Deprivation of citizenship, undocumented labor and human trafficking

Myanmar migrant workers in Thailand

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Abstract: Thailand is a popular destination for irregular labor migration from Myanmar. Among some three million Burmese migrant workers in Thailand, more than half are undocumented. Undocumented migrant workers rely on brokers to smuggle them into Thailand. Some undocumented migrant workers are lured, tricked, and forced to work but they are not rewarded with a reasonable wage. A conceptual framework of the shadow sector of labor migration is formulated in this study, which attempts to explain why ethnic minorities in Myanmar are socially categorized by the level of their deprived citizenship. Those low in the hierarchy of categorization are likely to fall into the shadow sector of the labor migration process. Ethnic minorities from areas of insurgency are exposed to a high risk of human trafficking.

Keywords: citizenship, human trafficking, migrant worker, undocumented labor

Labor migration is no longer a single-directional flow from developing states to developed states. South–South labor migration has become a common phenomenon during the post–industrial era. In Southeast Asia, Myanmar is a quintessential labor-surplus nation. More than three million Burmese work in Thailand. The vast majority is unskilled workers, and about two-thirds of them are undocumented and smuggled. The material differences between Myanmar and Thailand, including the lack of employment opportunities and low-income levels in Myanmar, have maintained the stream of labor migration towards Thailand (Rhoden & Unger, 2015, pp. 51–52). However, the extended turbulent situation of ethnic tension, political conflicts, and the once closed-door regime of this former British colony, triggered insurgencies in its seven States where ethnic mi-
minorities are concentrated. Thus, political factors reinforce economic conditions that push large labor outflows.

This article is a study of Myanmar labor migration towards Thailand, with emphasis on undocumented labor and trafficking in persons. As undocumented migrant workers outnumber their legal counterparts in the destination nation, it is a significant social phenomenon worthy of examination. One intended contribution of this article is its focus on the role of the black market economy in labor migration to Thailand.

This article includes four sections. Following this introduction, part two reviews the concept of human trafficking, followed by a literature review of existing studies on labor trafficking. The third section covers the general situation of migrant workers in Thailand and the deprivation of citizenship in their country of origin, Myanmar. The case of Thai “ghost” fishing boats with slave fishermen on an Indonesian Island is discussed. The discussion section then examines how the informal labor sector links the deprivation of citizenship in Myanmar to the social categorization of migrant workers and the treatment of undocumented labor in Thailand.

**Study goal and methodology**

This study focuses on undocumented labor and human trafficking. The goal of this study is to explore the link between repressed citizenship rights among minority ethnic groups in Myanmar and the treatment of undocumented labor in Thailand.

The study addresses the following broad research questions:

1. Does the repression of citizenship rights push ethnic minorities of Myanmar into human trafficking?
2. What makes these people opt for informal smuggling, job placement, and related services provided by intermediaries?
3. What is the prolonged process for this group of migrant workers from the country of origin to being trapped in forced labor at the destination?

A conceptual framework of the shadow sector of labor migration is formulated in this study. It tries to identify deprived citizenship of ethnic minorities in Myanmar as the cause of smuggling flows and sometimes human trafficking, rather than simple poverty and unemployment. Those low in the hierarchy of categorization are likely to fall into the shadow sector of the labor migration process. This framework is an attempt to fill the
research gap of irregular labor migration and human trafficking, which focuses mainly on the middle to later part of migration processes. The topic of citizenship rights as a cause for irregular migration and falling victim to trafficking in the sending country is seldom addressed in the literature.

This article is mainly based on archival review of journal articles, intergovernmental organization (IGO) and nongovernmental organization (NGO) reports, and newspaper clippings on the issue of irregular Myanmar labor migration and human trafficking in Thailand, especially those migrants trapped in the deep-sea fishing industry. This includes a review of the incident of discovery and rescue of Myanmar fishermen from the Benjina Island of Indonesia in 2015. The inclusion of this case demonstrates the critical situation of male slave fishermen forced to work on boats. It also highlights the marginal cases of numerous female migrant workers in seafood processing factories.

Human trafficking and smuggling

Defining trafficking in persons

Human trafficking is a popular topic of study and high on the agenda of the United Nations, IGOs, and many NGOs. The term “trafficking” in persons is well defined legally as well as in various international covenants and national policy papers. The United Nations Convention against Transnational Organized Crime (UNCTOC) defines human trafficking as:

The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. (United Nations Office on Drugs and Crime, 2004, p. 42)

The definition suggests that trafficking of humans is a process involving both the movement of people and exploitation.

The term trafficking is often conflated with smuggling in usage. In fact, the former has a connotation of being exploited, and the latter emphasizes more the movement. Human smuggling involves the entry of a person into a nation without going through immigration and customs, and this person is not entitled to resident status or nationality (Geddes, 2005). The Protocol against the Smuggling of Migrants by Land, Sea and Air specifies smuggling to be “the illegal entry of a person into a State
Party of which the person is not a national or a permanent resident” by a smuggler for a fee (United Nations, 2000). Human Rights Watch (2015) distinguishes trafficking and smuggling by consent, exploitation, and transnationality. First of all, smuggled migrants consent to being moved, or even pay for transport from origin to destination, whereas, in human trafficking, the migrant may not agree to be moved or may be tricked or cheated on the grounds of false information. Second, the smuggled person is exploited through an extraordinarily high smuggling fee for a dangerous journey, but any ordeal ends at the destination. Regarding trafficking, the victim can be exploited both during transport and at the destination, which usually implies forced labor. Finally, smuggling involves a transnational journey crossing national borders without going through a customs and immigration counter. But trafficking does not necessarily imply that the entry into the receiving country is illicit, although most often it is the case (Pace & Severance, 2016). Also, victims of trafficking may be smuggled across national borders or internally (United Nations Office of Drug and Crime, 2015).

