents and their system of business, or the government helping them.

The second phase, between 1972 and 1991, Thai migrant workers sought jobs in the Middle East. In this phase, the migrant workers were recruited through private employment agencies - a substantial change from the earlier phase where migration was mainly on one's initiative. It was in this period, that private employment agencies started multiplying, and the system of sending workers through brokers was established. The broker belonged to the private employment agency and was the middleman responsible to send overseas job seekers according to the needs of the private employment agency (PEA). Then PEA would send the job seekers to the employers in the host countries, mostly for construction projects.

At that time, overseas jobseekers mainly went to middle-eastern countries, such as Saudi Arabia, Kuwait, Iran, and Iraq because these countries had large construction projects that required them to import labor. Overseas jobseekers from all

[1] The 4th Regional Meeting of Officials of Labor Sending Countries, The Ministry of Labor and Social Welfare Conference Room, Bangkok, Thailand, 2001.

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over Asia, including Thailand, went to work in Middle East to fulfil this gap between supply and demand of labor. Migrant workers had to work very hard, but nonetheless earned a better wage than at home, and most of the time after their return home the income they earned significantly helped them and their families improve their standard of living. This phase is often referred to as “golden age” in the history of Thai overseas employment because the workers and their families became significantly rich, and many were able to maintain and build on this improved economic status upon return.

The third phase is from 1991 onwards when the migration of Thai nationals shifted to East and Southeast Asia because of the gulf war and the subsequent reduction of construction projects in the Middle East. This pushed overseas job seekers in Thailand to look towards East Asia, such as Taiwan, Hong Kong and Japan, and Singapore, Brunei and Malaysia, for job opportunities.

In 2004 many as 118,000 Thai migrant workers were employed in Southeast Asia (Table 1). However, it has to be noted that the condition of the world economy was not the same as that during the “golden age” because of the economic crisis and the subsequent slowdown of economic activities in Asia. The impact of the economic crisis could be felt all around the world and some countries in Asia, including Thailand, were hit harder than others in the region.

However, some of the above mentioned countries in East Asia and South-East Asia countries were still growing and needed alien migrant workers for jobs regarded either as difficult, dangerous, and dirty.

In 2004 the top ten host countries for Thai migrant workers is shown in Table No. 5: East Asia: Taiwan, South Korea, and Hong Kong, Japan, South East Asia: Malaysia, Singapore, and Brunei. Other countries: United State of America, and Qatar.

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1.2 Statement of Research Problem

In the past three decades the number of Thai overseas job seekers going abroad each year has reached about 150,000 people, out of a total of 31 million[2] employed people in Thailand (refer to Table No 1). These people who make it to international jobs, however, have to pass through a very tedious and painful process, and a good part of the remittance they repatriate back is spent paying the debt incurred in the process of their recruitment through the private employment agencies.

But there is very little they can do for every overseas job seeker securing an employment abroad, there are hundreds, maybe thousands of others waiting for the private employment agencies to process their employment papers. These private employment agencies demand a very high service charge, paid in advance, and for which prospective overseas jobseekers have to take loans at very high interest rates.

Considering the key role of broker system and private employment agencies, and the fact that there are more and more people registering for overseas employment than there are available positions, the negotiating power of individuals seeking overseas jobs is very low. In a system where government controls are not well enforced there is every chance of these overseas jobseekers falling victims to the fraudulent practices and mistreatment even before their departure to their job assignments.

However, it is also alarming that the government of Thailand for years has failed to protect the rights of its citizens from such practices, and in some instances even allowing such acts. Today the government's policies on the process of out-migration can be considered a weak attempt at best. The government's unwillingness to fully implement these policies and to verify if the recruitment agencies are complying with such policies puts those seeking employment abroad at risk of becoming even poorer and more vulnerable. It is first and foremost the government's

[2] Country Report on Overseas Employment in Thailand (February, 2001); The fourth regional meeting of officials of labor sending countries, Ministry of labor and social welfare

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duty to ensure that citizens are safeguarded from such practices without discrimination as imbedded in the Thai constitution.

Between 1997 and 2001 there were 33,758 people who reported fraudulent practices of these private employment agencies[3] (refer to Table No 2). These figures refer to the category of job seekers paying advances but never getting job placements. The figures is higher if one includes other categories such as those who went abroad but found the jobs they were recruited for was not the same as agreed with the private employment agency, and the number of people who had to return when they found that there was no job for them.

This thesis studies the underlying issues of exploitation and vulnerabilities of Thai workers seeking employment abroad. It looks at the current system under which Thai workers can secure jobs abroad, putting special emphasis on the broker system as well as the private employment and investment agencies, and the government's existing policies for regulating migration.

Both Table 1 and Table 2 reveal valuable information. Even though information about complaints by overseas migrants and jobseekers is only issued every five years by the government, it can be determined that the situation has hardly changed since the last issuance. According to the Ministry of Labor statistics as many as 157,812[4] people have applied to go abroad for work.

However, as Table 1 indicates that out of this number only 148,596 people actually departed for work. Roughly 10,000 people never made it abroad for various reasons. When we further analyze the numbers it is evident that the vast majority of those seeking work abroad go through the private employment agency with roughly 67,000 people using such channels. Most of these workers are destined to Taiwan with roughly 49,000 making it there.

[3] Labour department, Ministry of Labor and Social Welfare
[4] End of year report of overseas migrant workers, Ministry of Labour, 2004.

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This is also the place where most women migrant workers from Thailand find employment. It can also be assumed that out of the 47,000 or so people who went abroad by re-entry used the services of private employment agencies. However, because the data presented is not segregated for those leaving Thailand for the 2nd or 3rd time an accurate number is unknown.

Table 2 represents the cases that complain throughout the migration process directly to the Thai government officials either about the private employment agencies or about the treatment they received abroad. From 1997 to 2001 – this is the latest government data available – the number of people complaining to the government has nearly doubled from 4,349 people complaining in 1997 to 7,129 people lodging a complaint in 2001. However if we look at the numbers of those receiving compensation in 2001 we can note that there has been a general decline in compensation awarded, which dropped to 19.82% of the total amount declared by the complainants.

We can also see that only about one third of those complaining receive some form of compensation. If we further analyze the amount of compensation we can note that compared to the amount of lodged complaint for those who paid but did not go, 282,570,441 Baht for 4,217 people only 43,244,020 Baht was compensated to 1,328 people. This roughly represents about Baht 66,770 per complaint and Baht 32,563 per person compensated respectively, or only half of the original complaint amount. While the reason behind this discrepancy is many, those interviewed indicated that the Ministry of Labor tries to mitigate the process between the private employment agencies and the employee.

However most of those who paid out large sums to find employment abroad have done so trusting those offering the employment opportunity, and thus never questioned the lack of receipts.

Nevertheless from the data presented in table 2 we can also easily see that most of those complaining to the Labor Ministry are those who paid for their job

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placements but never departed to those jobs. People in this category were also much less likely to be compensated about 32.39% compared to 59.59% of returnees in 2001. Furthermore we do know from the data presented in Table 1 and Table 2 that the number of those who paid for their job placements but never departed can be as high as 10,000 people. Many of them never lodges a complaint with the government mostly because they could not access vital information about how to do it and maybe the companies they contracted with were illegal, they do not have the evidence to prove that they paid large sums of money, or the company they contracted with already closed down.

In essence, the problems of fraud and mistreatment are two issues with very limited information, or no information provided to jobseekers prior to departure. However, a more systematic study to understand the extent and forms of this exploitation has not yet been done. Powerful people own these private employment agencies and this being the case is a very sensitive issue, and many people before have not studied this theme of exploitation especially in relation to human rights' violation.

This research regards the human rights' violation, especially in the Thai overseas job seekers' pre-departure experience as an important issue for further investigation, because it is a problem that has been going on for a very long time, and is one that affects a large section of those seeking legal employment abroad, and lastly because those affected come from poor areas of Thailand. Research into this is important since overseas employment is a growing sector, and more and more people are interested in going abroad for work, hence, the current system of exploitation will affect more and more people.

Therefore a study of the exploitation and vulnerability from the experience of oversea jobseekers in pre-departure programs is a very important and urgent issue because the exploitation affects the mechanism of overseas job seekers protection by the state and thus their human rights. It is envisioned that the study of the exploitation of overseas jobseekers rights, by who, how the violations happens, and the obligation of state will provide important leads into how the problem can be addressed.

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1.3 Objectives of research

The objective of this research is to

1. Identify the rights of Thai overseas jobseekers, their legal safeguard status and rights and the various forms of violation of these rights during the Pre-departure period.
2. To determine how the criminal activity of exploiting Thai jobseekers relates to human rights violation during the pre-departure period and the related obligations of the state and non-state (private employment agencies, relatives, friends etc) actors.
3. Assess policies, rules, regulations, and mechanisms of the Thai Governments in relation to job seekers, to study how it has changed during the past few years and how it impacts rights of job seekers.

1.4 Research questions

1. How and why do the criminal activities occur and how criminal abuses can be explained from human rights perspective?
2. Do job seekers have special status in the government's policy and law?
3. What correlated rights do the overseas jobseekers have?
4. What are regulations, policies, and duties that the Thai government set to deal with the problems (both old and new) and how new policies and mechanisms function?
5. What should be done in order to reduce the exploitation of Thai overseas jobseekers?

1.5 Research Methods

The research methodology of this thesis is case study analysis using qualitative tools of interviewing and document analysis to locate and detail the prevalent cases of fraud. For the details of interviews the researcher used in depth-interviews of jobseekers and key informant interviews to get data on recruitment service, and impact to jobseekers families in cases of fraud. The design of the research was to use case

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studies, in depth interview, and information about people who managed to go abroad using Thai Government services. Further areas of study were:

1) Documentary research: Focus on official documents, regulations, policies, and executive decrees. Information was searched the Recruitment and Labor Protection Act of 1994 because this law was set up as the mechanisms of the state to protect jobseekers. So this law could be the best document to refer to when addressing the issue of protection of overseas jobseekers.

2) Legal frameworks of both international and national laws: Human rights documents especially from International Covenant on Economic Social and Cultural Rights (ICCESR), the Universal Declaration of Human Rights (UDHR) and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICPRMWMF) (even if only from the customary law perspective) was reviewed because these documents could relate to the rights of overseas jobseekers and guarantee their basic rights.

3) Existing articles, academic researches, and documents compiled by NGOs

There were five main activities collecting information which were undertaken.

a. NGO documented research on violations: The researcher searched the documents from the Catholic Commission for Migrants and Prisoners (CCMP) by examining their previous cases and reports of jobseekers that reported exploitation. Then the researcher selected some cases that had different problems. From the thousands of cases documented a selection of six important cases was collected. In Thailand only this agency is dealing with the cases of overseas jobseekers who have experienced fraud.

b. The researcher also interviewed overseas job seekers that had recently gone through the Government Service by selecting the cases of who were preparing to go to South Korea. This area the researcher interviewed six persons, 3 women and 3 men.

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The cases were interviewed at one-stop service center at the Ministry of Labor during the departure orientation program. The government officer who was present on a voluntary basis did the selection of the cases. These interviews were conducted at the one-stop service center at the Ministry of Labor in Bangkok in November 2004.

c. Interviews with people who recently faced violated (field interviews, 21 people, from Khon Khan, Mahasalakan and Chiang Rai provinces).

For the field studies the researcher contacted CCMP. Because identifying oversees job seekers who have encountered problems before departure was difficult, the researcher used his contacts with the Catholic Commission for Migrants and Prisoners who is active in this field because this NGOs can provide information where the researcher could go and how and where to contact the local leaders.

Local NGO staff and village leaders helped to gain access to those interviewed. Structured interviews were taken by note because interviewees were more comfortable than by recordings. The aim of these interviews was to collect recent data on violations to see if there are emerging trends or if the same violations continue. A list of questions was asked of each interviewee, (see appendix a. for questionnaire). Interviews were conducted in November-December 2004.

d. Key informant interviews: officers at the Labor department were also interviewed because this government office is the officer in charge and manager of the policy of promoting jobs overseas. Questions discussed with labor ministry officers included the following: what were the government's practices in the past in relation to overseas jobseekers; what are the practices now; what are the obstacles of helping those who complain; what is the government's strategy in relation to overseas jobseekers, will there be new laws implemented to safeguard rights, will the government seek new countries for employment opportunities. Interviews were conducted in February 2005 at the one-stop service center at the Ministry of Labor.

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e. Private Employment Agencies (brokers): As a part of the field study the researcher also conducted one-on-one interviews with some private employment agencies such as the brokers or officers of private employment agencies. Because of the sensitivity of the issue these agencies have only allowed to conduct interviews over the phone and have refused the researcher's request to name their companies or list their names in this thesis. While the information collected from this source is important given the problems encountered only partial analysis is drawn from the information collected from them.

The questions proposed to these agencies include: length of involvement in the business; commission taken from each jobseeker; how many people they contract each year; how they recruit people; how much the jobseeker pay for the services; what are the services provided (ie. Passport, medical check up, orientation, skills certificate); if they could not send people would they return the money; how are such cases dealt with; do they fear punishment by the government if the jobseeker lodges a legal complaint against them; do they register with any private employment agency or do they just freelance; what makes the jobseeker trust them, what do they explain to the jobseeker about the job; how long does the process of going takes; where the jobseeker gets the loan from.

f. Non-government Organization (NGO). Interviews were conducted with the Catholic Commission for Migrants and Prisoners the only NGO in Thailand that puts its focus on supporting overseas jobseekers through their pre-departure and returnee program.

1.6 Significance of research

This research will help better understand the problems faced by overseas job seekers before departure relative to rights violation, people and institutions responsible for these violations, and the underlying causes of these violations. Since the study maps the various rights these jobseekers have and the responsibility of the state and

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non-state actors (private employment agencies), it provides a good basis to empower potential overseas jobseekers of their rights and responsibilities.

The study also looks at the various state mechanisms and duties that are in place to protect the rights of overseas jobseekers, and suggests ways to strengthen these protection mechanisms. This research hence can provide advocacy issues for government and non-government organizations supporting the rights of overseas job seekers.

1.7 Ethical Issues

1) The field research mainly includes people who have been victims of fraud, and the interviews may raise their expectations of help and support in solving their problems. Though the researcher cannot directly provide any support, the organization through which the contacts are made was given all the information collected in the process of the research, so that they can pursue individual cases.

2) There is a potential risk for the researcher and the interviewees since very influential people who yield tremendous power in society control these recruitment businesses. The researcher respected the case studies by not using of their real name but supposed names of who give information such as officers and who would give information for avoid misunderstand and any kind of problems.

3) Confidentiality of government officers and brokers: The researcher was able to speak frankly with three brokers and three government officers about the topic of this research. To guarantee the confidentiality of these important informants their names have not been disclosed in this study.

1.8 Structure of Research

This thesis is broken down into five chapters. Chapter I focus on the history of migration in Thailand and provide useful background to the reader. Chapter II

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provides a literature review on the topic and examines the existing policies in Thailand for Thai overseas jobseekers. Chapter III provides case studies and analysis on the vulnerabilities and challenges of Thai overseas jobseekers. Chapter IV deals with the issue of fraud and human rights violation and how these violations could be stopped. Finally Chapter V provides recommendation by proposing ways to protect the rights and vulnerabilities and prevent the exploitation of Thai overseas jobseekers before departure to overseas job assignment. These recommendations are not only for the Thai government but also for civil society in Thailand as well as private employment and investment firms, brokers and the jobseekers themselves.

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CHAPTER 2
REVIEW OF MIGRATION, CHANNELS OF WORKING OVERSEAS, AND POLICIES IN THAILAND FOR THAI OVERSEAS JOBSEEKERS

Migration has many forms. This chapter provides insight into the various forms and theories of migration. Following this an outline on the reasons for out migration in Thailand is provided. The various ways in which people can legally migrate overseas for work purposes from Thailand is discussed as well. While there are other forms of migration such as trafficking this research does not consider trafficking as a legal form of migration and as a result is not discussed.

2.1 Reasons for Emigrating

Migration is one mechanism people use to solve some of their livelihood problems. Usually migration is from rural to city because of the more rapid economic development that occurs in the cities. For overseas jobseekers the reason for wanting to go aboard is the desire for a better life and higher salary. With this also comes the hope that they could save enough money to solve their livelihood problems and in some instances even save enough to set up a small business after their return back home.

Dusadee Aruwatn, (1993) emphasizes that migration is the changing of place and it is permanent. It changes and shifts the number of population from one community to another community. By moving, humans affect the economy, society, culture and the environment. Dusadee also states that there are three kinds of migration. These are local migration, internal migration and international migration without limiting the time of moving.

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But following Ratchawan Tavanjit's (1975) explanation, migration has three forms as well, but they are seasonal migration, non-permanent and permanent migration. He also argues that the migration of Thai worker overseas started a long time ago such as the worker who came from the North East, they moved as intra regional migration, inter regional and emigration to overseas. It is the new phenomena that people from the rural areas emigrate to overseas directly.

Others, such as Somrang (Somrang 1986), emphasize the three causes of migration as well in a different fashion. First cause is the high population and the limited access to land, especially for the poor,. This creates unemployment; the cause to migration is thus economic because by migrating for work a better opportunities and more income can be achieved. So, the pull factor is the key fact and this affects the moving of people from rural to urban settings. Second cause is the difference of social standards because of the high guarantee of security and welfare. The third cause is the political factor because of the policy of the state promotes employment at various locations. In Thailand this is evident as the government promotes job employment both at national and international levels.

