Introduction: Overview and conceptual approach

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Human trafficking from Thailand to Japan has been a known phenomenon for more than two decades. There are studies addressing the issue conducted by academics in Japan, Thailand as well as from other countries (HRW, 2000; Angsuthanasombat, 2001; Ruenkaew, 2002; Dinan, 2002; Kuwajima, 2006; Kato, 2007). However, the dynamics of trafficking between the two countries keep on changing in many aspects, including: the profiles of trafficked persons; process of irregular migration and transportation applied to cope with more restricted immigration regulations; types of trafficking networks and their operations as well as motivation; exploitation that trafficked persons suffer; and finally the consequences on both sending and destination areas.

In the case of women trafficked into entertainment businesses in Japan, few studies have examined what happened to their children born from Japanese fathers out of marriage, what became of their children’s legal status in Japan and Thailand, and how they related to the two worlds after they returned home. The case of “Keigo,” a Japanese-Thai boy who tried to search for his Japanese father after his Thai mother had passed away some years ago, attracted the Thai media in 2009. Attempts were made to identify his father from the only photo Keigo had kept with great vigilance. Finally, the father and the son met but that was not the end of the story. Keigo continues to survive alone in Thailand after meeting his father (Bangkok Post, 10 February 2009).

That is why this book was initiated. Through discussions with researchers from both countries, some from academia and some from NGOs, a group tried to re-address the issue of human trafficking between Thailand and Japan. During 2008 to 2010, the authors prepared chapters on various issues in the trafficking of persons based on new evidence.

Outline of the volume

The first two chapters look at aspects of Japan’s immigration policy related to human trafficking.

In chapter 1, Akashi describes the change of Japanese immigration policy against the background of the rapidly declining and ageing population in Japan, and examines the feasibility of the “Plan for Inviting 10 Million Immigrants” proposed by the Liberal Democratic Party (LDP). Akashi points out that there are three issues which have been ignored in the course of debate: how to ensure the rights of immigrants without causing any cultural-ethnic frictions between immigrants and locals; how to promote collaboration with civil society organizations; and how to manage the diplomatic aspect.

In chapter 2, Saito analyzes the policy on trafficking in persons policy in Japan. Saito emphasizes the importance of enforcement of the anti-trafficking law, pointing out the problem of victim identification and lack of concern on migrants’ human rights.

The following chapters investigate the process of migration from Thailand to Japan and the return flows.

In chapter 3, Kuwajiima describes the system of migration between Thailand and Japan. The study, based on in-depth interviews with Thai returnees from Japan, illuminates four contexts—society, economy, policy, and linkages between countries. This study enables readers to understand all the stakeholders involved in the flow of migrants. The study covers networks and brokers in Thailand and Japan, and information about Thai returnees including their educational background, living and working conditions in Japan, and social status after migration.

In chapter 4, Ruenkaew describes various forms of female migration from Thailand to Japan, based on fieldwork in Japan in 2001 and 2008. Ruenkaew’s work suggests that further study on the transformation of female migrants from laborers to wives would be helpful for Thai and Japanese policymakers to devise measures to support migrant women.

In chapter 5, Kijiwatchakul focuses on the access to HIV/AIDS treatment for migrant workers in Kaganawa and Nagano prefectures in Japan. From observation of Thai migrants who have been unable to receive any treatment in Japan, Kijiwatchakul urges
Thai and Japanese governments as well as concerned organizations to act on this issue immediately.

In chapter 6, Angsuthanasombat approaches migration issues through interviews with overstaying Thai migrants in Japan. This study also touches upon family members of Thai migrants who are left behind in Thailand and upon the family crises experienced by many returnees. Most migrants want to return home and stay with their family in their hometown, running a small business or doing farm work. They need some advice and orientation with regard to career and reintegration.

In chapter 7, Kato focuses on Thai returnees with children through seven case studies in northern Thailand. This study helps understand how socioeconomic factors influence the reintegration of Thai female returnees into their communities of origin. Children born from Japanese fathers also experience various integration processes in accompanying their mother back to Thailand.

In the last chapter, Ruenkaew gathers the findings of each respective author and concludes with policy recommendations.

Key issues

Overall, these essays analyze causal factors in human trafficking, the nature of exploitation, the nexus between labor migration and human trafficking, and the roles of the nation-state and its judicial system in both prevention and suppression of criminal acts, the protection of victims, and reintegration. In so doing, they throw up certain key issues over human trafficking.

_Nexus between labor migration and human trafficking_

Technological advances have made international travel and communication easier, faster, and less expensive. Simultaneously, information and misinformation about lifestyles and cultural consumption in modern societies spreads far and wide, inviting people in poorer societies, including women and young adults, to travel abroad and seek employment. Economic and political instability pushes families to reduce their economic risk by diversifying their sources of earnings across multiple countries. Some people can migrate safely, but others are vulnerable to trafficking, abuse, and exploitation (Dinan, 2008: 63).
On the destination side, higher wages and a demand for migrants are root causes of migration. Demographic changes such as a declining birthrate and ageing population increase labor demand. Japan in the 1970s and 1980s is a distinct example of a country with a labor shortage. High wages led to an influx of foreign workers despite local resistance. Female trafficking became a large-scale phenomenon during this period. This is described in Akashi’s article in this volume. Saito further analyzes the anti-trafficking policy in Japan.