A main feature of trafficking is exploitation. Two types of exploitation are commonly found: one is forced prostitution (or any form of sexual exploitation); another type consists of forced labor, slavery, and servitude. Forced labor is most relevant for this article. The International Labor Organization refers to forced labor as “the situations in which persons are coerced to work by using violence or intimidation” directly or subtly through indirect means, including “accumulated debt, retention of identity papers or threats of denunciation to immigration authorities” (ILO, 2014b).

Bonded labor is the most common form of forced labor when people fall victim to debt bondage. Most migrant workers are unskilled, low-educated people from rural areas. As for moving to and getting a job at the destination, recruitment agencies often act as mediators between the migrant workers and their future employers. The agency fee, including the transportation cost, may not be affordable. The agency then provides informal credit to cover the cost of travel, which is subsequently borne by the employer. The workers then work for no wage for a period while settling their debt. These agency costs and interest rates for credit are extraordinarily high, which implies that the repayment period could be long (U.S. Department of State, 2017).

Servitude is a form of forced labor for those who lose their freedom to leave their job or service. Some migrant workers are not forced to take up a job in the receiving country, rather joining voluntarily at the beginning. It is usually the recruitment agents who provide inaccurate information on both the nature of employment and levels of reward in order to attract
potential workers. Some even pay a middleman to transport and facilitate mobility of workers. Later on, migrants often find themselves in 3D jobs (dirty, dangerous, and difficult) with low wages. However, they are not free to quit because they are trapped in involuntary servitude. Coercive means are used to block the withdrawal or escape of workers, including verbal threats, physical harm, or the threat of deportation. One common way employers force migrant workers into servitude is by keeping their passports and prohibiting them from leaving their jobs (UN.GIFT.HUB, 2015).

**Existing studies on labor trafficking**

The vast majority of existing literature on trafficking in persons involves sex work (Kara 2010; Malarek 2004). Women and girls, including those underage from low-income families are vulnerable and fall victim to smuggling to another nation and sexual exploitation. They are trafficked into the commercial sex industry and draw the attention of the media and the local police. The transnational commercial sex industry is a highly profitable business, which attracts both smugglers and unskilled women from the Global South. In fact, most of the sex traffickers are from Asia (Walker-Rodriguez & Hill, 2001), with countries in Asia being the major source of women for the sex industry (Hughes, 2001). In some traditional and rural communities, women are underprivileged and suppressed at the bottom of the social hierarchy, which puts them at greater risk of being trafficked and coerced into prostitution (Scoular, 2004). The narrative of “kidnapping, luring, or deceiving vulnerable young women into the sex trade” has been reinforced by some anti-trafficking NGO workers in developing countries with the aim of creating a “safety net of culture” that can assist victims as they cope with their challenging experiences (Kamler, 2013).

Although labor trafficking significantly outnumbers sex trafficking, the latter is comparatively understudied (Meyer et al., 2015). Human trafficking for the purpose of forced labor and services usually involves a recruiter, a transporter or smuggler, and an employer. Sometimes, the same person plays all these roles. In some cases, the migrant workers pay the smuggler for transportation to a receiving country. As undocumented workers without legal protection, they are vulnerable to coercion into low-wage employment (below statutory minimum wage) with bad working conditions. Some are cheated at the beginning by the recruiters, who may work for the potential employers by giving the victims false hope of a good job and the illusion of a reasonable reward. But upon arrival they are forced into the 3D industry, with their passport being kept by the
employers, thereby prohibiting them from escaping the job (Meyer et al., 2015). Inconsistent to sex trafficking, males comprise about two-thirds of trafficking victims for forced labor, mainly in unskilled sectors, including fishing, agriculture, and factory work.\(^3\)

With the globalization and deindustrialization in Western developed nations, the labor migration pattern is altering gradually from one destination movement of Global South to Global North towards more South–South labor migration. In Southeast Asia, human trafficking has shifted from the sex trade to labor trafficking, with the victims moving from Myanmar, Cambodia, and Laos to Thailand for labor exploitation.

Migration and exploitation is a multi-staged process, involving phases of trafficking, namely recruitment, travel and transit, exploitation, integration, detention, and re-trafficking. During different stages, victims encounter physical abuse, sexual abuse, economic exploitation, debt-bondage, insecurity, and occupational hazards (Meyer et al., 2015; Zimmerman et al., 2011).

How bad are the working conditions in this cycle? A study of about 400 clients of post-trafficking support services in Thailand, Cambodia, and Vietnam found that the victims worked for 12–19 hours per day. Most of them had no or very few rest breaks. About one-third were injured at work (35.5%), including skin injuries, deep cuts, and lost body parts. One-third experienced severe violence (37.8%). These respondents were trafficked and coerced to work on fishing boats, in manufacturing, and as beggars (Pocock et al., 2016). A popular label of “modern-day slavery” has been put on these victims of human trafficking and forced labor. The framing induces more resources and political support for anti-trafficking campaigns as well as shifts the focus away from the sex sector to the labor sector (Chuang, 2015).