Another factor making Thai people move can be related to the Push-Pull Model. In the research of Dusadee Aryuwat and Somsak Srisantisuk it is mentioned that the man pull factor for migration of worker is the high opportunity, choices of career, better income, better education, and good work conditions. But for the Push Model they explain, motivation mainly comes from the lack of natural resources in the given country, unemployment, as well as natural disasters. Thus people are pushed to move because of welfare and security reasons.

Therefore the key factor according to the Push Model for workers going abroad is the dependency on for example seasonal labor such as in agriculture, which leads to unemployment during off-seasons. But for the Pull Model the motivation is the high rate of wage and better welfare conditions.

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It seems people living in the North East of Thailand make up the main group of migrants. This region is the most populated and the poorest regions of the country. Also because of the environment does not sustain agriculture and thus no longer provides people with an adequate source of income and thus livelihood. This impacts on the population in this region as the people here do not have enough resources and remain poor. To find a solution to their problems people have realized that they have to move for surviving and the one way to find a solution is to go overseas. (Prida, 1994)

Therefore, originally Thais went abroad because they hoped that they could find more income for their families. Many wanted a better life, some went because of the culture of moving, some went because others were on the move (Sumaree, 1982). But going abroad brought the workers higher social standards.

Supang's view also underlines this thinking. The reasons job seekers want to go overseas is because of increased social status after return. Returnees are more acknowledged by their neighbors, have higher social status, are more ambitious to become rich, and some of them, about 10 per cent, become active in local/ community affairs, or local politics (Supang, 2001). Seeing this motivates many others to go overseas. However expectations of doing well are usually very high.

But following Ratchawan Tavanjit's explanation migration can be explained differently from what is stated above (Ratchawab, 1975). While she also breaks down migration to three forms these forms are different. They are seasonal migration, non-permanent and permanent migration. For example Southern Thai workers moved to Malaysia during the past two-decades both for seasonal migration and non-permanent reasons. The seasonal agricultural work allowed workers to commute, and the common Muslim culture and language shared by Thai workers and Malay employers allowed for safety net and ample job opportunity. But nowadays Malaysia is an attractive destination country more than in the past because in Malaysia, the manufacturing and service sectors is still growing providing a good job market, especially in the northern states of the country (Supang, 2001).

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However, the International Labor Market is also the cause of migration of people overseas. As Suni explains, “migration happens because of the workers move from their original country to another country and it depends on the demand and supply of international labor market. Economists divide the supply side in 3 groups:

(1) Professional. These are experts who had many years of training. They receive high wage, especially in the developing countries and sometimes it is high demand but less supply then it attracts the same labor form other country to move to receive higher wage.
(2) Semi-skilled labor. These workers have skills but not qualify like the professional experts. However there is high demand for them even they do not have extensive experiences. However, their skills are enough for both the internal employee and international but this group also will move to another country if they see the supply of jobs and qualify for them.
(3) Unskilled-labor. This group is in high demand because the population in some countries is low, or their population have high skilled workers who require high wages or they do not want to perform those jobs deemed dangerous, difficult and dirty,” (Suni, 1984).

So these countries open the chance for the alien migrant workers to replace or fill in the gap for workers at home. But for those seeking a job overseas supply is always more than demand. This is what allows the system of selling and buying a job with high competitions among the workers themselves. The factor of Labour Market, in the study of Christy Tilly and Charles Tilly, defines the labor market in term of business and competition of employer. They state that without such competition there cannot be permanent business. Therefore the employer needs brokers who recruit employees for their investment, and all the employees will separate into unskilled-labor, semi skill-labor and professional labor[5].

[5]Reference from Piyawat, Kongchonuy. Overseas Employment Recruitment System in Thailand And Laborers’ Complaints Bangkok: Thailand, 2001, page 7. My Translation

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2.2 Methods of attaining overseas employment

The following section provides an overview through which jobseekers can attain employment overseas. There are five legal channels to go overseas for employment. They are:

1) Through the private overseas recruitment agencies

During the early 1980s a great demand for overseas workers arose in the Middle East. To ease the process of Thai's seeking to migrate there for work purposes the government established a new policy allowing the set up of private recruitment agencies. It is estimated that there are about 250 such agencies operating in Thailand today. These private recruitment agencies have set up operations throughout the country.

They also employ brokers who visit villages to get new recruits. Private recruitment agencies not only find a job placement for a prospective migrant worker but they also take charge of the process of going abroad. They secure passports, visas and tickets, as well as doing the required medical and criminal checks, and secure the required documents from the Ministry of Labor. It is also their duty to arrange contracts with the employer overseas, but in reality only 48.8% of those leaving have signed a legal contract and many of those who signed do not know the full extent of it (Supang, 2001)

However, all the services provided by the agencies and their broker's costs a great deal of money to the jobseeker. On average people pay about 60,000 Baht but many pay as high as Baht 120,000 to these agencies. While there are many challenges that jobseekers can encounter using the services of private recruitment agencies, such as cheating, many of those seeking overseas employment prefer their services to the government one. In a 2001 study by the Asia Research Center for Migration (ARCM) it is noted that, "Thai workers are slightly more satisfied with the services of the

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private recruitment companies. They found the services prompt, they were well attended, and there was the possibility of getting a job without a work permit."

According to government figures in Table 1, a total of 66,775 people sought the services of private employment agencies. This number could be higher, however, as many of those claiming to be going through the self arranged way in reality use private employment agencies and their brokers, or illegal brokers.

There are also an estimated 56,675 people who extend their contracts and return to the host country, but they do not have to pay the recruitment fees again. Private employment agencies work directly with companies in the host country or with other private employment agencies there. For the process of sending the worker, the company must follow the Employment Recruitment and Labour Protection of 1985, and its subsequent revision in 1994. This law clearly states fees that companies can charge as well as it defines all the processes for facilitating jobs overseas. It also defines that each registered company must deposit Baht 5 million in order to operate.

Recently 223 legal private employment agencies had registered companies, out of which 149 are located in Bangkok and 74 in other provinces (Immigration and job protection department, 2001).[6] "Today there are over 270 companies in this business but we do not know how many brokers are operating in Thailand. And we do not know how many illegal agent companies operating as well" (Supang, 1998).

2) Through the Department of Employment

When the policy of 1985 came into effect it also established a direct government sponsored office that continues to support the Thai workers to find jobs overseas. The Department of Employment is responsible for providing a free of charge service for Thai job seekers through their one-stop service center.

[6] Piyawat, Kongchonuy.(2001). Overseas Employment Recruitment System in Thailand And Labourers' Complaints. Bangkok, Thailand.

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However, the jobseeker is responsible for paying air tickets, obtaining appropriate visa, payment of airport taxes, welfare fund fees and any other travel related expenses. Jobseekers are recommended to apply for their passport prior to applying for a job, as employers tend to have preference for those already in possession of the document. However, the number of workers using these services is low.

In 2004, as Table 1 shows, only 1778 people applied for overseas jobs through this method. ARCM's research sheds light on the reasons behind this low usage. "Although the states services are more reliable, inexpensive and there was no cheating, they (workers) preferred the private ones. The lack of human resource development policy for Thai workers makes these workers less competitive to workers from other countries in the overseas labor market."

3) Through self-arrangement overseas employment

Going abroad for work using the self-arranged method is very difficult, as it requires the jobseeker to have direct connection with the employer abroad. The worker is responsible for arranging all required documents and facilitation of the travel. For most instances those using this channel have already worked abroad and have acquired the knowledge to arrange their way back. Referring to Table 1 in 2004, 13,020 people used this channel. While this channel refers to those who go by themselves, ARCM's research notes that there are also people who claim that they self arrange but in fact they use unlicensed recruiting agencies.

4) Through local employers who send their employee to work overseas

A local employer who has overseas Head Office or plants can send staff to fill up jobs or receive trainings overseas. In 2004 a total of 10,312 people departed in this way along with those getting training abroad. The workers, who leave for overseas using this channel, retain the status of being employed in Thailand and continue to receive their full salary and benefits. There are no fees or agents involved for the employee to use this channel.

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5) Through local employers who send their staff to train overseas

Workers at a local company who offer trainings at international location can undertake such trainings abroad. However for training purposes workers can leave up to 1 year given the employer sought permission from the Labor department. There are also no agents and fees involved and the workers continue to be employed in Thailand.

Academics agree that migration is a fact that is here to stay as the pull and push factors shape people's behaviors. While Thailand has seen a remarkable economic development throughout the past few decades there are still pockets of communities that are being left behind. These communities will continue to seek opportunities either elsewhere internally in the country of abroad. The prospect of getting better livelihood, and thus gaining better status at home pulls many Thais to continue to seek overseas job opportunities. However the process that facilitates their departure to overseas work is riddled with problems and challenges threatening their livelihood and future. The next section will explore both national and international legal and human rights framework that apply to protection of overseas jobseekers.

2.3. Policies in Thailand for Thai Overseas Jobseekers

During the 1970s those wishing to work overseas did so without paying excessive amounts to private employment agencies. However, the massive rise of demand for Thai workers overseas saw the emergence of private companies that all of a sudden started to charge workers wishing to go abroad huge sums in commission. In addition cheating and misconduct by many of these agencies as well as their brokers became rampant. To regulate the business and to safeguard the rights of thousands seeking employment abroad the Thai government enacted the Recruitment and Labor Protection Act 1985, which was revised in 1994. Today this is the only legal document that deals directly with jobseekers overseas in Thailand.

The Recruitment and Labor Protection Act 1985 and the subsequent revision of 1994, reconfirms the role of the state in controlling the process of going overseas,

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beginning from finding job overseas, recruiting, sending, and protection both prior to departure and after returning back to Thailand. Following this, the role of the state maybe divided into three main areas: a) ensuring that the provisions of this policy are upheld at all times. b) ensuring that the overseas labor market is fair, and open competition prevails, irrespective of class, ethnicity, gender or race. c) the role of the state in aligning its welfare work benefit schemes, so that the interests of the migrant workers are protected once they arrive back home, after completion of their work abroad.

While this law is to protect the rights of jobseekers in many ways it is too weak to curb violations. Some of the problems people encounter is cheating from some private employment agencies. In many instances these agencies and their agents trick people to pay large sums of money for a job placement and at other times provide workers little or no information about the job they will need to perform. In fact this law does not cover the protection of workers from fraudulent brokers or illegal companies.

This law however only addresses the issue of punishment of the defrauder who can receive a fine and a prison sentence. But if the workers ask for compensation then the worker has to present his or her case to the court as the criminal activity against the broker or company before compensation could be awarded. The Penal Code of Thailand offers some additional punishment to those found to have defrauded people but in reality very few people actually sue employment agencies in the Criminal Court.

The following describes some of the most important elements of The Recruitment and Labor Protection Act:

1. Employment agencies must guarantee Baht 5 million as deposit with the Ministry of Labor upon registration. This fee is to provide those jobseekers with compensation in case of successful complaints. (Article 33)

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2. Private employment agencies must send prospective workers who have deposited money with them for overseas assignment within 30 days of the date of deposit (Article 38). In addition according to further regulation if the worker has experiences mistreatment on the job or if the contract is not followed then the company has to pay the commission fee back to the worker within 30 days after return back to Thailand. If the company fails to comply with this provision then the Ministry can use the Baht 5 million to compensate the worker. If the company wishes to retain its registration then the company must redeposit Baht 5 million (Department of Labor 1997).

3. Private employment agencies are not allowed to announce overseas jobs unless they get permission from the Ministry of Labor. This effectively allows the Ministry to verify if the jobs are legitimate. (Article 35)

4. Private employment agencies must provide enlisted workers with two contracts: 1 with the agency itself indicating fees and services, 2 with the employer abroad indicating post, salary, location of work. (Article 36)

5. Private employment agencies must deposit between Baht 300-500 per overseas workers to the welfare fund administered through the Ministry of Labor. This fund is to provide support and insurance upon serious incidents such as in the case of death overseas. (Article 37)

6. The law does not allow private employment agencies to keep the deposit commission over 30 days before departure of the jobseekers; sign the contract follow the employment form. In case if company is found to have mistreated the workers then the company is liable to pay back commission fees to the worker including the ticket price and other expenditures (Article 46).

7. The private employment agency must give fair treatment to jobseekers and should not take advantage of them. If it is determined that a violation in

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this regard occurred than it could be seen as a criminal activity and could be punished according to the law.

8. Private employment agencies and brokers could be fined between Baht 60,000-200,000 or jail term of 3-10 years if they have been found to defraud people. The cases need to be proved first in the Labor court and then the criminal court. (Article 90-91)

The Handbook of securing jobs overseas by the Ministry of Labor also list additional regulations that are supposed to protect jobseekers from cheating by private employment agencies. The handbook states that private employment agencies are not allowed to ask commission fees exceeding the fee determined by law, which is Baht 56,000 for Taiwan, and Baht 15,000 plus the rate of the first salary for other countries. However, it is well known not only among prospective jobseekers but also Labor Ministry officials that the commission fees could be even as high as triple of the allowed limit. Unfortunately for most who run into problems, and there are many, making a claim is difficult because in most instances there are no receipts to proving the claim.

In addition the Ministry of Labor established the Thailand Overseas Employment Agency. This agency was created as a result of pressure to provide effective services and protection to Thai workers overseas in 2003. It is now known as the one-stop service center for migrants returning and jobseekers. The Thai Overseas Employment Agency's mandate is to:

Administering Thai workers to work overseas
Centralizing overseas employment information
Protecting the rights and the benefits of overseas Thai workers
Promoting and developing overseas labor opportunities for Thai workers
Providing overseas employers needs with suitable experienced Thai workers.

While all mandates of the agency are important the one that has more significant relevance to jobseekers is the centralization of overseas employment

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information. This is important because prospective workers can verify the legitimacy of private employment agencies. Through the protection service jobseekers can also verify important documents relating to the job such as job descriptions, employment contracts and company status. Even though there is now a system to support overseas jobseekers throughout the process the biggest challenge remains that very few jobseekers actually know about the services thus their effectiveness is questionable.

Migrant workers overseas federation

The Recruitment and Labor protection Act, 1985 set up this federation in order to help the workers overseas who encounter problems abroad such as death, mistreatment or accident. In 1994 the state reformed the rules of the federation by providing the support directly from the government.

However private employment agencies must make a contribution to the welfare funds of each worker between Baht 300-500 each month. In case there is a problem such as a pending criminal trial in the receiving country the government will pay the workers up to Baht 30,000 in compensation. But in case of death the family will get up to Baht 30,000. In case of return before finishing the first contract because of health problem the federation pays not over 25,000 Baht[7].

While there are a number of international human rights instruments that can be referred to for the protection of overseas jobseekers, in Thailand only the Recruitment and Labor Protection Act of 1985 and 1994 prevails. While this law provides some safeguards to prospective jobseekers in practice this law is rather limiting. First and foremost it fails to protect jobseekers from fraudulent employment agencies and their illegal brokers who charge excessive fees, provide fake or no contracts, and those who lie about the nature of the job. To receive compensation if fraud has occurred jobseekers need to also turn to the Penal Code and prove their cases in the Criminal Court. The hardship inflicted by the fraudulent activities on those seeking work

[7] Labor Department. Ministry of Labor, Handbook of getting Job Overseas. 2001.

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overseas is tremendous. They are often come from very poor families and take out loans at high interest rates, sell their house and land in order to pay the recruitment fee. At the end not only their dream of wealth and prosperity is shattered but their current existence and their and their family's livelihood. Chapter III provides first hand accounts of some of the problems and challenges faced by overseas jobseekers in Thailand.

2.4 Human Rights Protection Documents

While the above section described the reasons and methods of out migration from Thailand, this section is focusing on the various legal documents that protect the rights of oversees jobseekers. As stated before oversees jobseekers in Thailand face numerous challenges. In many instances private employment agencies and their brokers cheat them. While the government has enacted laws to safeguard the rights of oversees jobseekers, and is signatory to various international human rights instruments, the inability or the will to protect these right is alarming. As a result of the government not fulfilling its duty toward oversees jobseekers, their immediate livelihood and their attempt to overcome poverty is threatened. There are many legal documents that can be referred to in order to safeguard the rights of migrant workers such as the Universal Declaration of Human Right, International covenant of civil and Political rights, as well as the Thai constitution to name a few. The following provide references to the right of overseas jobseekers both from the human rights protection as well as legal rights in Thailand:

1) Overseas jobseekers have right to work: The right to work defined in International Covenant on Economic, Social and Cultural Rights (ICESR) article 6, ratified by the government of Thailand, recognize the right to work, which includes the right of everyone to the opportunity to gain his/her living by work which s/he freely chooses or accepts, and will take appropriate steps to safeguard this right. This article also defines the role of the State Parties 0to the present covenant to achieve the full realization of this right including technical and vocational guidance and training programmers, policies and technique to achieve steady economic, social and cultural

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development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual. In the same lines, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC), which Thailand is in the process of ratifying, requires States parties to take the measures they deem appropriate to ensure that migrant workers and members of their families are informed, upon request, free of charge, as far as possible, in a language they are able to understand, of their rights under the Convention and on all matters that will enable them to comply with administrative or other formalities in the State of employment.

Furthermore, article 37 of the MWC establishes the right of migrant workers and members of their families to be informed "before their departure, or at the latest at the time of their admission to the State of employment" of all conditions applicable to their admission, as well as of "the requirements they must satisfy in the State of employment and the authority to which they must address themselves for any modification of those conditions". Where official employment services assist in managing migration flows, there is a better chance that migrants will receive the minimum preparation for life and work abroad than if recruitment and placement are left in the hands of private agents.

2) Overseas job seekers have right to information: In UDHR article 19 states that everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinion without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Section 58, Chapter III in the Constitution of the Kingdom of Thailand confirms this right to information. Therefore, the worker has the right to know all the information relating to overseas employment from either the government, or any private employment agencies registered under the government.

Ideally, migrant workers-whether under contract or other formal arrangements, or simply setting off on their own initiative-should be given a basic understanding of the language, culture and legal, social and political structures of the States to which

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they are going. They should be informed in advance of the wages and working conditions and general living conditions they could expect to find on arrival.

3) Overseas job seekers have right of equality before the law: Under the right to be equal before the law, job seekers are entitled without any discrimination equal protection of the law and have the right to life, liberty and security of person, (UDHR, Article 7). It means all the workers must have the same treatment from the state like the other group of people in the country and equal protection when they face fraud or mistreatment from the private employment agency, broker and employer aboard, because the mistreatment is violation to life, liberty and security of person and their families too.

Also in article 9 of the MWC requires States parties to take the measures they deem appropriate to ensure that migrant workers and members of their families have the right to life of migrant workers and members of their families shall be protected by law. The Constitution of Thailand in Chapter III, defining the rights and the liberties of Thai people states, “all persons are equal before the law and shall enjoy equal protection under the law”.

In the Chapter III of the Constitution of the Kingdom of Thailand 1997, mentions the rights and liberties of the Thai people, it starts from section 28 by stating that a person can invoke human dignity or exercise his or her rights and liberties in so far as it is not violation of rights and liberties of other persons and a person, whose rights and liberties recognized by this Constitution are violated, can invoke the provisions of this Constitution to bring a lawsuit or to defend himself or herself in the Court.

For example, a person shall have the right to get access to public information in possession of a State agency, State enterprise or local government organization, unless the disclosure of such information shall affect the security of the State, public safety or interests of other persons which shall be protected as provided by law (section 58) and a person shall enjoy an equal rights to receive the fundamental education and providing education by the State (section 43).

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Therefore a person shall have the right to receive information, explanation and reason from State agency, State enterprise or local government organization before permission is given for the operation of any project or activity which may affect the quality of the environment, health and sanitary conditions, the quality of life or any other material interest concerning him or her or local community and shall have the right to express his or her opinion on such matters in accordance with the public hearing procedure, as provides by law (section 59)

4) Overseas job seekers have the right to freedom from discrimination of any kind, such as race, sex, language, religion, politic or other opinion, national or social origin, property, birth or other status (UDHR, 2). It means equal opportunity for all such as no matter woman and man, races or status but everyone deserve to get the equal treatment if they face problems.

5) Overseas job seekers have the right to peaceful assembly and association; According to UDHR article 20 (1) it means everyone has the right to freedom of peaceful assembly and association when they face to problem and they can claim their right. For example if the workers have the conflict with their own employer, then they have the right to join assembly and association which non-violence.

6) Overseas job seekers have the right to form trade union and join the trade union of his choice, everyone and/or the overseas job seeker in ICESR article 8 (a) has the right to the rules of the organization concerned, for the promotion and protection of his/her economic and social interest (b) the right to trade union to establish national federations or confederations and the right of the latter to form or join international trade union organization (c) the right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interest of national security or public order of for the protection of the rights and freedom of others (d) the right to strike, provided that it is excised in conformity with the laws of the particular country.

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7) Overseas job seekers have the right to rest and leisure, it means everyone as employee has the right to rest and leisure, right to know limitation of working hours, work overtime and periodic holiday with pay, UDHR article 24,

8) Overseas job seekers have the right to the enjoyment of just and favourable conditions of work, in ICESR article 7, The States Parties to present Covenant recognize the right to everyone to the enjoyment of just and favourable conditions of work ensure, in particular: **(a)** Remuneration which provides all workers, as a minimum, with (i) fair wages and equal value without distinction of work not interior of any kind, in particular woman being guaranteed conditions of work not inferior to those enjoyed by men, will equal pay for equal work (ii) a decent living for themselves and their families. **(b)** Safe and healthy working conditions **(c)** Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence **(d)** Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for pubic holidays.

While the noted national and international mechanisms should protect overseas jobseekers in Thailand their application is currently weak. One of the weaknesses of the national law is that it does not fully provide overseas jobseekers with complete protection, as it does not address compensation to jobseekers adequately. The law states that those found to have committed fraudulent acts against jobseekers can be fined up to Baht 200,000 and jailed up to 10 years.

However in many instances private employment agencies and brokers, either legal or illegal, cheat people out of millions of Baht, far more than what the law can punish them. As will be illustrated in Chapter III there are cases where brokers took prison term instead of paying back the hundreds of thousands of Baht they stole from overseas jobseekers. While the Penal Code also offers some safeguards to jobseekers these are hardly ever used, as many jobseekers do not believe that they could win their cases in court. They believe that corruption of law enforcement officials including the police and the judiciary will favour the side of the perpetrators. In addition they

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believe that to launch a case in court will cost them more money, money that they do not have.

Powerful individuals own a good number of private employment agencies as this it a very lucrative business around the world as well as in Thailand. These powerful people can also alter how protection is provided by the state to jobseekers. While the state should provide equal protection to all under the constitution as well as under international human rights standards in reality this does not happen. Decades of money politics have meant that those with money also have the power and the freedom to commit criminal acts towards poor and powerless people and communities.

Today the situation is not different even though there are laws against corruption and other mechanisms in place such as the Human Rights Commission of Thailand to curb discriminatory practices by state actors across the country. Until Thailand can ensure that all are treated equal before the law the rampant violation against overseas jobseekers will continue.

The following chapter will explore the various violations overseas jobseekers face and will provide first hand accounts of overseas jobseekers in Thailand.

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CHAPTER 3
CASE STUDIES: DOCUMENTED RESEARCH ON HUMAN RIHGTS VIOLATIONS OF THAI OVERSEAS JOBSEEKERS

"I wanted to go abroad so that I can earn more money for my family. I deposited the fee the broker was asking, but he just ran away. Now instead of more money for my family I have more debt and more to worry about. The worst part is that nobody wants to help me."

An Overseas Jobseeker

This chapter describes the various problems that overseas jobseekers face in Thailand. It also provides first hand accounts of the mistreatment received by jobseekers. These interviews were conducted between October 2004-January 2005. The case studies have been organized to illustrate the various challenges overseas jobseekers face. A positive case study of workers using the government-sponsored services to depart to South Korea is also presented. Interviews with brokers and government officers are also presented at the end.

3.1 The following is a list of these vulnerabilities and exploitation faced by overseas jobseekers in Thailand:

Illegal brokers:

While there are over 250 registered private employment agencies in Thailand there are also hundreds of illegal brokers some of who work for these agencies while others run their shaky business alone. Many Thai overseas jobseekers are exploited because the overseas job seekers trust these brokers as they often come from their communities. Because of this trust jobseekers also do not bother to check the background of the brokers. Also many of these brokers do not provide truthful

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information to the jobseekers about the nature of the job, salary, and location. There are also instances when they force the jobseekers to hand over their passports or documents then force them to pay high fees. They also keep promising good overseas placements to the jobseekers but these jobs never materialize and in some instances the brokers disappear altogether. The following case illustrates how illegal brokers deceive people about jobs overseas.

Four Jobseekers victimized by illegal brokers in Khon Kaen

"These brokers come from the Muang Khon Kaen District to our village and promoted jobs in South Korea," one of the jobseekers said. "Then they started to tell people about how they could help jobseekers got a job aboard." But one year after the jobseekers paid the deposit they still were not able to go to South Korea as the brokers promised them.

Today one of the brokers is in the prison in Khon Kaen Province because he and two other brokers cheated jobseekers out of their money but the other two brokers are still walking the streets as if nothing has happened. These stories below happened between 2002 and 2004 and their cases are still in the process of being resolved by the court. Nevertheless the jobseekers are still waiting for their money to be returned back from theses illegal brokers.

First case is Mr. Ban Kanjana. He paid a total of Baht 150,000 as deposit money to Mr. Sawan Pilaitan, who is an illegal broker. Mr. Ban is 27 years old and has 2 children. "I paid Baht 150,000 to the brokers not knowing that they were illegal. This was the first time I was trying to go abroad," Mr. Sawan said. However his dreams were shattered when he found out that the brokers he was dealing with were illegal. Today he has to pay Baht 3,000 per month for his loan interest. He and his family are devastated by what had happened to them. Mr. Ban admits that he is partially to be blamed for this problem because he did not check any document and information about the brokers. "Now I know that there are illegal brokers who rather than helping people make a better life actually make their lives more difficult." Right

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now Mr. Sawan is a driver and struggles to find the money to pay back his loan. Despite what happened to him if he has another chance to go aboard he would go but would make sure it is with the legal broker.

The second case is Mr. Sarod Podpai who is 45 years old and has 2 children. This was the first time for him too to seek employment abroad but he too did not realize that he was dealing with illegal brokers. “I did not realize that I was dealing with illegal brokers. I took out a loan of Baht 130,000 from the bank by using our land title as guarantee,” he said. “I have my small business but I still do not make enough money to repay the loan I borrowed to go abroad. “I am happy that the illegal broker is in the prison because this way he could not exploit people again” he added.

The third case is Rungsan Sivilai who is 34 years old. He used to work as a migrant worker in the U.S.A. for six months. Currently he has a debt of Baht 70,000. “I am really unhappy with the situation because before I paid the deposit money I did not check out the broker’s background,” Mr. Rungsan said. “I also used my mother in-law’s land title to borrow the money who is now demanding that the land title be returned to her,” he added. Mr. Rungsan is extremely frustrated with the fact that no authority is willing to help resolve his case.

The forth case is Mrs. Somjai Panaphan who is 38 years old. “This was my first time wanting to go abroad but right now all I have is a debt of Baht 230,000,” she said. Mrs. Somjai used her land title to borrow the money from the bank. “Each month I have to pay the interest of about Baht 3,000 to the bank even though I never got to go abroad” she explained. She is now very frustrated and would take matters into her own hands to punish the brokers for the hardship they had caused her and her family. She has three children to take care of and to pay for their schooling. “I am very sad and embarrassed about what happened because my friends in the village gossip about my misfortunes and say bad thing behind my back,” she added.

For these cases, the four jobseekers are still struggling to repay their debts. While one of the brokers was arrested and put in prison they still have not received

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any money because this broker does not have any to pay them from. Also these jobseekers, like many others just like them, do not have the evidence that could support their cases in court. It is also evident that information was not available to these jobseekers to check out the background of these brokers. In fact they did not even think about the problems they could encounter, as they believed everything the brokers had said. It is perhaps the desperate economic situation that allows people to let their guard down and thus become victim of such criminals.

Private employment agencies:

Some private companies ask for deposit money in advance, but cannot send the overseas jobseekers to receiving countries. While the law requires them to repay the deposit they rarely do so, often because workers do not have the proof and state agencies such as the police will not assist unless overseas jobseekers show receipts or other documents verifying their claims. In other instances private employment agencies use threats to get money out of people even thought they know it is illegal. The following case study illustrates the problems faced by overseas jobseekers.

Case study of Mr. Boonsri Deesmesuk selected to go to Singapore with private employment agency in Udontani even though he and his wife live in Nhongbualumphum Province. In September 2001 he went to Udontani with a sub-broker to take the labor skills test but he did not pass. One week later the agency told him that he got the job and that the agency would contact him again. But the agency did not contact him again and he thought he did not qualify for overseas jobs. However one year later in mid May 2002 the agency contacted him and told him to prepare his passport, photos, land title and a fee of Baht 95,000 for the commission.

“I informed the agency that I could not go because my wife just gave birth and nobody could take care of them and that I did not have the money to pay the commission. About one week later three men came to my house and left the massage with my wife to tell me to go abroad and if I denied I must pay the agency Baht 60,000 because the agency will lose the money as they already paid for my post,” he said. After he learned the story from his wife he went to inform the chief of his village.

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Later he also received a letter from a law office informing him to go to the agency and repay his debt. But Mr. Boonsri went to the Labour Department in Nhongbualumphum and the officer told him they could not prove him court and the whole story was fraudulent. “The officer at the Labor Department promised me that if the agency tried to take me to court then he would help me,” he added.

For Mr. Boonsri’s case, the interesting point is that the jobseeker has to pay the money to the private employment agency if the jobseeker denies going abroad. But finally he goes to inform the Labor Department and the government officer supported him and thus he was not afraid of the private employment agency.

So in his case it shows the power of the private employment agency, which could do what they want like sending three people to force him to go abroad. Clearly threatening poor people who might not be so aware of the laws can bring more profit to private employment agencies and their brokers. They do not have the right to push people to go abroad if they do not want to go but nevertheless they pray on the fact that most jobseekers do not know the law and believe what they hear easily. Mr. Boonsri was quiet fortunate that he checked the facts with the local Labor Department. However, again the lack of clear policies to protect jobseekers in such situations makes poor people vulnerable and powerless.

High recruitment fees (over the law allowed):

It is well known that recruitment agencies charge excessive recruitment fees. They are able to do this because of competition among the agencies doing business and thus making profit is about who can cheat people out of more money. Even though there is regulation, which sets the allowed amount an agency could charge in fees this is usually ignored.

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The following case studies are representative of the problem. These case studies have been collected from CCMP[8]

Case No 1: Mr. Sura Thathong, he comes from Nakornratchasima Province. He has two sons. They are 13 and 17 years old. “I paid the placement fees to four different brokers. They are Jaruni, Pichart, Sanong and Banson. They were the brokers who came over to my house in October 1999,” he said. These brokers invited him to go to New Zealand if he got the job he would pay for the placement in total Baht 120,000. “I got the receipt from Mr. Banson one of the brokers,” he added. In November 1999 he paid to Mr. Banson Baht 24,000, in December 1999 he paid Baht 16,000 to Mr. Pichart and Sanong and Banson Baht 80,000. But he still did not go to New Zealand. Then he went to the police and Court in Nakronratcahsima but still could not find a person who would respond to this criminal activity. While the police arrested Mr. Sanong and put him in the prison in accordance with the Recruitment and Labor Protection Act however no money was compensated and the three other brokers remain at large.

In Sura case, it is interesting that he paid deposit money to four brokers and he knew their names and paid them at different times. He paid them but still could not go to New Zealand as he expected. He informed the police and the police could arrest only one of the brokers and put him in prison but the other three brokers still could not be arrested. However, even though he sued the brokers in court he could not get the money back because the broker accepted his responsibility ad accepted jail term instead of a fine. The only hope Mr. Sura has is that the police will capture the other three brokers. However this is very unlikely because the brokers could have by now changed their names and lives in other Province thus making it difficult to find them. As a result of this fraud Mr. Sura and his family face difficulties and his livelihood is in jeopardy especially the future of his two sons, as they might have to leave school to help their father to pay of the debt.

[8] Catholic Commission for Migrants and Prisoners, Bangkok office. “ Case List year report, 2002-2004”

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Case No 2: Mr. Chatchai Phanyakul, He used to work in Singapore about one year and he went to Taiwan two times. In May 2000 a broker came to contact him and other nine jobseekers if they want to work in Israel. The broker said he went to see the work site in Israel and the employer needed the workers and would pay Baht 30,000 per month by open contact. He and his nine friends believed him and paid the broker Baht 160,000 each for the commission fee. The broker told them that they could fly on June 8, 2000.

So Chatchai borrowed the money from a money lender/investor and deposited his money to the broker through the bank. But finally he and the other nine people could not go to Israel as the broker promised. Despite the law being clear that the broker must return the money to the jobseeker in full if they cannot go abroad this broker only paid each of them less than half of the original amount or about Baht 72,000. They informed the police who arrested the broker and put him in the prison in Nakornratchasima. They also complained to the Labor Department in Nakornratchasima but nothing has happened since 2001 with the case.

In this case the jobseekers were clearly only thinking about the benefits they would earn if they work in Israel (30,000x 12= 360,000). With the investment of only Baht 160,000 they could still benefit Baht 200,000 during the first year. The broker also told them that it is an open contract and said that he visited the work site and knows the employer there. Once again the desire to make a decent living pulls people to take huge risks. R Chatchai and the nine others were cheated out of Baht 88,000 an amount that is very difficult for them to repay to the moneylender.

Even though they launched a complaint with the Labor Department in the province they have not received any compensation as of yet. It is evident yet again that while clear law safeguarding jobseekers' rights exist their implementation is ineffective. It is hard to understand why jobseekers hand over such large amounts of money to brokers. However the reality is such that for them this is one of the only ways to provide a decent living for their families. They are poor, and have limited livelihood options and thus will do anything for a better chance in life. This is one of

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the major reasons why the government should be more attentive in ensuring that laws are implemented and those inflicting fraud are punished and poor jobseekers are compensated for their loss.

Case No 3: Mrs. Phayon Polsavat and Two friends. Mrs. Phayon and her two friend's story happened in December 2001 when a broker came to their village and invited them to go to South Korea. She and her two friends believed and deposit Baht 60,000 each to the same broker for guaranteeing visas. "The broker also told us each to deposit an extra Baht 40,000 for exchanging it to won and to buy a suitcase and new cloths," she explained. So each of them paid Baht 100,000 total 3 person x 100,000 = 300,000 Baht) Then on December 30, 2001 they met a substitute broker at the airport and other five jobseekers. Then substitute broker told all eight of them to go with a tour company to South Korea.