The role of brokers in the transnational labor migration process is crucial in facilitating the flow. Several Southeast Asia countries have bilateral agreements, or memoranda of understanding, which authorize a small number of recruitment agencies to issue licenses to operate in these sending countries. Nevertheless, these official agencies are bureaucratic and operate only in the capital and several large cities, which are beyond the access of minority ethnic groups in remote areas, let alone those from areas of insurgency where freedom of movement is prohibited. In the case of Myanmar–Thai labor migration, most of them turn to (unofficial) migrant brokers in the shadow economic sector. A broad definition of the shadow economy, or underground economy, covers all unreported income from the production of legal and illegal goods and services, which is more of a concern over tax compliance than human rights (Lippert & Walker, 1997, p. 5). A narrower definition includes all market-based legal
production of goods and services, which are concealed from public authorities for the avoidance of tax payment, social security contributions, labor market regulations, and other administrative procedures (Schneider, 2009, pp. 1080–1081). But, this definition will omit all illicit and illegal activities. Feige (1990) defines underground economics to be the activities that “circumvent, escape or are excluded from the institutional system of rules, rights, regulations and enforcement penalties that govern formal agents engaged in production and exchange.” (p. 891) He further distinguished four typologies, namely the illegal, unreported, unrecorded, and informal economy.

‘Shadow sector’ in this article, refers to an illicit and informal economic sector of labor migration, which includes the illicit and informal services provided by intermediates and employers to migrant workers throughout the entire labor migration and employment processes. These brokers’ services are characterized by unreported, unrecorded, and informal characteristics, and in most cases, they are not explicitly illegal or criminal, at least in Thailand. In fact, irregular labor migration is tolerated by the Thai government, which enforces special registration and national verification procedures every few years in order to legalize the status of undocumented labor. In some instances, the shadow market of labor trafficking and smuggling is different from trafficking in women, for the latter often has a close connection with organized crime networks (Hughes, 2000). Regarding, Myanmar–Thai labor migration, convenience and proximity are other considerations for hiring an unofficial broker as the two countries share a long common border. There is no reason for many residents of the border area to travel back and forth where public transportation is lacking. In fact, unofficial brokers provide multiple services in transportation, job matching, microcredit, and remittances. These brokers and their services have operationalized the movement of impoverished, poorly connected migrant workers from Myanmar to Thailand. Many of these unofficial brokers have been migrant workers. They return to their hometowns to recruit the villagers (Feingold, 2005). Their social networks and co-ethnicity gain trust. Areas of insurgency also lack information, and word of mouth through these return migrants becomes the main source for migrant decision-making (Samarasinghe, 2003).

The existing literature has proposed various approaches to tackle trafficking in persons, including a criminal justice approach (Nonnenmacher, 2014), “labor exploitation framework” (Kavakli, Demirci-Yilmaz, & Oflazoglu, 2016), and labor rights approach (Marks & Olsen, 2015). The criminal justice approach focuses on the loopholes in law and enforcement. Although the related international legal framework has existed for decades, there is a lack of corresponding domestic legislation and, more
importantly, multilateral cooperation and effective enforcement. For example, the Work in Fishing Convention calls upon ratifying states to have a system of “inspections, reporting, monitoring, complaint procedures, appropriate penalties and collective measures” (Nonnenmacher, 2014). But unregistered fishing boats still exist in many developing countries (in particular, Thailand) which implies that loopholes exist in fishing boat registration, monitoring, and compliance. The “labor exploitation framework” focuses more on the exploitation of migrants and their vulnerabilities to address the issue of many trafficking victims remaining in their trafficking workplace and not seeking assistance from the authorities of the receiving countries (Kavakli, Demirci-Yılmaz & Oflazoğlu, 2016). Marks and Olsen (2015) suggest limiting attention on individual criminals and victims and focusing more on the structural causes and prevention of human trafficking. Their labor rights approach emphasizes multi-stakeholder collaboration with the local trade unions of the receiving countries stepping in and making use of their status and knowledge to prevent and respond to human trafficking and forced labor issues. But local trade unions are usually reluctant to cover migrant workers, for there exists conflicts of interest between local and foreign workers.

Putting human trafficking into a broader context, improving the socioeconomic status of the population in the labor-sending countries helps (Skeldon, 2004). The “root causes” of trafficking are generally poverty, discrimination, violence, and insecurity, including armed conflict in the country of origin (Kneebone and Debeljak, 2012; OECD, 2008; Todres, 2011). Discrimination sometimes leads to deprivation of citizenship in labor sending countries. Some groups’ citizenship rights may be denied arbitrarily, whenever a government introduces discriminatory laws, policies, and practices. The United Nations High Commissioner for Refugees has reported the trend that more and more governments deprive these unpopular ethnic minorities of their citizenship as a tool to exclude and marginalize them (Goldston, 2004, 2006). During the recent ethnic minority insurgency in Myanmar, many civilians were displaced. They either lost all their identity documentation or their citizenship was unidentified by an authority. In this regard, these internally displaced persons (IDPs) fell into a situation of not being entitled to “effective citizenship”. It did not mean that their Myanmar citizenship was denied, but it was unclear or, at least, not legally identified. Massey (2010) regards a person in this situation who suffers “effective statelessness” as de facto stateless.