"I passed the immigration in Thailand but the other five people did not pass. But when I and other two arrived to South Korea none of us passed the immigration and we were sent back to Thailand the same day," she said. After she and her friends returned home, they went to see the broker and the broker promised to give their money back in three months but they still have not received any money. Then they informed the police but the police told them to go to Labor Department in Nakornratchasima. But they did not go yet because they hope that the broker will give their money back.

For Mrs. Prayon and the other seven cases, it seems that they hold the broker in high respect and trust. Even though they have informed the police and the police advice them to report their case to the Labor Department they still have not done so. They still wait for the broker to pay their money back. The reasons being that they do not have the receipts or any evidence to show at the Labor Department. They are also afraid that people they know would hear their story and could put them in embarrassing situation and lose face. However, how they still trust the word of the broker. Without them taking action the same broker could defraud more and more overseas jobseekers and it could cause more people serious consequences.

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Case No 4: Mr. Prasit Vijittra and Two friends, Mr. Prasit faced fraud in Nhongkai Province. He said in October 9, 2002 he went to Bangkok with two relatives to pay the commission fee to the broker who promised to take them overseas. Each of them first paid Baht 20,000 by cash and signed some document. This money was to guarantee their application for visa from French embassy. They paid the money to the broker because the broker said he knows the leader of the tour company in Europe.

"A few weeks later the brokers called and told us that we received the visa successfully and asked us to deposit an additional Baht 100,000 each," Mr. Prasit said. This time Mr. Prasit and his two friends paid through the Military Bank Baht 300,000 the brokers. But after waiting for 4 months they still have not departed to Europe. They were sure that they faced fraud when they tried to ask their money back from the broker. The broker promised to give their money back. But finally the broker only deposited for each of them Baht 40,000 but the remaining balance of Baht 60,000 each has not been returned by the broker. Once again Mr. Prasit and his friends did not inform the police or the labor department thinking that their case could be resolved without getting these agencies involved.

False advertisement:

The Thai overseas could get the exploitation and vulnerability through the advertisement because the private employment agencies give information beyond reality through the newspaper, radio or television then use brokers and sub-brokers to go and further promote these false work opportunities. An illustration of this problem is highlighted in point 9 where a case from Chiang Rai is presented.

High interest rates on loans:

Private investment agencies are also responsible for the problems mainly because they charge high interests to workers. The problem really arises when a jobseeker provides his/her land title or house title as a collateral for the loan because in case the jobseeker faces fraud by the employment agency or the broker these titles could be lost and thus the livelihood of the person and their family could be threatened.

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Group case studies from Mahasarakam Province.

This group of jobseekers is in Mahasarakam Province, and the researcher could interview only 3 cases, but their group has about 38 people who faced problems as they tried to find overseas employment. All 38 borrowed the money from a money lender/investor. This investor lives in Chiyaphom Province, but his name is well known in Chiyaphom, Mahasarakam, Undontani and Khon kaen Provinces. This investor has a private employment agency and lets people loan the recruitment fees from him by depositing their land title as well as taking the ATM card of the jobseekers.[9] However, even though they have all gone abroad and regularly send back money, as much as Baht 15,000 per month, they are still in serious debt with this moneylender.

First case is Mrs. Bou Aimjai who borrowed the money for her son. She said that her son wanted to go to Taiwan and was successful in going. However even being there for about 2 years and sending money back home every month when he returns he will still have a debt of about Baht 295,000. “I am puzzled how my debt is still about Baht 210,000 even after two years of making regular payments. My ATM card has been with the moneylender for the past two years,” she said. During her last contact with the investor she went to talk with him and paid him Baht 40,000 in cash in exchange for her land title. The investor took this money from her money but he did not return the land title back to her unless she would pay off the remaining Baht 170,000. She felt powerless against him.

The second case is Mr. Boonsom Pomthamat’s son. Mr. Boonsom talked on behalf of his son because his son died a few days before from a stroke. Mr. Boonsom borrowed the money through this investor for his son to go to Taiwan. “In total I borrowed Baht 295,000. At that time my son was 23 years old,” he explained. His son worked in Taiwan for about 2 years and 4 months. “My son’s first contract did not provide a good wage and there was no possibility to work over time. After he worked

[9] Catholic Commission for Migrants and Prisoners, Khon Kaen branch office. “ Case List report, 2004”

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there for about 18 months my son broke his contract and escaped. Then he got a new job with his friend at a construction but this was on an illegal contract," he added.

After his son worked there for about six months his son got sick and cannot work anymore. Then his son returns back home because he got seriously sick as he hurt his legs. His son came back home in a very bad condition; first he could not walk well but soon his condition deteriorated further. After just being home for two months he died. Mr. Boobnsom was devastated about losing his son because his son was only 26 years old. The family still owes the investor Baht 50,000.

The third case is Mr. Chad Tirapa who is 28 years old. He is a friend of Mr. Boon's son. "Before I went to Taiwan I asked my sister to help arrange for me loan to go to Taiwan," he said. His sister used the family's land title as the guarantee with the moneylender. "At first I did not know how much debt I had until the day of departure when the investor informed me that I had a debt of Baht 210,150. I accepted whatever the investor was saying because I really wanted to go abroad and work," he added. He worked in Taiwan for two years and sent his money home every month totalling Baht 263,000. "But when I returned home the investor informed me that I still had a debt of Baht 190,000," he said. The news brought devastation to Mr. Chad and his family as the fruit of his two-year hard work brought nothing more than further debt.

Illegal arrangements by the illegal private employment agency or by illegal brokers:

There are also instances when agencies and brokers make illegal arrangements to send the workers abroad and secure illegal visas and work permits. This happens because the job seekers accept to pay even they know it is illegal. Their hope is to go abroad and make money for their families and they do not think too much about the consequences if something goes wrong. There are a number of cases such as this in Japan. This makes jobseekers vulnerable because they could get caught with these illegal documents and deported or worse could live and work in the host country without any power to complain about abuses. Debt bondage is another vulnerability

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for those using illegal brokers and illegal arrangement especially for women who end up in the entertainment business.

Group case study from fifteen jobseekers who faced fraud in 1994 in Chiang Rai.

This group faced to fraud in 1994. In 1994 had a broker came to their villages. He came from Khonkaen Province but he remarried with a woman in Chiang Rai Province and stayed with his wife at the village. After a few months he started to tell people about how he could send jobseekers to Japan. First time he sent successfully one of them from Chiang Rai. Then other jobseekers starter to come to him with the belief that he could send them too. So his wife and him started to collect the deposit money from 15 jobseekers and told the jobseekers that if he could not send them to Japan successfully he would return their money. All together these 15 people handed over a sum of Baht 2,880,000 to this illegal broker.

Even though this case happed over 10 years ago the damage to the jobseekers is still felt by the jobseekers and their families. For example one of them died in 2004 and many of them had lost their land and house soon because they had to repay the loan they took out. Today they have no security of life and live in poverty. Even though they have different details but a few things are common: they felt victim to the same illegal broker, failed in debt and cannot find anybody to help them even though they have complained to the Labor Department in Chiang Rai, the police, the Ministry of Labor and even the Prime Minister. It also seems that since this incident happened some 10 years ago and since the police did not solve it yet the time of limitation has expired and they have to re-file their cases again with the police. This further setback brought even more hopelessness to these people who cannot afford to sink further into poverty as a result of ineffective laws and no state support. Further details of these individuals whose lives have been greatly affected are given.

First case is Mr.Song Pothin. He is 47 years old and he is the leader of his village (Phu yai Bann), which he will finish in 2007. “I paid Baht 330,000 to the broker. I borrowed the money from the bank by using my family’s land titles of 29 rai. This is inheritance that belongs to my mother, brothers and sisters. The broker

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promised to find a job in Japan and said that I would earn Baht 60,000 per month there," Mr. Song said. He also recounted how he tried to go abroad two times with the same broker. First time he went to Japan in 1994 with another two jobseekers but he and one other did not pass at Japanese immigration. Second time, after returned he tried with another 30 jobseekers again but none of them passed at the Thai immigration. "I and the others tried to ask for our money back from the broker. The broker promised he would return our money but later in 1995 this broker disappeared," he added.

In mid 1996 he and five others hired the van from Chiang Ria to go to Phetchaburi Province and Khon Kaen Province to find the broker. Finally he and his friends found this broker in Khonkaen and told the police to arrest him. But after they negotiated the police released the broker because he promised to return their money and the jobseekers agreed.

But since 1995 to 1996 none of jobseekers got the money back from the broker. Then again in 1996 they went to Khonkaen but met only the broker's mother who signed a paper saying that she would pay the jobseekers back the money her son owes them for exchange of not arresting her son. But she only paid back three people among 15 people. She paid three of them each Baht 320,000 but the 12 people she said she promises to pay them off later. However Mr.Sing still has not received any money back yet and right now he owns the bank Baht 1,400,000 because of the interest. "I am very unhappy because I lost the opportunity, wasted time and would lose my family's land. Also the most sadness comes from the fact that the illegal broker has not been arrested and brought to justice," he said.

The second case is Mr. Dee Prasobchok's. His name is Anon and he wanted to go to Japan with the same broker as Song. His son asked him to manage everything. Mr. Dee did the same thing like Song. He deposited the land title of 20 rai at the bank to get the loan. He knew the for broker about 2 months then the broker took him to borrow the money from the bank. "I did not touch the money at the bank but saw Baht 270,000 passed from the banker through the broker's hands. I was surprised because I

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did not get a receipt," he explained. "After the incident I though about why the broker and banker made the contract for the loan after office hours at about 4.00 p.m.? But I did not ask anything because I trusted the broker," he added.

But the worse thing was that his son died in 2004. His son was so upset and blamed himself that he made his father and family face difficulty. Later his son started to drink and he died last year (2004) from HIV/AIDS. "I owe the bank Baht 1,300,000 because of the interest. During the past eight years the bank had put up the sell sign some eight times," Mr. Dee said. "My family is really worried about somebody wanting to buy our land. If somebody buys it then we will have to move off the land and will no longer be able to grow rice," he added. If the farm is sold Mr. Dee's family's livelihood will further diminish.

The third case is Mr. Kom Suranaree who is 52 years old. He has two children. He faced to fraud with the same group of Mr.Song and Mr. Dee's son. "I deposited my house and land title at the bank. The broker took me to the bank at 5 p.m. The bank allowed me to loan Baht 160,000 but without the receipt and I did touch that money. My father in-law and other two signed to be his witness," Mr. Kom said. But nobody questioned about why the bank did not give a receipt and why the business is conducted at 5 p.m. and not during working hours. "I am very unhappy because the bank already put the sign up to sell my house and land. If someone buys this land then my family will have nothing left," he said.

The forth case is Mr. Sanan Raksakul who is 47 years old. He said he borrowed the money from the bank Baht 270,000 by depositing the land title in 1994. He paid to the broker after he got the money from the bank at an official time. He went with the broker alone. He tried to go to Japan for the second time with the 30 people but nobody passed at the Thai immigration. Later the broker transfered Baht 100,000 back to him and promised that he would send him to Austria and will keep the leftover money for the placement fees. Now he owns the bank Baht 800,000. "I borrowed the money from the Bangkok Bank at Chiang Ria branch. I and the others who followed similar fate to me came to the Silom headquarters of the bank in

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Bangkok. The manager in the bank made a compromise with us to pay back our loans by paying Baht 500 per month. I paid for about one year then stopped to pay because I do not see that this was it will ever end," he said.

Fifth is Mr. Aucha Boonsawan's son-in-law. Aucha is 70 years old. He gave the information to the researcher on behalf of his son-in-law. He said his son-in-law is working in Bangkok. But at that time he arranged everything for his son-in-law. "I used my land title to loan the money from the bank about Baht 110,000 to deposit with the broker. The broker promised me if my son-in-law could not go to Japan he would return the deposit money back," Mr. Aucha explained. But his son-in-law did not pass at the Thai immigration but the broker did not return the deposit money back and promised him again that he would try to send his son-in-law to Taiwan. "Right now I am very worried that I will lose my land title," he said.

For these cases, even though there have been many warning signs they still continued to trust the broker. They should have realized the first time when only one of them passed at the Japanese immigration and the two of them have to return back to Thailand that something was wrong. Again for the second time the broker collected the deposit money form 30 jobseekers and try to send them to Japan but at this time no one passed at the Thai immigration. However, when all the jobseekers return back to the villages the broker tells them to wait and promises to send some of them to Australia and Taiwan then the Jobseekers believe his word. But these cases happened 12 years ago that the jobseekers still could not get their money back. In the story it seems the mother of the broker also is involved because she pays off three of the jobseekers to make the jobseekers believe that everyone will get the money back. But finally the other 12 jobseekers still could not get the money from her.

This fraud had a major impact to the lives of the jobseekers and their families. Because most of them deposited their land title and house documents they could potentially lose the only livelihood options they have. In addition losing land titles that belonged to one family for generation will be a great loss in Thailand because such land holdings are considered important for the next generation.

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Therefore it is painful for the jobseekers to lose the land and thus the future of their families. For the broker, it seems he is still doing well evading punishment by disappearing. It is also interesting that it was the jobseekers who with some investigation on their own found the broker something the police was not capable of doing. By the police' inability to arrest criminals such as this broker could put even more people in jeopardy.

Friends, relatives and other trusted members of the community:

The fraud can happen from a person the workers feel close to. It means a person such as an ex-migrant worker who guarantees and shows the documents of permission or pretends that the overseas employer asked them to find workers. They collect large sums from unsuspecting friends and relatives. In some instances jobseekers have also talked about a proposed visit to the village by the foreign (Japanese, Taiwanese) company owner from aboard. After the workers know they have been cheated on then these persons will pretend like they also been on the receiving end of the fraud and try to sue the companies. Because close family and clan ties suing these individuals is almost impossible.

Case studies of jobseekers who faced fraud by ex-Buddhist nun in Chiang Rai

This nun came from Udontani Province. She knew one monk who came form Phang Lao village, Chiang Rai Province. She came to Phang Lao was a nun for about four months there. After she finished nunhood she continued to stay with one family for a few months. While she stayed at Phang Lao village she told people that she used to send some jobseekers abroad. Then in mid 2002 she successfully helped one of the villagers to go to South Korea. Then people started to hope that she could send them as well. In total seven people from the village were cheated out of their money. Because since this incident 5 of the people moved elsewhere in Thailand for work only two of the victims were interviewed.

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First case is Mr. Thongmak Udomlaphe who is 32 years old. He applied with this nun because his father arranged everything. He paid a first deposit of Baht 60,000 and a second deposit of Baht 90,000. “I borrowed the money form relatives,” he explained. As a result of being the victim of this fraud Mr. Thongmak had to sell his land and his car to pay off his loan.

Second case is Nong Chanhom who is 28 year. He paid Baht 150,000 to this ex-nun. Right now he tries to pay off his loan by selling some of his land.

The nun told them that they have to pretend to be tourist as they go through immigration. They passed the immigration at Don Muang Bangkok International airport but when they arrived to South Korea the immigration authorities did not let them go and sent them back to Thailand the same day. “When we returned back this ex-nun guaranteed that she could try to send us again. She took us to the Don Muang airport but this time we did not even pass Thai immigration,” Mr. Thongmak said.

Later they returned back to Chiang Rai with this ex-nun. She stayed at their village and promised to send them to another country as she still has their money. “Finally, one night she disappeared from our village and her whereabouts is still unknown,” he added. After they were sure they faced to fraud then they informed the police with the only one evidence, which was a hand written paper stating that she would return their money.

It is evident again that the victims of this ex-nun’s criminal activities were not well informed. None of them thought that anything was wrong after the first time they could not pass immigration in Korea and none of them questioned if that was the right way to go there. The second time when the ex-nun said she would try again they just believed and paid her the other Baht 90,000 each. The second time they did not even pass Thai immigration. It is also questionable why they did not inform the police of the crime before the ex-nun ran away. The reason behind why these jobseekers did not tell the police of their case was because they realized that they themselves did something wrong trying to enter South Korea in an illegal way. This they believe

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could hinder them in seeking the protection of the state along with the fact that there was no evidence about the fees they paid. In addition in the eyes of the other villagers they also feared that they lose face. Again it is hard to understand the situation of these overseas jobseekers who fear losing face more than losing the money they worked so hard to get and at the end sell the land to pay off the loans.

Broker or sub-broker:

Brokers and sub-brokers are the substitute of private employment agencies and are entrusted to find overseas job seekers for the agencies. They are the middle person between the agencies and overseas job seekers. Recently the process of going overseas is depending on broker system. Therefore the broker is the key person to help the overseas job seekers to get the loan and prepare the papers. So by the broker's action both overseas job seekers and private employment agencies can be cheated on if the broker is dishonest.