Here in this article, the Myanmar citizenship of these IDPs is de facto deprived. They neither “lose” their citizenship legally nor are entitled only to “partial” citizenship rights. Their citizenship has an anomic status
regarding which the authority does not cooperate in providing recognition. Some of these ethnic minorities do not possess any personal identity documents or passports. As such, this article is an attempt to identify the prolonged process of undocumented labor and trafficking in persons in a broader context, not limited to the socioeconomic factors or labor exploitation issues but also the related citizenship rights issues leading to the vulnerability of these potential victims in the country of origin. It tries to connect the deprivation of citizenship and the vulnerability of minority ethnic groups with their risk of falling victim to human trafficking. The term “deprivation of citizenship” is generally used in immigration laws, which means the cancellation or forfeiture of the citizenship or nationality of a country, for example, emigration. It is a one-time act. But in this article, the term “deprivation of citizenship” means a prolonged situation of unclear, unconfirmed, or unidentified citizen status. The anomic situation may lead to a process of further reducing citizenship rights domestically or in a receiving country, in the case of cross-border migration or refugee-seeking recognition.

**Myanmar Migrant Workers in Thailand**

There are about 3.8 million migrant workers in Thailand, among them, 1.8 are documented, and the remaining two million are undocumented (Salaytoo, 2018). With a cabinet resolution of the Thai government, these undocumented migrant workers were allowed to stay and join a nationwide registration with a deadline on March 31, 2018. Moreover, about 12,900 refugees reside in nine refugee camps along the Thai–Myanmar border, who are ethnic minorities from Kayin, Shan, and the Kachin States of Myanmar where insurgency persists (Rhoden, 2017).

The migrant worker governance in Thailand has long been criticized for being ad hoc, passive, unstable, and confused (Chantavanich, 2007). The situation became worse since the military coup in 2014. The ruling junta triggered an exodus of migrant workers in 2014 and 2017. In fact, the Thai government does not have a comprehensive labor migration policy. A memorandum of understanding (MOU) was established with Myanmar, Cambodia, and Laos PDR for the recruitment and documentation of a small number of migrant workers in the country of origin. Less than a third (33%) of the fully regularized workers follow this procedure to enter and work in Thailand, while one million (77%) were smuggled into Thailand but went through the Nationality Verification (NV) process (IOM Thailand, 2016). The other three million remain undocumented and continue working in Thailand.6
After prolonged military rule and ostracization by the outside world, the National League for Democracy (NLD) led by Daw Aung San Suu Kyi won a landslide victory in the general election in Myanmar in 2015. Myanmar is a fragmented country consisting of seven ethnic minority states. Burman (or Bamar) is the dominant ethnic group, which constitutes 68% of the population, mainly residing in the seven regions on the central plain. Civil war broke out in the Tatmadaw (Myanmar Army) coup d'état in 1962. Table 1 shows the most updated populations in the 2014 Myanmar Population and Housing Census, by states and regions. Minority ethnic groups formed insurgency forces that fought for independence or autonomy of their states as promised by General Aung San, the founder of the Union of Burma (Myanmar) and father of Suu Kyi during the Panglong Agreement. Ceasefire and ethnic conciliation were attempted in 2011 and 2016, under the semi-civilian government and Suu Kyi’s administration, respectively. The latter was known as the second Panglong Conference.

During the long-lasting insurgency, Tatmadaw was accused of using a “scorched earth” policy and committing ethnic cleansing. Villages were burned down; landmines were planted; civilians fled or were displaced from their homes. These were IDPs. The United Nations estimated that there were 587,000 IDPs in Myanmar (UNHCR, 2015). Many of them fled to Thailand from their adjacent Mon, Kayin, Shan, and Kachin States. Some resided in the “refugee camps” along the Thai-Myanmar border. As the Thai government has neither verified the 1951 Refugee Convention nor recognized the legal status of “refugee”, these “refugee camps” are thus regarded as “temporary holding areas”. Their movement is restricted to the borderland, and they are not allowed to work. The

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<th>Minority States</th>
<th>Population</th>
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<tr>
<td>Kachin</td>
<td>1,689,441</td>
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<td>Kayan</td>
<td>286,627</td>
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<td>Tanintharyi</td>
<td>1,408,401</td>
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<tr>
<td>Kayin</td>
<td>1,574,079</td>
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<td>Bago</td>
<td>4,867,373</td>
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<td>Chin</td>
<td>478,801</td>
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<td>Magway</td>
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<td>Mon</td>
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<td>Mandalay</td>
<td>6,165,723</td>
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<td>Rakhine</td>
<td>3,188,807</td>
<td>6.2</td>
<td>Yangon</td>
<td>7,360,703</td>
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<td>Shan</td>
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<td>11.3</td>
<td>Ayeyawady</td>
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<td>Nay Pyi Taw</td>
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<td><strong>The whole Union</strong></td>
<td>51,486,253</td>
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* Data retrieved from 2014 Myanmar Population and Housing Census.
majority of Myanmar IDPs thus enter Thailand as undocumented migrant workers, which is more desirable. In fact, one leaves Myanmar for political or economic reasons or both, as they are indistinguishable.

**The case of “ghost” fishing boats**

Migrant workers from developing countries are the main source of the workforce for manufacturing and primary industries. The seafood-processing and commercial fishing industries of Thailand are the second largest in Southeast Asia. With the rise of the international fishing trade, this old primary industry has been reborn. Thailand produces 4.2 million tons of seafood annually, of which 90% is exported to the United States and European countries (Hodal & Kelly, 2014). High demand leads to overfishing and degradation of fish stocks, especially for coastal fishing. As to raising yields, on the one hand, and keeping costs low, on the other, there has been a general shift to hiring migrant workers since 1993 in deep-sea fishing (Chantavanich, 2007; Chantavanich, Laodumrongchai, & Stringer, 2016). These migrant fishermen mainly come from Myanmar and Cambodia. These are hazardous jobs, with long working hours on board, in bad and dangerous working conditions. Some Thais still work on small boats for coastal fishing, but medium and large fishing boats hire migrant workers. Long-haul boats for deep-sea fishing usually leave Thai waters for more than a year (Solidarity Center, 2009). Most of these fishing boats work in international waters, using the South China Sea and Indonesian port islands for water, food, and fuel supply. Fishing and other aquaculture products are unloaded, and board transportation vessels head back to Thai fishing ports.