Cases study in Chiang Rai Province

In August 2002, 221 jobseekers faced exploitation from a private employment agency in Chiang Rai Province. The agency took the deposit money from all 221 jobseekers. From 203 the agency took cash and from 18 jobseekers their land titles. This later 18 also gave in writing the agency authority to borrow money from an investor in their names. All 221 jobseekers applied to go to Kuwait and Barren. But after 8 months the agency did not send any of them to the receiving countries and the jobseekers wanted their deposit back but the agency refused to return it. Then the jobseekers took their cases to the Court in Chiang Rai. Finally the agency accepted to return the deposit money back to all of them. However the ruling covered only the 203 jobseekers that had paid with cash. But for the case of Mr. Kitiphan Chanpang and 17 others who deposited their land title there is still no resolution.[10]

[10] Catholic Commission for Migrants and Prisoners. Bangkok office " Case List report, 2002"

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Mr. Kitiphan said that his troubles started in early August, 2002 when he heard the news from the community radio that this particular employment agency has overseas jobs in Kuwait and Barren for about 3,000 posts. Then he and many other jobseekers went to apply because with full trust of this agency because it operated at the 2nd floor of the Labor Department officer in Chiang Rai Province. The officers at the labor department also told the applicants that this private employment agency is trustworthy and that they should not be afraid of exploitation. This is one of the reasons why 221 people applied to go through this agency.

After applying the agency took the jobseekers to Bangkok for medical check up and asked each of them to pay Baht 1,500 for it. The agency also asked for a Baht 20,000 deposit from each of them. But Mr. Kitiphan and other 17 people did not have cash to pay then the agency told them to borrow the money form the investor by using the land title and signed to give the authority to the agency to arrange the deal with the investor for them.

But later on February 12, 2003 Mr. Kitiphan received an invoice from the investor that his dept totalling Baht 203,300. In fact all those 17 who did not have cash at hand received the same invoice. This was the sign that alerted them that they have been the victims of exploitation. It seemed that the fee for those who did not have cash was ten times the amount of those who could pay up front.

In February 15, 2003 Mr. Kitiphan and the 17 other jobseekers went to the agency to cancel their work in Kuwait and wanted their land titles back. The agency promised to return their land title in ten days but till February 28, 2003 nobody got their land title back. Then they all went to inform the Labor Department and the Chiang Rai Governor about the problem.

Again in March 6, 2003, all 211 jobseekers went to inform the police to arrest the staff at the agency and asked the help from one of Chiang Rai's representative who belong to their area. Then this representative brought their cases to the Chief of Committee of Labor at the parliament. Also in early April 2003 three delegates of

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jobseekers asked for the help from Non-government organization (NGO) to arrange a meeting with the Chief of the Committee of Labor.

Then in early August 2003 all the jobseekers about 211 people came to complain to the Chief of Committee of Labor at Chiang Rai Court and at the Labor Department of Chiang Rai Province. Finally in mid August, the Chiang Ria Court ruled in favor of the jobseekers and ordered the private employment company agency to return their deposit in cash back to those who paid by cash and returned the land titles as well.

In January 15, 2004 the court has issued the last judgment to order this private employment agency to return the land title before February 28, 2004. But two years have passed and Mr. Kitiphan and 17 others still have not received their land title or compensation back yet.

Again in March 4, 2004, Mr. Kitiphan and 8 accompanies went to meet Chiang Rai Labor Court. However this time the judge blamed the jobseekers for making what he called ‘a terrible mistake’ on their own and said that ‘no God or angel could help them in their plight’. “It really upset us what the judge said because we had faith in the legal system of Thailand,” he said. The private employment agency had since then went out of business making it difficult for the exploited jobseekers to recover their precious land titles. “My family has a very difficult life since I lost the land title. My wife is so unhappy about the debt and wants the land title back because she is afraid the investor could take the land if nobody could help us,” Mr. Kitaphan said.

Weak legal protection or policy:

Because in the law does not provide a penalty for the broker if they cheat on workers but the law just says the broker should belong to the private company agency and under the responsibility of the agency. Therefore, the law has the gap if the agency says the broker who makes the problem already resigned and cannot find that broker. So the brokers are not afraid of the law. Then when the law is weak it impacts the overseas job seekers risk to fraud.

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Case of Mr. Tanakorn Kumsing in Chiang Rai, Mr. Tanakorn comes from Chiang Ria Province. He deposited his placement fees of about Baht 140,000 to the broker through the bank. He borrowed this money from his friends and relatives. After he faced fraud by the broker and he could get back only Baht 100,000 from him. He informed the police by showing the bank slip receipt as clear evidenced. But he still could not get back Baht 40,000 from the broker and private employment agency. Also it is not only him who faced exploitation by this broker but three others cases as well who together including Mr. Tanakorn lost about Baht 190,000.

This broker has disappeared since October 11, 2003. The only option for the four to get some justice and the money back is to prove their cases in the Labor Court. However, Mr. Tanakorn does not believe that that would be a good choice. He said "but it will cost a lot of money to pay to the lawyer and Court". At the end he and his three friends did not take their cases to the Court. On March 23, 2003 he did pay deposit money with a second broker and he got the job in Taiwan. He used his land title as guarantee at the private employment agency making him more vulnerable.

Mr. Tanakorn's case is also a quite lucky one as he paid the recruitment fee by depositing the money through the bank and kept the slip. However even they have the receipt to show to the police they have only been compensated partially. The law limits the amount of money brokers and agents can charge however in this case even though the broker clearly overcharged the police did not lunched any criminal investigation against him. This shows the clear exploitation of the poor jobseekers and the ineffectiveness of the law to protect their rights.

The impacts of such criminal activities is that overseas jobseekers fall in debt and face hard life because in many instances as in the case of Mr. Tanakorn, they borrow the money from friends and relatives with the interest that has to be repaid regardless of the circumstances. Finally Mr. Tanakorn found a new broker that could send him to Taiwan, but he used his land title to deposit the fee. This too makes him more vulnerable because if anything goes wrong and he is unable to make enough money to repossess his land title his future earnings and livelihoods of his family could also be in jeopardy.

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It is also evident that Mr. Tanakorn and his friends lost faith in the court system. They believe that even though the courts could help them recover some of the money taken by the agent it will take a long time and will cost them more money. In addition suing the perpetrator in court will also delay their attempt to secure a decent livelihood for their families, as they will not be able to depart overseas until the case concludes.

3.2 Positive experiences using government sponsored services in sending Thai overseas jobseekers to South Korea[11]

The following cases highlight how government sponsored programmes support overseas jobseekers and how it makes them less vulnerable to fraud.

Case No. 1: Mr. Sarit Chandara, Mr. Sarit comes from Nhongkai Province. He is married and has a son. He is 27 years old and graduated grade 9 (Mottayom 3). He went to Taiwan in 1999-2001 through a private employment agency and paid about Baht 150,000-200,000 in cash to the agent in his province, which he loaned from the bank. He worked in Taiwan for 3 years and earned a total income of about Baht 400,000. After he returned he worked in his village and waited to go abroad again. The second time he wanted to go to Korea through the government service because he thought that he could make more income. “I learned about the jobs opening in a garment factory in Korea through the radio and went to check at the Labor Department in Nhongkai and registered. Then I studied intensive Korean language, culture, and law for about 20 days and passed the test,” he said. “My total expenses for going to Korea was Baht 21,500, including a language study fee of Baht 8,500, air ticket Baht 10,000, passport and medical check up about Baht 3,000,” he added. He received a one-year visa and contract, which he can later renew for two additional years.

[11] Cases were interviewed at the government One-Stop service center for overseas jobseekers in Bangkok just before departure to Korea.

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Case No. 2: Mrs. Dungnaphan Rukdee, This is the first time Mrs. Dungnaphan prepares to go abroad even though some brokers contracted her earlier and promised to find a job for her. “I feared fraud and did not want to go through the broker and private employment agency,” she said. Right now her husband is working in Israel. He went there about 2 years ago. Since her husband still works in Israel she decided to stay with her parents in Payao Province. She has one son. She is 25 years old. She accesses the information through media and decides to go through the government service because she thinks she will not face exploitation. “I am very happy to go to South Korea. I only paid for passport, medical check up, study language and include necessary fees totalling about Baht 23,000. I will send all my income to her parents,” she added.

Case No. 3: Mrs. Suvipa Lumphan, She is 23 years old graduated grade 12 (Matayom 6). She could communicate in English a little bit. She has a son who is two years old. She just divorced and her hometown is in Lumphong Province. “My ex-husband used to work in U.S.A. but I have never been abroad. This time I am going to South Korea to work and tour at the same time,” Mrs. Suvipa said. She registered at the Labor Department in Lumphong about two months prior then she learned Korean language and passed the test. “One of my uncles faced fraud and he paid a lot of money for going to Japan. But for me it seems there is no problem because I am going through the government service,” she explained. “I will send my income to my parents who will keep it for me. If I face any problems I would contact the Thai Royal Embassy in South Korea immediately,” she added.

Case No. 4: Mr. Pong Thinnakorn, He is 28 years old and single. He stays with his parents. He used to work in Taiwan about 2 and half years in 1999-2001. He graduated grade 9 (Mottayom 3). His father died two years ago after he returned form Taiwan he helped his parent to cultivate the rice flied. This time he really wants to go to South Korea. “I hope I can send money home and pay off my family’s loan,” he said. He paid to study Korea language, medical check up and ticket total about 45,000 bath. “I am not afraid of fraud because I am going through the government service,”

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he said. He is going to work in an electronic factory in the middle part of South Korea. He says he plans to do his own business after return in next 3 years.

Case No. 5: Mrs. Rungnapa Jamjai, she married when she was 19 years old. She has a 10 years old son and stays with her husband. This is her first time to go abroad. A year ago she almost faced fraud because the broker who came over to her village and promised to find overseas job for her but she did not believe and did not deposit the commission fees. Many others did not fair as well. This time she registered with the Labor Department in Bangkok. She got the information from local television and her friend who is working in South Korea informed her following the news. “I registered in August 2004 and prepared the documents, studied Korea language and paid for everything about Baht 35,000 from my own money,” she said. She is going to work in electronic factory. She is exited to go and hope when return she would open her own flowers and garden shop.

Case No. 6: Mr. Boonpa Manadee, He comes from Nakronrachasima Province. He is 25 years old. He just married in June 2004 but he decided to go to Korea because he wants to find some money to invest in the future. He used to work in Israel for one year because he replaced somebody’s contracts. At that time he paid Baht 120,000 for commission. After he returned he worked in a factory at Rayong Province. “I never face to fraud but this time I am very happy to go because I do not have to pay any commission,” he said. His total investment this time was about Baht 50,000. “I will get a minimum wage of about Baht 22,000 (641,840 won) per month if it is without over time. My father used to go to Libya and Brunei for work too. When we arrive in South Korea we will have orientation for about three days at the center somewhere in Seoul before they meet the employer. According to my contract I will work at a small factory that has about 25-30 people,” he added.

According to the cases above, using the services of the Ministry of Labor to go overseas can provide jobseekers with more positive experiences. These people feel more empowered and reassured that if they encounter any problems they will get support to resolve them. Each year the government of Thailand sends about 6,000

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workers to South Korea Republic follows the quotas, a far cry form the 40,000 people who apply for these jobs. While the Ministry of Labor does not charge any fee for the overseas job placement each individual still will need to invest between Baht 20,000-50,000 before they go.

Also the time it takes to go abroad is longer than through private employment agencies however the services the government provides are much more reliable. In order to go Thai overseas job seekers have to learn reading and writing of Korean language, pay for airplane ticket, passport fee, and medical check up, criminal identity, labor funding, and register with the Ministry of Labor. However this system is also not without limitations.

So following the process to go South Korea Republic the Thai overseas jobseekers have to pay for Korean language classes for about one month (Baht 8,500 per month) plus the allowances. Then the job seekers have to go to test and only those who successfully pass the test can move to the next step. Those who do not pass the test then have to register to learn again and pay for the study fee again. In this point while it is an excellent idea that overseas job seekers could communicate or understand a little bit of the receiving country language but it the gap is that the overseas job seekers have to go learn the language in the private institute. The risk is that these private institutes make large sums of money from them especially those who are unsuccessful during the first time.

If the State operate the language center it will be useful for the overseas job seekers because it could reduce their expenses and not risk to exploitations plus all the income of study fees could be the funding for the overseas job seekers. Therefore, the policy needs to be changed so that the State invests to operate the language center but not only for Korean but for all other languages where migrant workers go such as Chinese, English, Japanese etc.

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3.3 Interviews with three brokers – The names of these brokers have been withheld to ensure their confidentiality.

Broker 1: Using sub-brokers

"I have been working with private employment agencies for about twelve years. Most of the time I work with the sub-brokers in many villages because we have the connections.

First I will tell the sub-brokers to go find overseas jobseekers and collect their phone numbers and address. Then if I have the posts from the private employment agencies I would contact back to the sub-brokers and ask them to prepare the overseas jobseekers for my visiting or send them to me in Bangkok. Then I help them to prepare and take them to have the medical check up, criminal records, and passport and for some help them secure loans.

Second, I would take them to the private employment agencies and arrange for the pre-departure training. I could send about 30-50 people abroad each month. I as a broker also has the credit with the private employment agency otherwise the agency would not give the posts to me easy. If you are dishonest then you may be out from this business," he said.

This broker also works with sub-brokers who take a share of the profits. "For the commission I would give to the sub-brokers about Baht 5,000-7,000 per head. But for me I ask about Baht 10,000-20,000 depending on the post and the receiving countries," he added. When asked about the giving written record to jobseekers of the money they paid this broker said the following. "About the receipts we do not have them but for the cases of Taiwan I think the private employment agencies give the receipts according to the law allowed. But in reality the private employment agencies all buy the overseas jobs. Then the overseas jobseekers have to pay very high recruitment fees because the brokers in abroad also sell the job."

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Broker 2: Finds overseas jobseekers by getting the quota from the private employment agencies

"I have been working as a brokers for over fifteen years. I have many friends who work as brokers and we know each other quite well and help each other sometimes. Such as if I have the quota post in hand but I could not find the overseas jobseekers from my sub-brokers on time to send to the order then I would call the broker friends to give me names of the overseas jobseekers," she explained.

This broker also talked about the importance of connections to conduct the business. "In this business we must have a lot of the connections," he said. He also had no remorse of charging people high recruitment fees. "Even though I take a commission fee of about Baht 15,000-20,000 from the overseas jobseekers I think it is right because I also help them to get the overseas jobs. I also guarantee that everyone who go through me would get the overseas jobs in about three weeks or not over a month and if not I will return the commission to them," she explained. "Nowadays, I am based in Bangkok and work through the phone not like in the past when I travelled a lot upcountry," she said.

Broker 3: Finding overseas jobseekers by using announcements and visiting villages

"I worked as broker about six years but have quit already. At that time I hired an assistant who could be at the office all the time. I had many brokers as friend in this business. But my area is in the North. I based in Prayao Province but I used to send the overseas jobseekers to the private employment agencies in Bangkok. I got involved in this business because I have aunt who owns a private employment agency. Then most of the time I send the overseas jobseekers to her," he said. "My job was to announce ads and go to the villages to talk with those who want to go abroad especially Taiwan, Singapore and Malaysia," he added.

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"After I found overseas jobseekers that wanted to go abroad, then I would take them to get their passport, criminal identity check, medical check, or help them to get the loans from the bank or private investment agencies," he explained. "Then I send the overseas jobseekers to Bangkok and could get Baht 20,000-30,000 in commission per person," he said. However this broker has quit the business for many reasons. "Now I resigned and stop to do this job because it has a lot of problems and conflicts and I know it is not the right thing to take advantaged the overseas job seekers," he said.

From these case studies above, it seems the overseas jobseekers have to go abroad through the sub-brokers, brokers and private employment agencies because it is a fast channel (about one month) that the overseas jobseekers could get the overseas jobs.

In the first case and second case the brokers work in a similar system because both of them use the sub-brokers. But the first case tells the sub-brokers to prepare overseas jobseekers first but the second case the broker would call to the sub-brokers when he has the quota posts in hand. Also the commission fees they charge are the similar rates in both of the cases. The main job of all three brokers is to look for prospective overseas workers by going to the villages, and advertising the posts available.

3.4 Interview of three Government officers – Their names have been withheld to respect confidentiality

During the interviews the officers explained that the Ministry of Labor has the policy to protect the overseas jobseekers and as a result opened the One-stop-services at Thai Overseas Employment Administration Office (TOEA) to provide information and other related services. In addition the TOEA also operates 13 offices abroad to help Thai migrant workers overseas when they encounter problems.

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When prompted about the high recruitment fees these officers said the following. “To curb fraud in Thailand the Ministry of Labor determined the net recruitment fees for the private employment agency. But the overseas jobseekers pay the recruitment fees over the law because of the private sector has to the buy overseas jobs from brokers or employers abroad, thus creating competition among the private employment agencies (about 244 agencies) and competition with other private employment agencies from the other countries such as the Philippines, Indonesia and Vietnam,” one of the officers said.

The officers also talked about the other reasons of why fraud occurs. “Fraud also occur because of the social value that working abroad brings, push factors such as unemployment and pull factors such as high wages abroad. This makes the overseas jobseekers accept to pay even higher recruitment fees than the policy allowed to buy the oversea jobs. We know that some people pay over Baht 100,000-300,000,” one of the officers said. “However the Ministry of Labor tries to solve the problems by trying to send the overseas jobseekers by the state channel and join with the receiving countries to find posts. This creates less competition. The Ministry also tries to develop the skilled of jobseekers,” he added.

Another officer said the following, “but the fraud occur because of the overseas jobseekers want to go abroad really bad. Then they could face fraud easy from the brokers/illegal brokers or private employment agencies that take the money from the overseas jobseekers but do not send or send to abroad.”

The above cases accept those who used the government services all represent the various forms of exploitations faced by Thai overseas jobseekers. The testimonies of brokers and government officers also reflective of this, from these cases it can be derived that exploitation happens in many cases because jobseekers are not empowered about the rules and regulations regarding overseas employment.

They are also trusting of the brokers who often come from their communities. In addition a great deal of illegal brokers pray on poor jobseekers who seemingly are

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willing to do anything to better their livelihood. In other cases moneylenders play a key part in pushing people further into poverty by playing the game of debt bondage.

However what is most alarming is that neither of these people above had positive reaction to the authorities such as the police or the labor courts. Labour officials indicated that they knew about the violation and in some ways the Ministry tried to help by developing policies to safeguard jobseekers rights. However, it is very difficult to enforce them. Most jobseekers believed that these agencies were not protecting them from the fraud they have received and as a result their families' existence has been jeopardized.

In some instances the authorities that were supposed to protect them became part of the problem such as in the last case where the perpetrator actually secured to operate under the 'watchful eyes' of the labor department in Chiang Rai, gaining trust from unsuspecting jobseekers. In order to create a system, which puts more emphasis on the protection of overseas jobseekers and their families, a few things will have to change. The following two chapters will be shedding some light on how better protection from fraud for overseas jobseekers could be achieved.

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CHAPTER 4
RESULTS OF THE RESEARCH, ANALYSIS AND DISCUSSION

The following section provides in depth analysis of the exploitation of Thai overseas jobseekers. It draws the analysis from the detailed case studies in Chapter III as well as information discussed in Chapter II.

4.1 Results of the research questions on the Thai overseas Jobseekers

This research aims to answer five important questions in relation to Thai overseas jobseekers. These are:

- How and why do the criminal activities occur and how criminal abuses can be explained from a human rights perspective?
- Do jobseekers have special status in the government's policy and law?
- What correlated rights do the overseas jobseekers have?
- What are regulations, policies, and duties that the Thai government set to deal with the problems (both old and new) and how new policies and mechanisms function?
- What should be done in order to reduce the exploitation of Thai overseas jobseekers?

Based on the cases studies in Chapter III among those interviewed the biggest problems encountered while preparing to migrate overseas included: high commission fees and interest on loans; paying the fees but not departing, paying for illegal brokers and illegal arrangements; and no adequate response from the authorities when a problem was encountered. Out migration is a lucrative business involving a spider web of private employment agencies, investors, brokers and sub-brokers, and many others who are determined to make money quick. As illustrated in the various case

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studies in Chapter III the exploitation of overseas jobseekers was relatively “easy”. On the one side there were the private employment agencies, their brokers and their sub-brokers, or even illegal brokers offering jobs abroad, while on the other side the desperate jobseekers handing over large sums of money in the hopes that their lives will turn for the better. To understand this relationship further it is important to look at the reasons why the various frauds against overseas jobseekers takes place.

1. Socio-economic

a) Poverty

In this research, most of the overseas jobseekers wanted to go abroad because of economic reasons such as the promise of a better income compared to what they can earn from their rice fields or small scale farming. They live year-by-year earning their livelihoods from agriculture, which does not give them enough means to support their families. Therefore going to work abroad is the way to survive and show responsibility for the family.

In 2004 the main group of overseas jobseekers came from the provinces in the Northeast with 80,861 male and 15,512 female workers. From the North 26,319 male and 5,038 female jobseekers went overseas (Refer to Table No. 3). The top ten provinces where overseas jobseekers came from are Udonthani 19,570 people, Nakornrachasima 16,422 people, Khon Kaen 9,480 people, Burilum 8,480 people, Nhong Kai 8,167 people, Chaiyapum 7,632 people, Lumpang 5,969 people, Sakonnakon 5,870 people, Bangkok 5,211 people and Chiang Rai Province 5,117 people (Refer to Table No. 4). These provinces are among the poorest in the country.

Furthermore most of these provinces where overseas jobseekers come from provide people with limited livelihood options other than agriculture. As a result there is high unemployment and since there is no social security system in the country that can support those out of work most people take loans from friends and family. Thus a chance of going abroad can provide a seemingly easy way for people to repay their debts.

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The Thai government's economic policies are also keeping regions where most overseas jobseekers come from poor. These policies include the liberalization of the agricultural sector for instance that have contributed to reduce prices of agricultural products including rice. In addition the government has paid little attention to promoting other sectors in rural Thailand that could bring jobs and thus income to poor communities.

The private employment agencies, investment agencies, brokers and sub-brokers as well as the illegal brokers depend on this economic instability and hardship of overseas jobseekers. They understand that while people remain poor they will look for opportunities that will get them out of poverty fast and will not care so much about the costs or the later impacts on their families. This is why employment agencies can charge fees beyond the legal allowed limit; this is why investors charge excessive interest rates.

b) Education

The other reason of such rampant exploitation of overseas jobseekers is their level of education. In most cases the education level of overseas jobseekers is below grade 9. As the statistics of the labor department indicates in 2004 as high as 77 per cent of overseas jobseekers were below grade 9, and as high as 57 per cent below grade 6. (Refer to the Table No. 7). This also correlates to the jobs most overseas workers undertake. In 2004 14,893 people worked abroad as entertainers and services, 12,963 people in agriculture and as fisherman, 10,890 worked in factories, 66,434 in construction and transportation of equipments, and 35,951 as unskilled and semi-skilled labor (Refer to Table No. 6).

Education plays a key part in the reasons behind exploitation in two different ways.

First, low levels of education prevents people from pursuing better jobs at home, jobs that would make it more worthwhile to remain in the country. For example the salaries that are offered in Thailand for the kind of jobs that people are taking up abroad is only a fraction i.e less than Baht 200 per day for construction work in

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Bangkok. This would mean a salary of about Baht 5,000-6,000 a month. A construction worker in Korea could earn four times this amount or about Baht 20,000.

Second, low education contributes to people not being fully aware of their rights and thus being able to demand those rights. In many instances those interviewed for this research sought very little information about the jobs abroad and the process of getting there. Not being informed limits people bargaining power for example paying only the allowed recruitment fee. Also, if a person experienced exploitation and fraud many of those interviewed had little knowledge on how to go about claiming their case with the police and the courts. In a number of cases even though jobseekers have experienced fraud they did not inform the authorities because they believed that they themselves did something wrong. This is important because even though one might end up contracting an illegal broker who arranges the jobseeker to go abroad in an illegal way (i.e. as a tourist) the jobseekers still have the right to protection by state under the constitution as well as the Penal code. It is in deed the states duty to ensure equal justice for all.

2. Systematic

a) Competition

The current system of sending workers abroad also contributes to the exploitation of these workers as it creates competition among workers and among private employment agencies in the region. Given the fact that more and more people seek employment overseas the supply and demand factor of jobs and workers have been revised. While 20 years ago employers overseas were willing to pay for migrant workers good sums to work, today it is the overseas jobseekers who have to bear the cost of wanting to work abroad. This created a good business for those supplying the opportunity, as overseas jobseekers are willing to pay any price to be given the chance to work abroad. Competition among those seeking jobs abroad and the belief that the more one is paying the more likely that he or she will get a job abroad is also evident.

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In addition private employment agencies also buy job placements from agencies abroad or from the employers directly. There are many countries, such as Philippines, Viet Nam, and Indonesia, in the region that send workers abroad. This also creates competition among private employment agencies who in order to receive the contract increase their bids for such jobs. The end result is that they transferred this cost to the jobseekers by charging excessive fees.

According to the law the allowed fee for private employment agencies that they can charge overseas job seekers is Baht 56,000 for Taiwan and Baht 15,000 for other countries plus the first months salary. But in fact the cases studied in this research paid commission fees to the private employment agency more than the law allowed but without receipts in order to circumvent the law. Because in many instances overseas job seekers pay to sub-brokers in the village, broker and private employment agency will charge between about Baht 100,000- 340,000 per person (Refer the cases of Chiang Rai and Khon Kaen Provinces). Also the fee charged depends on the country and destination. A job in Japan can cost over Baht 250,000, and in Taiwan from Baht 120,000-200,000 (Refer to the cases of Chiang Rai). To the countries of the Middle East, Europe or North American some overseas jobseekers as presented in the Chiang Rai cases pay as much as Baht 240,000 per person. In many instances jobseekers use their land title as a collateral.

However if jobseekers secure work overseas through the government services the cost to the jobseekers could be reduced substantially. The cost for securing a job in South Korea if they go to the Government service the overseas job seekers will pay only from Baht 35,000-50,000 (passport, criminal identity, medical check up, skilled labor test, language fees, airplane ticket and other transportations). But again there is great competition among workers to receive these jobs as currently there are only 3000 such placements per year. It is also unknown if corruption plays a key role in receiving such posts.

That going through self-arranged way the cost is about Baht 40,000-50,000 (passport, criminal identity, medical check up, skilled labor test, visa, airplane ticket

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and other transportations). Those going in this manner do not need to pay for commission fees but those using this channel must have good connections with friends or relatives abroad who can facilitate a guarantee letter from the employer abroad.

In order to compete in the game of securing overseas employment many jobseekers take out huge loans. In this research most of the overseas job seekers use the bank services by using the land titles if the bank guarantees (Refer the cases of Chiang Rai who want to Japan 12 years ago). However those who cannot secure loans from legitimate banks use private investment agency services by depositing their land titles or have a guarantor (Refer to the cases of Khon Kaen and Mahasarakam Provinces).

However this is probably the most dangerous way of securing a job as was shown in the cases of about 37 cases from Khon Khen who worked abroad for about two to three years but still failed to pay off the debts and as a result lost their land titles. For the cases who went to South Korea most used their own money because the fees involved are not high like the cases of the overseas job seekers who want to go to Taiwan and Kuwait or other countries.

Despite the high commission fees charged by private employment agencies this was still the preferred way of going between 2001-2004 follow the statistic of the Ministry of Labor with 98,363 people using their services, (Refer to the Table No. 8) However most of those facing exploitation used private employment agency services. Despite this people still want to go with the private employment agency because it is faster, taking only three weeks to a month rather than the four months to one year it takes with the government.

3. Institutional

a) Corruption

Corruption has been the way of life in Thailand for decades if not for centuries. As Nualnoi Treerat points out in his study on fight against corruption in Thailand,

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corruption is present at every level of government. It reaches from the police, to the various ministries to even the court system. In Thailand people pay the police to get someone arrested, or to release somebody, pay the court to secure favourable decisions, and pay officials to get the required permits to operate their businesses. Treerat also notes that among the government agencies the police department is one of the top three most corrupt agencies.

Corruption thus contributes to people not realizing their fundamental rights of equality before the law, and state protection against exploitation. Both of these rights are imbedded in the Universal Declaration of Human Rights and the Thai constitution. The current system of overseas job recruitment those who the money (namely the brokers and agencies) are able to secure favourable treatment- even if it is illegal- by the authorities whose job should be the protection of all. Many of those interviewed during this research have lost complete faith in the authorities to solve their problems and as a result feel helpless and hopeless.

b) Legal

As was indicated in Chapter II there are various legal instruments both national and international the refer to the protection of all against injustice. In Thailand given the sudden increase of overseas job recruitment the Employment Recruitment and Protection Act of 1985 and its revision of 1995 had supported the protection of overseas jobseekers. However this support has so far been mainly in principle and not in practice.

Among those interviewed almost everyone had said that the police and the court system was not on their side. Many did not even consider lodging a claim in either the labour or the criminal court. The reasons behind this are that people who have encountered fraud did not have positive experiences with either the police or the courts. The case of the 211 people in Chiang Rai is a good example of this negative experience where people have been waiting for over 10 years to resolve their cases. In other instances such as in the case of Mr. Song and his friends in Chiang Rai who had

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to take matters into their own hands to look for the broker who stole Baht 330,000. The police and the court in this case ignored the claim of the jobseekers, as they did not have receipts and other evident to back up their case. Today, Mr. Song alone owes Baht 1,400,000 to the Bank. By the government not fulfilling its duty to safeguard citizens from such violation contradicts the principles of the UDHR by depriving those who fall victims to such crimes from a decent livelihood and thus life. In addition the government's inaction in catching and punishing those committing the crime.

The impact of fraud by illegal brokers and illegal private employment agencies inflicted on overseas job seekers are devastating. In many instances their schemes bring huge debt from Baht 20,000 to 340,000, loss the land titles and family problems. The government's inability or unwillingness to protect people from this fraud can lead to human rights violation as it can be seen as a violation to right to security of life and property, right to information, right to work, to education and right the to sue the case in the Court if they have no evidences. These are serious violations that happen not in foreign lands but right at home where peoples should feel safe.

Therefore, going abroad for the overseas job seekers is a huge investment for the family's future but at the same time the overseas job seekers are also vulnerable to human rights abuse if they face fraud. For those who have been victims of such criminal activities the strife for riches had turn into strife of hardship. As a result people have lost their property which provided them with a meager living, children have been pulled out of school, and the future of whole families have been shattered.

Traditional and cultural

As discussed earlier the exploitation and fraud against Thai overseas jobseekers is considered "easy". Socio-economic, institutional and structural factors are all enabling those offering employment abroad to commit fraud. In addition to these traditional and cultural norms can also lead to exploitation and fraud. There are two particular issues that keep reoccurring among those interviewed.

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The first issue is “trust”. As was illustrated in the case studies such as Mr. Song and Mr. Thongmak, who was deceived by an ex-Buddhist nun, overseas jobseekers handed over great deal of money without receipt to those offering jobs overseas. Those committing these acts were known to people and gained full trust of those wishing to find employment abroad. However, in many instances these job never materialized and often the brokers disappeared with the money altogether. This trust is based on the social status and economic status of those offering the jobs. For example in the case of the ex-Buddhist nun those being deceived by her did not lose trust in her even though there were many alarming signs along the way, i.e. not passing immigration in Korea and then in Thailand. Finally, she just disappeared leaving seven people in Baht 150,000 debt each.

The second issue is “not questioning authority”. This principle has also been a way of life for many Thai people especially for those in poverty. In many poor rural areas those with authority are often immune from punishment and thus exploit poor people. For example the moneylender in Chaiyaphum province who is well known in seven nearby provinces, He is able to charge excessive interests and his practices put people in debt bondage like situation but because of who he is in the community he is not brought to justice. Another example of not questioning authority is the case of Mr. Thongmak in Chiang Rai who accepted that the officer in the bank conducted business after office hours and without a receipt. It is only with the emergence of democratic principles in the last two decades that this principle has been challenged.

4.2 Discussion on the Statement of the Research

The importance of this research lies in the fact that a great number of those wishing to go abroad to work face fraud in Thailand. According to Table 2 over 7,100 overseas jobseekers have lodged formal complaints in 2001 alone but there are also many more who never reported fraud. The system, which is currently in place, allows these frauds to continue putting more and more people each year further into poverty. While there are attempts by the Thai government to regulate this lucrative business in

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fact these attempts rather than protecting the jobseekers put them further into danger. The human rights violations faced by the overseas jobseekers is similar to those faced by human trafficking victims but in the overseas jobseekers case it is done through the legal system. It is true that private employment and investment agencies are responsible for charging commission fees and interests higher then allowed by law.

However if the laws are not implemented and are violated on a regular basis that is the fault of the Thai government. Therefore this research could provide voices for poor overseas job seekers and their problems, which must be opened up to public debate in order to find solutions for them. Those who have the authority such Ministry of Labor, Provincial Lob our Department Police, Ministry of Welfare and Human Security and Ministry of Education must all play a key part in ending the abuses inflicted on overseas jobseekers.

During their pre-departure overseas job seekers could face four kinds of exploitations.

- First they could face fraud from the illegal or legal brokers, illegal or legal private employment agencies.
- Second they could face extremely high interest rates on their loans from the private investment agencies.
- Third, they could face high commission for their overseas job position and fall in serious debt.
- Fourth, they could face human rights abuse as nobody, not even the state, protects them from the various criminal activities.

In this research, the researcher discovered that for most of the cases the violation comes from the brokers, private employment agencies, and private investment agencies (money lenders). These violations happened because the overseas job seekers trust the services of these agencies and even though they question some of the practices such as no receipt for transfers they too eager to go abroad to complain. They also believe that their lost money will be returned to them and thus do not

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complain to the police. The police and other government agencies often discourage complaints as well because those violated do not have official proof of their cases.

The private investment agency abuse overseas jobseekers by charging extremely high interest for their loans to the extent at which some workers return from a 2-3 year work abroad to find that they are deeper in debt then before they departed. Some of these investors also keep the bankbooks and ATM cards by forcing overseas jobseekers to sign contracts that give them the authority to deduct amounts from these accounts from the wages that are deposited each month. Many jobseekers have no other options than to agree to such disastrous terms, as nobody else would loan them the money otherwise. However they never really realize the terms and conditions they have signed up to because the documents they sign are long (sometimes 10-15 pages) and they do not have time to read or read them carefully.

The impacts of such activities are also many folds as illustrated by the case studies in Chapter III.

First of all, the overseas job seekers would fall into debt, lose land titles, fall sick, have an unhappy life and family problems, divorce, suicide and in some case have the sell what they have to pay off the loans. Second overseas job seekers would lose opportunity to go abroad and earn income to support their family. Third, the overseas job seekers would lose their face (it means in the Thai culture the overseas job seekers would feel embarrassed from the gossiping from relatives, friends or community). Fourth if the overseas job seekers face to fraud, some of them have first reaction is hiding and not tells the problem to anyone easy because it could make they feel bad and unhappy because they lose the sensation of trust. So it is not easy to share the story to friends or relatives and then the best way is to not seek help.