Before packing for export, these fresh products need to be processed by human hands. This is a labor-intensive work process, such as “gutting, deveining and tearing heads off shrimp in icy buckets” for shrimp peelers (AP, 2016). Again, migrant workers find their role. It's not just the low wage but also the long working hours, mechanical process, and smelly and wet working places that are unattractive for Thais. A division of labor along gender lines is found here with the migrant fishermen all being males and more female migrant workers employed in fish-processing factories.

Looking into the detailed situation of these victims of trafficking in Indonesian Benjina Island, most of them are male migrant workers. After a year-long investigation, the Associated Press reported that a Thai-Indonesian fishing company enslaved workers on the Indonesian Island, working in Indonesian waters. The majority of them were from Myanmar, some from Cambodia and Laos, with a few Thais. The seafood products were tracked by satellite to a Thai harbor, where they were loaded and sent to
processing factories. The report led to more than 300 migrant fishermen being rescued from Benjina Island. The island is remote, rarely reached by the outside world. There is no phone service and no access to the Internet. The Benjina incident is just one of the many cases of fishermen trafficking in Southeast Asia. The International Organization for Migration estimated that there are about 4,000 trafficked or enslaved migrant workers stranded on islands similar to Benjina Island (McDowell, Mason, & Mendoza, 2015).

How does this phenomena become so widespread? Migrant workers are referred to fishing jobs in Thailand by brokers. Those who cannot afford the brokerage fee are sold to Thai captains of fishing boats or the fishing companies, who are supposed to compensate them for their debt with wages for several months to years. In reality, they are paid very little, either pocket money or nothing. The abuse is carried out by an enforcer hired by the boat captain or owner to keep migrant fishermen working or punish them for not following orders. They usually work 20- to 22-hour shifts without days off. Physical abuses by the enforcers or boat captains include being kicked, whipped, and beaten. They are not provided with proper clothing in the ship’s giant freezer at temperatures below zero degrees Celsius. Some even die on their boats and are buried in graveyards on the island under a fake Thai name (McDowell, Mason, & Mendoza, 2015).

National laws are hard to enforce because these incidents all happen in international or foreign waters beyond the jurisdiction of any single country. This is one of the originalities of this study. It investigates human trafficking in offshore contexts. In fact, most often, trafficking involves “ghost” fishing boats, which are unregistered fishing vessels that do not exist in the official records of the Thai authority. The registration also requires boat captains to log the location, date, time, and quantity of their catch in a seaman’s book. Fishermen working on the boat need to be recorded in the book, which implies that all of them must be officially documented workers (Mirror Foundation, 2011). However, in practice, these captains often never report anything to the authorities even when they know slaves are on board (Hodal & Kelly, 2014).

The second type of “ghost” boats are Thai boats falsely registered for fishing in Indonesia through graft. These fishing vessels cannot be tracked by both Thai and Indonesian authorities. The “ghost” cargo ship pretends to be innocent. Seafood is carried back to Thai ports leaving the fishing boats to remain working in Indonesian or international waters. The refrigerated cargo ship tracked by the Associated Press belonged to a Thai company, which excused itself by stating that it was only carrying shipments for their clients without performing any fishing activities (McDowell, Mason, & Mendoza, 2015). Thailand owns one of the world’s largest
fishing fleets with as many as 50,000 registered fishing vessels. But the actual number operating on the sea is much more because “ghost” boats make up an additional 50% of the true fishing fleet (Hodal & Kelly, 2014).

Discussion

Trafficking in persons has taken place in the deep-sea fishing industry of Thailand for a period of time. Trafficking at sea should not have happen, of course, as well-established international legal documents and local legislation exist, at least in Thailand. The countries concerned, namely Thailand, Myanmar and Indonesia have ratified these covenants. Nonetheless, Myanmar nationals, plus some Cambodian and other Southeast Asians fall victim to human trafficking at sea. Myanmar migrant workers are smuggled across Myanmar-Thai national borders to Thai seaports. They are “sold” or transferred together with their debts from smugglers, who are the unofficial brokers for deep-sea fishing companies and fishing boat owners there. These migrant workers are trapped by their debts into working on Thai fishing boats. Most of them are long-haul boats operating on the sea away from the coast of Thailand, Indonesian waters, and the South China Sea.

The trafficking process is a “continuum from recruitment through to rescue” (Chantavanich et al., 2016; Robertson, 2011). This article argues that the trafficking process is triggered long before the intermediaries’ recruitment in the sending country, through the deprivation of citizenship of minority ethnic groups in Myanmar. From the very beginning, these victims are socially selected into a shadow sector of labor migration. The prolonged insurgency in these Myanmar–Thai bordering states deprived these people’s citizenship status. They are said to be a “minority”, but their population constitutes about 30% of the whole Union. The general elections have successfully transformed Myanmar into a democratic system. A chance and an effort for national reconciliation is visualized, but minor fighting persists in some states. Although the citizenship of minority ethnic groups is recognized in theory, the recovery of social and economic rights lag far behind the legal and political rights in practice. During this prolonged period of citizenship deprivation, the status of minorities is unclear, unconfirmed, or unidentified, leading to a downward process of further reducing the citizenship rights of these minority groups in a receiving country.