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4.3 Discussion and analysis of the exploitation of Thai overseas job seekers in the Pre-Departure stage

In many instances Thai overseas jobseekers face fraud because they did not check the background of the broker and as a result did not realize that these brokers are legal or illegal brokers, as was the case of the case studies presented from Chiang Rai Province. However, in that case the problem also arose from the overseas job seekers not being able to access the information from the Provincial Labor Department. Even more the broker operated out of the labor department offices, which further added to people believing in its legitimacy.

The law also states that each broker must belong to a private employment agency. However this is not always the case and many brokers operate illegally. If an agent, as noted in this research, does not belong to any such agency then the consequences could be even worse for the jobseekers if problems arise. Many overseas jobseekers pay these illegal brokers between Baht 20,000-300,000 without any receipt. These illegal brokers devise dangerous ways to get jobseekers to their destinations if they send them at all.

There are also many instances when these illegal brokers disappear altogether. This too is a huge problem because if the overseas job seekers cannot find the broker or if the broker is found but there is not enough evidence then they cannot sue the illegal broker in court. Unless the overseas jobseekers inform the police about the fraud from the illegal broker but again if the overseas job seekers do not have witnesses or enough evidence then the police cannot arrest or punish the illegal broker. Therefore the Law of Protection the Job Seekers must be strong and practical to safeguard people in these instances.

After the legal broker find the overseas jobseekers then the broker will send them to the private employment agency. The overseas jobseekers will pay the recruitment fees follow the law allow and get the receipts. But in fact all the overseas

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job seekers have to pay extra for the commission over what the law allows without getting receipts or paper signed stating that this had happened.

In this research many cases faced exploitation from some Private Employment Agencies because the Private Employment Agency will demand and ask for the deposit money in advance, before signing the contract. If the agency cannot send them then the agency will return the deposit money back to the overseas jobseekers.

However only the money stated on the contract is returned to them. The reason why so many people are willing to do this is because job opportunities at home are very limited and a chance to go abroad they believe would help them secure a bright future for their families. The system as it stands today creates competition among already poor workers and pushes them to risk their property, land and future.

The advertisements of private employment agencies also lead to exploitation of overseas jobseekers. These advertisements are often beyond reality. In case of the overseas job seekers in Chiang Rai the misleading information came from the local radio and local newspaper. Then the overseas jobseekers believed and applied to go to Kuwait and Barren because they trust the private employment agency. However, over 300 overseas jobseekers did not go because of the private employment agency did not have the overseas job position it advertised.

There are also instances when overseas jobseekers agree to pay for arrangements that they know are illegal. This was the case in the village of Nong Kai Province that happened to three overseas job seekers. The overseas jobseekers paid the deposit money first for tourist visas to go to Europe. The jobseeker in this case accepted to pay each about Baht 120,000 even they know it is illegal. The overseas job seekers could not inform the police or sue the case in the Court against the Illegal broker because they had no evidences and because they were afraid that they too would be arrested for trying to go overseas illegally. So when such cases happen overseas jobseekers believe that they cannot do anything much and it is best to just keep quiet.

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Brokers are the middle person between private employment agency and the overseas jobseekers, and/or between the private investor and the jobseekers. They are entrusted by the agency to find jobseekers for the company. The process of going overseas is dependent on them because of the jobseekers lack the information about job openings abroad and the company also needs the broker to find and prepare the jobseekers. Therefore the broker is the key person to help the jobseekers to get the job, the loan, and prepare the papers before sending to the private employment agency.

The broker acts as the private employment agency substitution and according to the law they must register them. However if the private employment agency is not registering them then it is not easy to control the broker system and it would create more fraudulent brokers. So the act of the broker impacts both the overseas jobseekers and private employment agency to lose profits and it makes high expenditure and commission and fraud problems (Ajara Jachoenpun, 2002).

Therefore, to prevent fraud the brokers must register with the private employment agency and an extensive education in the areas the government must implement where people encounter such recruitment drives by brokers. In addition the 1994 Employment Recruitment and Protection act must address the issue of brokers who commit crimes. Today the law only states that brokers must belong to a private investment agency but in reality many brokers are independent. This reality must be taken into account to protect the rights of jobseekers.

Another vulnerability that overseas jobseekers encounter as a result of fraud is that they are unable to successfully sue those responsible for causing hardship. In many instances those who had fallen victims do not have any further resources to spend on lengthy court battles. In other instances those responsible disappear and law enforcement agencies do not consider their cases a priority. To remedy this the state should help Thai overseas jobseekers sue their cases against the broker or the private employment agency that defraud them.

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Attempts should also be made that limit private employment agencies claim to get compensated from those jobseekers who no longer wish to go abroad. This example was highlighted by the case of Mr. Boonchai Deemesuk, who refused to go abroad with the private employment agency but this agency in Udonthani Province sent three men to his house and tried to force him to go abroad or pay compensation to the agency if he refuses.

Perhaps the most important remedy to the problems could be proper information dissemination by the state about overseas job opportunities and information about the process of going abroad. This will be especially important in communities in the North and Northeast where thousands of people seek jobs. If the state promotes and provides more information to the overseas jobseekers, it would be more difficult for those causing fraud to continue and people such as of Mr. Prayon Polsavat and Mr. Prasit Vijitra will not have to worry about serious debt. It would also empower people to know their rights and safeguard themselves from fraud.

Also better access to vital information on brokers and agencies should be available to jobseekers. This information is currently not so accessible to jobseekers. If anyone wants to check the background of a broker they must visit the labor department or access a website that is in English language. While going to the labor department is doable for many people do not have the information that they actually can use this service.

Furthermore, one of the pitfalls of the system is that only agencies are registered with the labor department not individual brokers. Therefore, the State should reform the Employment Recruitment and Protection Act of 1994 to incorporate that all brokers must also register with the Ministry of Labor and also require them to deposit money to guarantee in case of complaints of exploitation by overseas jobseekers.

Today only a few thousand people have a chance to use government services in their quest of finding jobs abroad. South Korea is one of the countries where the

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government sends jobseekers to directly through a government-to-government deal. In its job promotion activities and policies the Thai government could also search new grounds and countries for such deals. Having such system in place could also reduce fraud and could bring more revenue directly to the government.

The Philippines has experienced similar problems among overseas jobseekers and has now implemented a system through which the government helps the jobseekers overseas throughout the process. In the Philippines case fraud happened because the private employment agencies in the Philippines also exploited people by asking huge commission fees. To change the system and to protect people the government began cooperation with the private employment agencies to find the overseas jobs and the government lent overseas jobseekers the money at reasonable rates. Therefore million of overseas jobseekers borrow the money through the government services.

Throughout this research the vulnerabilities of overseas jobseekers to fraud and human rights violations have been pointed out. It is evident that something needs to get done in order to fix the problem and protect those most vulnerable who are poor, with low education and limited livelihood options in Thailand. The last chapter will provide solution to these problems in the hopes of protecting the lives of thousands of people in Thailand.

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CHAPTER 5
RECOMMENDATIONS AND CONCLUSION

5.1 Trend of migration and mechanism of the government to protect Thai overseas jobseekers from exploitation, empower them, and provide their basic needs during the pre-departure stage

Thai Overseas job seekers want to go abroad because they think that working abroad would mean making more income. Their plan is to use this income to support their families. Most of the overseas jobseekers still come from the Northeast and the North of Thailand. Most of them are framers, gardeners, in general poor and have low education. They could not speak English or the language of the receiving country but they still want to go abroad. In most instances they use the services of private employment agencies and do not go to register at the Provincial Labor Department because it takes a long time such as a year or longer to get to abroad.

Also the jobs provided through the Government service are limited in numbers to meet the demand. Therefore, when they want to go abroad they will go through the broker system that belong to the private employment agency. This broker system has many pitfalls that allow for fraud and human rights violations against overseas jobseekers.

It is the Thai government that should be responsible for the protection of overseas jobseekers throughout the whole sending process. The laws exist therefore it is the government's duty to ensure that laws are implemented. There are many ways it could empower and attend to the basic needs of overseas jobseekers. Basically overseas jobseekers have four basic needs. First, they need protection from the broker system that had evolved as it allows lots of fraud by the brokers. Two, they need protection from those agencies that charge excessive fees even beyond the fees

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allowed by the government. Three, they need reasonable loans and an end to the current system whereby investment agencies can charge them huge interest rates which they seemingly never can pay off, thus keeping them in debt. Fourth, they need correct and relevant information about the process of going abroad so that they can protect themselves. In order to respond to the basic needs of overseas jobseekers the government should do the following:

The government should create a system that helps it better control the brokers system such as requiring all brokers to register with the Ministry of Labor directly and not just with private employment agencies. A strong rule regulating brokers could stop or reduce the fraud and exploitation caused by brokers.

The government should set further rules for the control of the commission price and punish private employment agencies if they take commission over what the law allows. The government should also make every attempt to encourage jobseekers to speak out if they have faced extremely high commission fees. Regulating fees further could help people to actually save money during their time away from home and would reduce the hardship caused by unnecessarily occurred debt.

The government should control private investment agencies that lend to overseas jobseekers. It could require them to register with the Provincial Labor Department to avoid the exploitation and human rights violation. Or the State should invest to operate this service by government funding for the overseas job seekers with low interest rates. This would reduce the physical and mental hardship faced by those who as a result of these investment agencies for years are never able to return their loan and end up in debt bondage like situation. Furthermore alternative livelihood options would not be lost as land titles or other property would not be taken away so easily.

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The government should provided more information and educate overseas jobseekers about their rights as overseas job seekers, and the rights of migrant workers overseas, and disseminate such information at the Provincial, District, Sub-district level. This would remedy situations where jobseekers fall pray because they are not aware of the law, processes and other formalities of going abroad for employment purposes. Furthermore with this knowledge overseas jobseekers could protect themselves and their families from exploitation.

5.2 Recommendations: Proposing ways to protect the Rights and vulnerability and prevent the exploitation of Thai overseas jobseekers in the Pre-departure stage of emigration through various local institutions.

The following section gives suggestions and recommendations for reforming the current system and processes of overseas job placement. These recommendations are as follows:

1) For Broker system

According to the Table No 7 about 66,775 overseas job seekers go abroad through the Private Employment Agencies. They are able to send overseas jobseekers abroad because of the help of brokers system. This is mainly because brokers are not allowed by law to send overseas jobseekers directly to the employers abroad. So when the brokers find overseas jobseekers it is their duty to send them to a registered private employment agency and get the commission from it.

Also the brokers have the duty to organize the Thai overseas jobseekers to get medical check up, criminal background check, passport, Pre-departure orientation or give advice the overseas jobseekers about loans from various banks or private investment agencies. While brokers are considered the middleman between jobseekers

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and private employment and investment agencies their actions can determine the future of the jobseekers, and in many instances it has for the worse by:

- The illegal broker refers the private employment agency's name that he/she belongs to but in fact he/she does not belong to that or any other agency. If the overseas jobseeker does not do a background check on the broker he/she could be cheated out of a lot of money.
- The illegal broker arranges all the documents of the overseas jobseeker including the loan for covering the commission the overseas jobseeker could end up in serious debt. Often there are no receipts for such transactions and thus making it difficult to prove the case in a court and bring those responsible for the fraud to justice.

Recommendation: The law of Recruitment and Labor Protection of Job Seekers 1994 must be stronger enforced and punish the illegal or some legal brokers who exploit poor overseas jobseekers. This could be done by ensuring that all brokers register not with a particular private employment agency but with the Ministry of Labor directly and have a number card indicating, which private employment agency they belong to. Then when the overseas jobseekers bring complaints against brokers the Ministry of Labor officers could know which broker committed the violation. Provincial labor departments should also have access to information on all brokers so that they can provide background information on them to the communities.

2) For Private Employment Agency (PEA)

In 2005 over 250 private employment agencies registered with the Ministry of Labor (Ministry of Labor). Each private employment agency must register with 5 million Baht per company according the Recruitment and Labor Protection Act of 1994. This money is for registering to run the legal business and allow finding and sending the overseas job seekers to abroad. Most private employment agencies have a branch office in some provinces and register brokers they give commission to. So all private employment agencies should update the information on their brokers regularly. Even though a broker could belong to many private employment agencies this could

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be done by each of them. But in fact to prevent the problems the private employment agencies should update their records more often like once or twice a year. This would also require the broker to report and renew the registration otherwise the broker could not refer to the private employment agency and thus does not have the legitimacy to collect deposits from overseas jobseekers. Having such a system would not only benefit and protect the overseas jobseekers but potentially could protect the reputation of the private employment agencies as well.

Recommendation: Even though private employment agencies must register their companies with Baht 5 million as a guarantee of the security of overseas jobseekers this amount is anything but sufficient. As shown in the case of the Chiang Rai case studies the jobseekers together deposited some Baht 16 million with the S.S.M. Employment agency (Catholic Commission for Migrants). But in the end the agency returned the deposit money but 28 cases still cannot get the land title or their money back. So the existing law of Recruitment and Labor Protection of Job Seekers should be reformed by requiring companies to register with more than Baht 5 million, depending on the size of the company. This would also benefit overseas jobseekers in case a company goes bankrupt and disappears with their money.

3) For Private Investment Agency (PIA)

The Recruitment and Labor Protection of Job Seekers 1994 does not refer to the rules regulating private investment agencies. However, as was presented in this research many cases borrow the money from private investment agencies at a very high interest. But they have no choices because it is a faster access and requires less hassle than a loan from the bank. Overseas jobseekers are only required to deposit their land title then they can get the money in just one day. If the overseas job seeker does not have land holdings and thus land title the overseas jobseekers is only required to find one or two persons who then act as a guarantor for them.

However, while the process to access money through private investors seems easy many overseas jobseekers are exploited by them and find it hard to repay their

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debt. This happens mainly because private investors charge excessive interests rates, and because people who use their services do not understand the terms and conditions of the contracts. In the cases presented from Khon Kaen and Mahasarakham Provinces the overseas jobseekers faced exploitation by one of the investment agencies from Chaiyaphom Province. This agency let the overseas jobseeker to borrow the money by it also required them to deposit their land titles and surrender their ATM cards and bankbooks taking full charge of the overseas worker's earnings. Under such conditions it is hard to imagine how anyone could pay off their debt and as was the case two years of hard work only reduced the debt by 10 per cent. Defaulting on these loans is also very dangerous as the investment agency can then take the land title and sell the land. This land in many instances is very important for the families as it is their alternative livelihood option and has belonged to the families for many generations. Losing this land can mean loosing any livelihood options in Thailand.

Recommendation: To protect overseas jobseekers from the exploitation of private investment agencies the government should provide poor overseas jobseekers low interest loans. This would allow overseas jobseekers to pay for their commission fees and other arrangements necessary for their trip abroad. The government could then make special arrangements to ensure that loans are repaid to the government on monthly bases from the wages of the worker overseas. Setting up direct loans by the government would not only help migrant workers reduce their debt and make a better living but could also reduce fraud which exists around excessively high commission fees.

4) For Thai Overseas Jobseekers (TOJ)

Every year over 150,000 people (Comparative Statistic of Thai migrants workers overseas 2004, Ministry of Labor) go to work abroad. But each of them has to pay for the commission fees of the broker, private employment agency and the private investment agency that helps them along the way. While the broker system of sending people abroad has been in place for a long time, new more reliable channels have also become available for overseas workers to go abroad. As was shown in table 7 more

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and more people depart using the Self-arranged channel and the channel through the government sponsored services. This in itself is a good sign.

Recommendation: However, even though overseas jobseekers could go abroad by Self-arrangement and by the Government service such as the South Korea, but these numbers are still small if compared to the numbers who depart through private employment agencies. So the Government should look for other opportunities of sending more the overseas workers by the Government service in the future. The Government could do a lot of benefit to poor overseas jobseekers to protect them from fraud and exploitation from some private employment agencies, private investment agencies and illegal brokers.

5) For Government Organization Service (GOS)

In the case of those workers who went to South Korea using government services the benefits were clear. They only had to pay below Baht 50,000 a more manageable amount than the sometimes Baht 200,000 that private employment agencies charge. The model of sending workers through government-to-government sponsored deals could benefit more poor people in Thailand.

Recommendation: However even the government could send as many as 10,000 people per year the number of people who want to work abroad is much higher than that. Thus the government could invest more in finding new recruitment grounds overseas and could manage these through government services. In addition as discussed earlier the government could provide loans for overseas jobseekers. To do this research urges the Thai government to learn from countries such as the Philippines that have already implemented such a system. This could prevent fraud and the violation of human rights.

6) For Non-Government Organization (NGO)

There are many NGOs in Thailand that work towards the protection of migrant workers either in Thailand or abroad. However currently there are only a few NGOs

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that are concerned with the rights and exploitation of overseas jobseekers in Thailand. These include the Women Foundation, the Catholic Commission for Migrants and Prisoners and the Thai Labor Campaigns organization. There are over 10,000 cases of those experiencing exploitation each year so NGOs should develop programmers that help jobseekers better understand their rights and thus safeguard themselves from fraud and human rights violation. In addition the Government could provide the budget to the NGOs to support the Government to prevent fraud and exploitation by empowering overseas jobseekers about their rights.

7) For Human Right Protection Mechanisms

Human rights protection could be one of the mechanisms that the Government, brokers, private employment agencies and private investment agencies should use to respect the dignity of overseas jobseekers. For example the right to access the information, right to work, right to security of life and property, right to assembly, right to join the trade union and right to education should be all considered. Human rights are the principles of human being that must be protected and respect that these should not be exploited. Therefore if the overseas jobseekers are aware about their rights they would not accept the violation against them so easily. However overseas jobseekers could not enjoy their right because they still do not know about them.

Recommendation: The Government and the NGOs should provide awareness and education of human rights principles. If overseas jobseekers are empowered and educated about their rights they would reject perhaps the current unfair system of brokers, private employment agencies and investors.

5.3 Conclusion of the research

Thai overseas jobseekers face numerous challenges throughout the quest of finding opportunities to go abroad. They face fraud, exploitation and human rights violation throughout the pre-departure process. This research highlighted many of the problems they face, which make many of them lose property, security of life and

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livelihood. In many instances those seeking overseas employment come from poor communities in Thailand and lack other livelihood options near their homes. The impact of the current system, which allows easy exploitation of overseas jobseekers, is many folds. In many instances it leads already poor people in serious debt, difficulties in life such as not being able to pay for healthcare or education, family problems and human rights abuse.

There are a number of national and international instruments that should provide protection to overseas jobseekers, however their implementation is lacking. In addition the only national law that safeguards jobseekers, the Recruitment and Labor Protection act of 1994 in many ways seems ineffective and unpractical. To remedy the numerous problems faced by jobseekers this law must be reformed and those operating the system (brokers, private employment agencies, and private investment agencies) must be brought under control.

Therefore, firstly the law should require the brokers to register with the Ministry of Labor and register regularly with a private employment agency for protecting jobseekers and preventing the fraud. Second the law should be change to require private employment agency to deposit a registration fee of about Baht 10-20 million to guarantee that jobseekers can receive their full fees back in case of problems. Third the government should provide loans for job seekers so that they do not have to use the services of private investment agencies, which are riddled with fraud and exploitation.

However, the prevention of fraud and exploitation is not only about changing laws but also about empowering people to know and safeguard their rights. Therefore the Ministry of Labor should empower the overseas jobseekers to understand the process of going abroad as well as the rules and regulations and jobseekers rights throughout the process. In addition there should be attempts made to find more opportunities abroad through government-to-government deals, which are more reliable, and fraud free.

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If the system that currently is in place does not change soon, fraud, mistreatment, and exploitation, and human rights violation such as right to access to information, right to work, right to security and property, right to education will continue. It should be in everybody's interest to make sure that this does not happen and those looking for livelihood opportunities abroad instead of just dreaming about can actually bring about a better future for their families.

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APPENDIX

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APPENDIX A

Questionnaire: For the Case Studies

(Interview Thai overseas jobseekers)

Topic: Thai Overseas Jobseekers: A Study of their Exploitation and Vulnerability

(1) Personal Data

1) Mr/Mrs/Ms.:……Surname…… Age… Year old
2) Address:……
……
3) What is your status (married or single)?
4) If married, how many children do you have? …….…….
5) Your Education Level:……
6) What is your career?
7) Have you ever gone abroad to work?…….
   If yes, where did you go? ……What job did you have?……
   How long did you go?……How did you go?……
   How much money did you pay?……..
   Did you face any problems when you go last time?……..

(2) Process of going aboard

1) How did you select the broker/ private employment agency? ……..
2) How do you know it offers the job overseas?……..
3) Where did you go to contact the private employment agency? …….
4) Whom did you contact? …….
5) What kind of job did you apply for? ……
6) Did you sign any contract or paper? …….
7) Did you check the job overseas through the Labour Department in your province? …….
8) Did you check the private employment agency statue? …….

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9) Do you have any friend or relative who is working in abroad? ……..
10) Can you tell how much did you pay? …….
11) How did you have the money to pay for the commission? ……
12) Did you fall into debt? …….
13) Can you tell how much? ……
14) Do you have to pay for the interest? ……

(3) The impact

1) When did you realize that you are facing fraud? ……..
2) Can you tell, what the broker or private employment agency told you after you paid the commission? …….
3) When you know you face to fraud how did you tell your family?……
4) Did you contact and complain at the Labour Department in your province? ……..
5) Did you tell the police?……..
6) Did you go and ask your money back from the broker or private employment agency? ……
7) How you can find the money to pay your loan and interest? …….
8) Did you have to take your child out of school? ……..
9) Did you have to sell anything? …….

(4) What can be done?

1) Can you tell where the problems of fraud come from?……
2) Can you think how the pre-departure problems can have the solution? ……
3) Can you tell why do you want to go abroad?……..
4) Can you tell the pros and cons of going abroad?……..

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APPENDIX B

Questionnaires for the Private Employment Agency/Brokers

How long has your agency been operating in this business?……

Does your agency have any branch offices up country?……

If yes, has in which Provinces?……..

In the past few years where has your agency sent overseas jobseekers?

……..

In each month how many overseas jobseekers does your agency send overseas?

……..

Where do the overseas jobseekers come from?……

Most of the overseas jobseekers are men or women?……..

If men what are the positions they go abroad to work?……

If women what are the positions they are go abroad to work?……..

How does your agency can get the overseas jobs from abroad?……..

How does your agency find the overseas jobseekers?……..

How your agency prepares the overseas jobseekers?……

What else the overseas jobseekers have to be prepared?……..

How long does it takes to send the overseas jobseekers to abroad?

……

Do the overseas jobseekers have to sign any papers or a contract?

……

If yes, could you tell what kind of the papers?……..

How many thing the overseas jobseekers have to pay for and how much?……

Does your agency give receipts to the overseas jobseekers after payment?

…….

Could you tell how much (total) the overseas jobseekers pay for the services?

……

Does your agency face any problems or obstacles?…….

If yes, have any problems how do you deal with those problems?

…….……

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APPENDIX C

Questionnaires for Government Officers (Ministry of Labor)

Part 1

In the past few years what are the State policies and mechanism for promoting overseas jobs?……..

In the past two years do has the State has changed the policies or mechanism or not if have it could you tell how it impacts to the overseas jobseekers?

…….…….

Recently, what are the measure and protection against fraud for the overseas jobseekers?……..

Do you think the trend of going abroad is more numbers or less in this year and the future?……..

What are the biggest destination regions that the Thai overseas jobseekers want to go?

…….

How the State prepares the strategy to support the overseas jobseekers in the future?

…….

Part 2

What is the Pre-departure training program?……..

What are the objectives of the training program?……

Do you have any documents that you provide copies to overseas jobseekers?

……

How long the training takes?……..

Who gives the training to the overseas jobseekers?……..

What is the curriculum? ……

Why the overseas jobseekers have to take this training program?……

Do the overseas jobseekers pay for the training program?…….

Do you know how much the overseas jobseekers pay for the recruitment fees?

…….

After the training but in case if some of them could not go abroad what would you do to help them?……

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APPENDIX D

Statistics of Thai Overseas Job Seeker

Table 1: Numbers of Thai Migrant Workers Overseas from January-December 2004

	1	1	2	2	3	3	4	4	5	5	Total	Total	All Total
Country	M	F	M	F	M	F	M	F	M	F	Male	Female	
Saudi Arab.	27	14	825	89	-	-	3	-	4	-	859	103	962
Qatar	231	22	644	4	-	3	83	-	976	-	1,934	29	1,963
Bahrain	128	88	147	153	-	-	-	-	22	-	297	241	538
UAE	277	69	1,126	200	1	82	46	12	12	17	1,467	375	1,842
Kuwait	122	43	736	78	-	-	9	-	269	4	1,136	125	1,261
Oman	9	6	241	12	-	-	1	-	-	-	251	18	269
Israel	522	80	2,412	189	-	-	-	-	6,736	642	9,700	911	10,611
Iran	40	4	37	3	-	-	19	-	607	-	703	7	710
Others	90	16	165	12	-	-	1	-	-	-	256	28	284
Total/ME	**1,476**	**342**	**6,333**	**740**	**1**	**85**	**167**	**7**	**8,626**	**663**	**16,603**	**1,837**	**18,440**
Libya	62	-	1,214	2	-	-	-	-	501	-	1,777	2	1,779
Others	149	22	415	164	-	-	324	29	711	-	1,599	215	1,814
Total/Africa	**211**	**22**	**1,629**	**166**	**-**	**-**	**324**	**29**	**1,212**	**-**	**3,376**	**217**	3,593
Malaysia	1,945	690	1,989	398	50	4	302	362	113	-	4,399	1,454	**5,853**
Singapore	1,270	59	8,798	288	-	-	285	58	579	1	10,932	406	11,338

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	1	1	2	2	3	3	4	4	5	5	Total	Total	All Total
Country	M	F	M	F	M	F	M	F	M	F	Male	Female	
Hong Kong	51	1,098	136	2,548	-	-	20	11	1	261	208	3,918	4,126
Japan	77	123	473	166	125	320	2,671	1,763	69	70	3,415	2,442	5,857
Taiwan	156	38	18,146	2,184	391	91	174	26	39,781	9,005	58,648	11,334	69,982
Korea	1,513	1,006	2,439	538	574	119	197	142	3,968	151	8,691	1,956	10,647
Vietnam	43	-	284	15	-	-	188	3	29	-	544	18	562
Cambodia	-	-	41	7	-	-	27	1	-	-	68	8	76
Others/Asia	402	94	1,880	198	-	10	1,607	280	156	-	4,045	582	4,627
Total/Asia	**6,259**	**3,230**	**37,113**	**7,057**	**1,140**	**544**	**5,473**	**2,636**	**45,714**	**9,582**	**95,699**	**23,049**	**118,748**
USA	66	35	1,311	590	-	-	104	82	496	59	1,977	766	2,743
England	320	223	440	208	6	-	20	27	72	-	858	458	1,316
Germany	84	25	100	20	-	-	5	17	-	-	189	62	251
Australia	33	6	25	16	-	-	89	124	18	4	165	150	315
Italy	47	11	64	89	-	-	5	5	-	-	116	105	221
Syban	3	32	11	67	-	-	-	-	-	-	14	99	113
Denmark	3	7	24	5	-	-	1,096	2	-	-	1,123	14	1,137
Others	279	306	380	287	1	1	101	35	319	10	1,080	639	1,719
Total	**835**	**645**	**2,355**	**1,282**	**7**	**1**	**1,420**	**292**	**905**	**73**	**5,522**	**2,293**	**7,815**
All/total	**8,781**	**4,239**	**47,430**	**9,245**	**1,148**	**630**	**7,348**	**2,964**	**56,457**	**10,318**	**121,200**	**27,396**	**148,596**

Source: Labour department, Ministry of Labour and Social Welfare, 2004

No.1 (Migrant Workers go by themselves)
No.2 (by Re-entry)
No.3 (by Government)
No.4 (Employer/Training)
No.5 (Private Employment Agency)

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Table 2: Complaint vs. Compensation

Problems	1997				1998			
	Complaints		Compensation		Complaints		Compensation	
	Person	Baht	Person	Baht	Person	Baht	Person	Baht
1.Paid but did not go	3,343	131,173,074	1,920	51,799,350	4,442	182,281,766	1,319	32,456,414
2.Complain/ abroad	130	1,337,631	36	216,000	382	1,583,000	69	283,000
3.Returnee	876	35,976,991	502	13,725,333	1,529	76,820,747	714	22,644,142
Total	**4,349**	**168,487,969**	**2,458**	**65,740,683**	**6,353**	**260,685,513**	**2,102**	**55,383,556**
			56.52%	**39.03%**			**33.08%**	**21.25%**
	1999				**2000**			
1.Paid but did not go	6,401	253,200,674	1,590	42,765,822	4,392	275,266,083	1,462	47,032,712
2.Complain/ abroad	760	8,647,598	151	268,738	316	3,745,500	45	410,576
3.Returnee	2,224	137,555,851	1,236	47,606,702	1,834	142,698,407	1,304	57,182,497
Total	**9,385**	**399,404,123**	**2,977**	**90,641,262**	**6,542**	**421,709,990**	**2,811**	**104,625,785**
			31.73%	**22.69%**			**42.96%**	**24.80%**
	2001*							
1.Paid but did not go	4,217	281,570,441	1,328	43,244,020				
2.Complain while work abroad	917	712,000	77	896,000				
3.Returnee	1,995	176,872,342	1,189	46,876,038				
Total	**7,129**	**459,154,783**	**2,594**	**91,016,058**				
			36.39%	**19.82%**				

*** Statistic from January-September, 2001**

Source: Labour department, Ministry of Labour and Social Welfare.

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Table 3: Statistic of Thai Overseas Jobseekers Registered By Regions, Year 2004

Region	Male	Female	Total	%
Central	4,649	2,051	6,700	4.51
Northeast	80,861	15,512	96,373	64.86
North	26,319	5,038	31,357	21.10
East	,231	1,156	4,387	2.95
West	1,328	590	1,918	1.29
South	881	376	1,257	0.85
Bangkok	3,931	2,673	6,604	4.44
Total	**121,200**	**27,396**	**148,595**	**100.00**

Source: Labour department, Ministry of Labour and Social Welfare, 2004

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Table 4: Statistic of Thai Overseas Jobseekers Registered Top Ten Provinces, Year 2004

Province	Male	Female	Total	%
1.Udonthani	15,798	3,772	19,570	12.40
2.Nakornrachasima	12,961	3,461	16,422	10.41
3.Khon Kaen	7,492	1,988	9,480	6.01
4.Burilum	6,767	1,670	8,437	5.35
5.Nhong Kai	6,443	1,724	8,167	5.17
6.Chaiyapum	6,069	1,563	7,632	4.84
7.Lumpang	5,111	858	5,969	3.78
8.Sakonnakon	4,815	1,055	5,870	3.72
9.Bangkok	2,880	2,331	5,211	3.30
10.Chiang Rai	3,890	1,227	5,117	3.24

Source: Labour department, Ministry of Labour and Social Welfare, 2004

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Table 5: Statistic of Thai Overseas Jobseekers Top Ten Countries, Year 2004

Country	Numbers	%
1. Taiwan	70,096	44.41
2. Korea Republic	35,327	22.38
3. Israel	11,754	7.45
4. Japan	7,587	4.81
5. Malaysia	3,794	2.40
6. Singapore	3,241	2.05
7. Brunei	2,673	1.69
8. United State of America	2,540	1.61
9. Qatar	2,020	1.28
10. Hong Kong	1,965	1.25

Source: Labour department, Ministry of Labour and Social Welfare, 2004

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Table 6: Statistic of Job Position Overseas, Year 2004

Job Position	Male	Female	Total	%
1. Skilled Labour (Academics)	3,568	1,437	5,005	3.37
2. Management Programme	749	239	988	0.67
3. Clerk and Secretary	674	481	1,155	0.78
4. Trade	154	163	317	0.21
5. Entertainer and Services	5,458	9,435	14,893	10.02
6. Agriculture, Fisherman	11,426	1,537	12,963	8.72
7. Factory	9,502	1,388	10,890	7.33
8. Construction and Equipments of Transportation	56,162	10,272	66,434	44.71
9. Unskilled and Semi-skilled Labour	33,507	2,444	35,951	24.19
Total	**121,200**	**27,396**	**148,596**	**100.00**

Source: Labour department, Ministry of Labour and Social Welfare, 2004

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Table 7: Statistic of Education Level of Thai Overseas Jobseekers, Year 2004

Education Level	Male	Female	Total	%
1. Grade 4	186	65	251	0.17
2. Grade 6	71,143	12,502	83,645	56.29
3. Grade 9	26,423	5,760	32,183	21.66
4. Grade 12	11,471	4,170	15,641	10.53
5. Technical Schools	7,834	2,111	9,945	6.69
6. Bachelor Degree	4,129	2,783	6,912	4.65
7. Master Degree	-	-	-	-
8. Other Skilled Certificate	14	5	19	0.01
Total	**121,200**	**27,396**	**148,596**	**100.00**

Source: Labour department, Ministry of Labour and Social Welfare, 2004

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Table 8: Statistic of Thai Jobseekers, Type of Going abroad, Year 2004

Type of Going	Self-arranged	Re-entry	Govt. Service	Employer	Training	Private employment Agency	Total
Middle East	1,818	7,073	86	162	12	9,289	18,440
Africa	233	1,795	-	343	10	1.212	3,593
Asia	9,489	44,170	1,684	2,744	365	55,296	118,748
Others	1,480	3,637	8	1,415	297	978	7,815
Total	**13,020**	**56,675**	**1,778**	**4,664**	**5,684**	**66,775**	**148,596**
%	**8,76**	**38.14**	**1.20**	**3.14**	**3.82**	**44.94**	**100.00**

Source: Labour department, Ministry of Labour and Social Welfare, 2004

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Table 9: Comparative Statistic of Thai migrant work overseas, Year 2001-1004

Type of Going	2001	2002	2003	2004
Self-arranged	4,196	5,216	8,907	13,020
Re-entry	65,591	62,253	51,858	56,675
Govt. Service	737	422	409	1,778
Employer	3,068	3,265	3,656	4,664
Training	5,754	5,428	5,368	5,684
Private Employment Agency	98,363	84,218	77,571	66,775
Total	**177,709**	**160,807**	**147,769**	**148,596**

Source: Labour department, Ministry of Labour and Social Welfare, 2004

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BIOGRAPHY

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