First of all, many of these ethnic minorities resided in areas of insurgency in the four States in eastern Myanmar. They found no jobs, or in extreme cases, their villages were burned down by the Tatmadaw and
people were displaced. Many tried to escape from this appalling situation. Labor migration was a better choice than seeking refuge in Thailand. Refugees are not free to move away from a designated area in the borderland or work in Thailand.

There is generally a lack of access to migration information in Myanmar, which was closed to the outside world by several juntas for 50 years. The backwardness of seven minority states was further disadvantaged due to lack of access to information. For those residing in areas of insurgency or who were displaced, word of mouth remains the only source to know about the outside world. The information sources are from the returning migrants and informal migrant brokers. Some of these brokers are former migrant workers returning to their hometown to recruit their villagers as they have connections and know the smuggling process well. There is no way to verify this information as other sources are very limited, if not entirely blocked.

Most of the Myanmar migrant workers rely on intermediaries to enter Thailand and find a job. These aforementioned official agencies under the Myanmar–Thai MOU procedure are beyond the choice of the ethnic minorities in areas of insurgency. Public transportation does not reach the big cities where these official agencies are located. Many of these minorities are not free to travel upon being displaced or coming under the military control of the Tatmadaw. An informal broker is their only choice. But these informal brokers are, in fact, more welcomed by most of the migrant workers. They work flexibly and provide credit to cover all the brokerage and transportation fees. Many just cannot afford the fee for an agency, government fee, and health check as well as transportation.

Without a passport, smuggling is the only way to enter Thailand. Not just the immigration at the border but also several checkpoints along the road to their destinations in Thailand need to be passed. The smugglers have the connections and have already bribed the army and police on the Thai side. They will then work undocumented in Thailand. Even though they have entered and worked in Thailand, there is one more chance to get a work permit by undergoing NV every two years. Those who do not have any identity documents are again not eligible to participate, and they remain undocumented. This is a significant avenue toward vulnerability to trafficking among ethnic minorities in insurgency areas because many of these migrants lack proper identification due to conflicts in Myanmar.

Of course, debt bondage helps to keep the migrant workers working. These debts include brokerage and transportation fees that will be transferred to an employer and deducted from the wages of these workers. Most often, these debts constitute several months to a year of wages, with accommodation and meal charges added to it. All the migrant workers
are generally aware of these debts and willing to bear these burdens. They start receiving their wage upon all debts having been settled. Unlucky workers will be trafficked directly into forced labor for the brokers who work for the employers, or the broker sells them to an employer. These workers become forced laborers who receive no wages or get only pocket money from time to time.

Deep-sea fishing is a hotbed of human trafficking and forced labor because the victims have no way to escape. In an open sea or international waters, there is little chance for a local authority to check and rescue these poor people. But not all fishermen are misled by a trafficker or forced to work on a fishing boat. Without possessing a personal identity document or passport, they benefit at sea from a lower risk of being inspected by Thai authorities. Furthermore, there is always demand for labor at sea, more so than on land. Both construction and fishing have a gender division of labor bias toward males, but the former is less stable. Once a construction job has completed, there is no guarantee of getting another back to back, especially during periods of economic downturn. Other reasons to work on boats are lack of career plan, accepting the first job arranged by the agent, and saving money. Some even return to work on other long-haul boats upon being rescued (American Center for International Labor Solidarity, 2009).

These forced laborers are not free to quit their job or return home upon completion of a “contract”, usually a verbal agreement, which lasts for two years.16 The employer has broken the contract, which states that the laborer can go back home after working for two years. The boat’s captain will keep all the workers’ documents, if they have any, and not pay wages, except for a small portion of pocket money from time to time. A responsible boat captain or owner will pay the lump sum upon docking, at the year’s end or completion of a contract. The fishermen are thus forced to work on boats continuously. For those who still have some savings, they may forfeit their wage; for those who are very poor, as in the case of these ethnic minority migrant fishermen, they have no money to pay to be smuggled back home (Human Rights at Sea, 2015).

As such, a conceptual framework linking the shadow sector of labor migration to deprived citizenship in the country of origin is developed in this study. The following figure illustrates how ethnic minorities residing in the four States in east Myanmar fall into the shadow sector of the labor migration process. The shadow sector is an analogy of the shadow economic sector or black market (Feige, 1990) (see Figure 1).

In this framework, a social categorization of Myanmar citizenship exists, which determines differentiated life outcomes. The categorization of citizens is usually explicit and stated clearly in the law. But some coun-
Most importantly, behind the black and white scene may be some hidden or exclusion practices that exerting to some groups (Blitz & Lynch, 2011). In this regard, the social categorization suggested here refers to an implicit practice in Myanmar, especially during the period of military junta rule.

Figure 1 • Ethnic minorities of Myanmar falling into the shadow sector of the labour migration process

countries may solely state these in administrative decrees instead of legislation. Most importantly, behind the black and white scene may be some hidden or exclusion practices that exerting to some groups (Blitz & Lynch, 2011). In this regard, the social categorization suggested here refers to an implicit practice in Myanmar, especially during the period of military junta rule,
when citizens were differentiated roughly into four classes, namely the (1) majority Bamars, (2) ethnic minorities in seven Divisions, (3) ethnic minorities in four minority States (namely Mon, Kayin, Kayan, and Shan in Eastern Myanmar), and (4) ethnic minorities in areas of insurgency (in Eastern Myanmar). This categorization formed a social hierarchy with the last category occupying the lowest stratum of Myanmar citizenship. These minorities in areas of the insurgency are the poorest, and many are displaced from their hometowns and villages. The prolonged anomic, unclear, and unidentified citizenship of this class has important social implications for the labor migration process which puts them into the aforementioned shadow sector. Their vulnerable situation exposes them to a high risk of being trafficked and victimized by forced labor. Some seem to make their own choice, opting to hire an informal broker, becoming indebted due to unaffordable brokerage and transportation fees, being smuggled into Thailand, working undocumented there, and proceeding even knowing that they will work as fishermen. The reality is that real options do not exist. They are socially selected into this trajectory.

Conclusion

Human trafficking is the trade in human beings. It involves the use of force or coercion and, in particular, trafficking for forced labor. International communities have kept an eye on the issue. The efforts made by IGOs, mass media, and human rights watchdogs help prevent and stop trafficking in persons. Legal frameworks, including international protocols and domestic legislation, are the basis of social protection. Socioeconomic causes at the origin are generally viewed through the push of labor migration and trafficking. Nonetheless, political turmoil, dictatorship, and human rights violations not only trigger migration but also nurture a “shadow sector” of labor migration that further facilitates the occurrence of trafficking.

A conceptual framework of the shadow sector of labor migration is developed in this study. It is based on the study of ethnic minorities in eastern Myanmar, in particular, those areas of insurgency in the four ethnic minority states, namely Shan, Kayan, Kayin, and the Mon States, whose citizenship was deprived during the 50 years of rule by military juntas. Deprived citizenship is a prolonged situation of anomic, unclear, and unrecognized status but not a formal denial by the authorities. The practical hardships they encountered are: lack of personal identity documents or passports; confiscated farmlands; displacement from hometowns and villages; and forced labor by the Tatmadaw. Labor migration is a way to escape from their hometowns.
The deprivation of citizenship also implies a social categorization of people in a hierarchy of citizenship rights, life chances, and vulnerability. Those at a low stratum have a higher potential to find a way in the shadow sector during the labor migration process, which means a higher likelihood of being smuggled across the border, working undocumented, and less chance to get a work permit in Thailand by undergoing NV. Some unlucky ones are trafficked into forced labor, including being sold as slave fishermen.

Myanmar dramatically transformed into a democracy through a two-step process. Following a constitutional reform, a semi-civilian administration replaced the military junta in the 2011 election. Then the succession by Ann San Suu Kyi’s National League of Democracy in the 2015 election turned the country into a fully democratic system. National conciliations were attempted that reached a nationwide ceasefire. Democratic transformation and ethnical conciliation was a milestone in fixing the deprived citizenship of minority groups. One improvement measure seen was that the Myanmar government sent immigration officers to Thailand to facilitate the NV of Myanmar nationals. The procedure has helped to convert the majority of undocumented workers into documented ones entitled to work legally in Thailand. The change is optimistic but takes time to benefit those from former areas of insurgency where there may not be any records for personal identification.

Labor migration and trafficking are transnational issues that require international efforts and, in particular, bilateral cooperation between the sending and receiving countries. Political conflicts, military coup, and insurgency deteriorated the socioeconomic and human rights situations of the ethnic minorities in Myanmar, prior to the democratic election in 2015. The prolonged shutdown of the country under the junta rule led Myanmar to become a failed state; economic backwardness and low wage levels made it the largest labor-sending country of origin among ASEAN states. The democratization of the migration or trafficking origin can be compensated for by the decline of political situations of the destination. The consecutive coup d’état in Thailand in 2014 and 2016 put the country under a junta’s rule. The soft authoritarian style of the Thai junta was less oppressive than its Myanmar counterpart. But the rudeness and incapability of the military government led to the exodus of tens of thousands of migrant workers who fled the country in 2015 and 2017. Less acceptance of international criticisms, lack of transparency, and a less responsive mode of governance can harm the efforts and effectiveness of protecting migrant workers’ rights and trafficking in persons.

Based on the findings of this study, a conceptual framework of the shadow sector of labor migration is formulated. The framework addresses
the research gap in the shadow sector of labor migration, which explains the differential labor migration and trafficking outcomes of ethnic minorities in Myanmar by the level of their deprived citizenship. Those low in the hierarchy of categorization are likely to fall into the shadow sector of the labor migration process. Ethnic minorities from areas of the insurgency are exposed to a high risk of human trafficking. The findings provide hints for NGOs, policymakers, and international organizations to pay attention to rights and citizenship issues in the country of origin.

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NOTES

1. Kamler’s (2013, pp. 6–13) empirical research in Thailand suggests the anti-trafficking NGO workers constructing narratives or stories, including “Thailand is backwards,” “Thailand is unethical,” the NGO workers “should be grateful,” “Thailand is illegal to the West,” “sex workers lack agency” to be civilized, moralizing, savior, othering, and victim narrative respectively. Her explanation of the happenings of constructing these narratives is to retreat from confronting circumstance into a cultural “space of safety” where the NGO workers’ “professional goals, ethical compasses, and personal values remained static.

2. According to the estimation of the International Labor Organization, 24.9 million victims are trapped in “modern-day slavery,” with 16 million (64%) exploited for labor, 4.8 million (19%) exploited sexually, and 4.1 million (17%) exploited in state-imposed forced labor (Human Right First, 2017).

3. Males from Myanmar are also engaged in the sex trade though females still constitute the majority (Ferguson, 2014).

4. Four out of the seven ethnic minority states of Myanmar in the east side share a common border with Thailand, namely Shan, Kayan, Kayin, Mon States, which are the main sources of migrant workers sent to Thailand.

5. An earlier figure was about 2.5 million (including refugees) Burmese staying in Thailand (Rhoden, 2015, p. 53). IOM’s estimation is about three million Myanmar migrants in Thailand as at 2016 (IOM, n.d.).

6. The Nationality Verification is an administrative process opened for application every two years. Those undergoing this process may extend their stay once (another two years) before returning to their home country. Several other ad hoc procedures were introduced by executive decree to tolerate the stay of undocumented workers, such as “pink card”, one-stop service, and the like.
7. The 1974 constitution divided Myanmar into seven regions and seven ethnic minority states. The 1992 nationality law identified 135 ethnic groups (Holiday, 2010).

8. The Communist Party of Burma (CPB) and the Karen National Union (KNU) started fighting soon after independence in 1948.

9. Panglong Conference was held in 1947 by General Aung San with the presence of Shan, Karen, Chin, Kachin, and Karenni ethnic minority leaders. An agreement was reached on the formation of the Union of Burma (Myanmar), under which these ethnic states are entitled to administrative and financial autonomy, with opt-out clauses of the Union ten years later.

10. Rights groups reported human rights violations by the Tatmadaw, including unlawful killings, torture and other ill-treatment, enforced disappearance and arbitrary arrest, forced labor, destruction of villages and homes, and the confiscation of crops and food-stocks (Amnesty International, 2010).

11. There were nine “temporary holding areas” or “refugee” camps in operation along the border on the Thai side in 2015. The Thai government plans to shut down these camps after the political tension gradually eases in Myanmar (Rhoden, 2017).

12. Benjina Island is located in the Arafura Sea of Indonesia, surrounded by the Papua Province of Indonesia in the North, the Northern Territories of Australia in the South, East Timor in the West, and Papua New Guinea in the East.

13. A worker of the Labor Rights Promotion Network Foundation, a Thai-based labor NGO told the Associated Press that each slave fisherman costs around US$1,000 to the Thai-based nonprofit (McDowell, Mason, & Mendoza, 2015).

14. According to Thai law, deep-sea fishing boats should possess a registration permit and a license from the Department of Fisheries as well as a permit from the Marine Department (Mirror Foundation, 2011).


16. Both MOUs and NV allow a migrant worker to work in Thailand for an initial period of two years, which can be renewed once for another two-year term. Undocumented workers may stay and work as long as they want until caught and repatriated. But the practice is to work in a job for a one- or two-year term under a contract in verbal or written form.

17. They are distinct from non-citizens, such as the Rohingya who are not recognized by the Junta as Myanmar nationals.

18. The Nationwide Ceasefire Agreement was signed by the Myanmar government and most of the insurgency groups in 2015. The second Panglong Conference was convened in 2017 after the promise of self-determination and autonomy for ethnic minority States in the first Panglong Section was broken after the assassination of General Ann San prior to the country’s independence in 1947 and the military coup later in 1962.
REFERENCES


Resumen: Tailandia es un destino popular para la migración laboral irregular de Myanmar. Entre unos tres millones de trabajadores migrantes birmanos en Tailandia, más de la mitad son indocumentados. Los trabajadores migrantes indocumentados confían en intermediarios para pasar de contrabando a través de la frontera a Tailandia. En este estudio se formula un marco conceptual del sector paralelo de la migración laboral que trata de explicar por qué las minorías étnicas en Myanmar se clasifican socialmente por el nivel de su ciudadanía privada. Aquellos que se encuentran en la jerarquía de categorización baja probablemente caigan en el sector oscuro del proceso de migración laboral. Las minorías étnicas de las áreas de la insurgencia están expuestas a un alto riesgo de trata de personas.

Palabras clave: ciudadanía, trabajador migrante, trabajo indocumentado, trata de personas.

Privation of citizenship, undocumented labor and human trafficking: A study of Myanmar workers in Thailand
Steve Kwok-Leung Chan


Privation de citoyenneté, travail clandestin et traite d’êtres humains: Travaillleurs migrants myanmarais en Thaïlande
Steve Kwok-Leung Chan

Résumé : La migration irrégulière de main-d’œuvre et la traite d’êtres humains sont des sujets récurrents des études migratoires, mais le sujet le plus traité jusqu’à présent concerne le mouvement Sud-Nord. La Thaïlande, en tant qu’économie en développement de l’Asie du Sud-Est, est une destination privilégiée pour la migration de main-d’œuvre irrégulière myanmaraise. Parmi les quelques trois millions de travailleurs migrants...
birmans en Thaïlande, plus de la moitié sont sans papiers. Les travailleurs migrants sans papiers comptent sur les intermédiaires pour passer clandestinement la frontière de la Thaïlande afin d’y rechercher un emploi. Certains travailleurs migrants sans papiers sont attirés, trompés et forcés à travailler sans la récompense d’un salaire raisonnable. Un cadre conceptuel du secteur parallèle de la migration de main-d’œuvre est formulé dans cette étude qui tente d’expliquer pourquoi les minorités ethniques du Myanmar sont classées socialement par leur niveau de privation de citoyenneté. Ceux qui sont au bas de la hiérarchie de la catégorisation risquent de tomber dans le marché parallèle du processus de migration de main-d’œuvre. Les minorités ethniques des zones de l’insurrection sont exposées à un risque élevé de traite d’êtres humains.

Mots clés : citoyenneté, traite d’êtres humains, travailleur migrant, travail sans papiers