Migrants require some economic resources and connections. Without such resources, they may turn to smuggling and trafficking networks. In many cases, adult migrants initially cooperate with their traffickers and actively seek out their services. Traffickers thus can take advantage of such “victims” during the process of migration and after their arrival into the destination country. The difficulties in migrating independently force migrants who want to work abroad to go to recruiters (Dinan, 2008: 63).

Traffickers conduct people from their countries of origin through to their destination. Although trafficking of women has attracted the greatest attention, men and children are also vulnerable to trafficking for employment. Some researchers consider that trafficking must be positioned within the context of migration and labor demand. Trafficking is a consequence of the “commodification of migration” (Cameron and Newman, 2008: 27). A UN special rapporteur on violence against women describes traffickers as “fishing in the stream of migration” (Newman and Cameron, 2008: 27, 52; Tehranian, 2004: 15).

One study on Southeast Asia used the term unauthorized migration to describe the undocumented and illegal labor migration. Unauthorized migration is defined as “any population movement that violates the legal migration regime ... as a departure from the migration norms of the countries of origin, transit and destination” (Asis in Cameron and Newman, 2008: 184). The term was earlier defined as “inter-country movements that take place in defiance of national laws and regulations” (Ghosh, 1988: xvi). It was re-used in the 1999 Bangkok Declaration on Irregular Migration. In Thailand some researchers use the term irregular migration to refer to unlawful movements of people across borders.
into another country for employment purposes. Irregular migration includes those covertly entering the country, those bypassing checkpoints, and those who have overstayed or strayed outside geographically restricted border areas. It includes individuals and families, men and women, and sometimes children, seeking employment in a particular country (Amarapibal, Beesey, and Germerhousen in Battistella and Asis eds., 2003: 239). Many cases of Thai migration in Japan may be considered as unauthorized migration. Organized transnational criminal groups in the migration industry play a significant part in turning undocumented (and sometimes documented) migrants into trafficked persons. Such groups facilitate migrants by supplying forged or fraudulent documents, escorting and arranging travel routes to escape state authorities' scrutiny, recruiting migrants into the workplace, and exposing them to the control of various actors in the smuggling or trafficking chain.

Asis remarked that some unauthorized migration is actually trafficking:

... the reported conditions of migrant workers, both authorized and unauthorized, have trafficking elements, except that they are discussed in terms of "migrant worker problems" rather than trafficking.... If abuse and exploitation were the criteria, many unauthorized migrants would be considered trafficked persons. (Asis, 2008: 194, 204)

The International Organization for Migration reported that illegal migration, smuggling, and trafficking operations handle approximately half of all undocumented migrants worldwide and yield profits of an estimated US$ 10 billion per year (IOM, 2003: 60).

Human smuggling and trafficking are related but not the same. Many cases of labor migration fall under the definition of smuggling rather than trafficking. The UN Protocol on Human Smuggling defines smuggling as

the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident; "illegal entry" shall mean crossing borders without complying with the necessary requirements for legal
entry into the receiving State; "fraudulent travel or identity document" shall mean any travel or identity document that has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or that has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or that is being used by a person other than the rightful holder; "vessel" shall mean any type of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water, except a warship, naval auxiliary or other vessel owned or operated by a Government and used, for the time being, only on government non-commercial service.

Finckenauer and Schrock (2001) indicate that the difference between human trafficking and human smuggling lies in the prominence of the elements of coercion and exploitation. Human smuggling produces short-term profits. Trafficking is long-term exploitation to produce a continual flow of profits. The criminality associated with trafficking usually continues after migrants reach their destination. Individuals and government agencies frequently confuse human trafficking and smuggling, or use the terms interchangeably.

Factors in human trafficking: structural and proximate

Newman and Cameron (2008) suggested that we can classify the factors involved in human trafficking as either structural and proximate. Structural factors include the social, economic, and political context while proximate factors mean policy and governance issues.

Economic factors can include economic deprivation and market downturns, social inequality, and poverty. In the era of globalization, liberal economic forces have resulted in an erosion of state capacity and a weakening of the provision of public goods, leading to deprivation, poverty, and vulnerability. In addition, trade deregulation and migration movements are also economic factors behind human trafficking.

Social factors include social inequality, gender discrimination, other types of discrimination and marginalization based on age and
gender status, disadvantaged cultural regional and linguistic status, and prostitution.

Political factors include ideological issues such as racism, xenophobia, gender and cultural stereotyping, as well as geopolitical factors such as war, civil strife, violent conflict, military bases and operations (Newman and Cameron, 2008: 1–3).

Proximate factors behind human trafficking are legal measures, policy interventions, the condition of the rule of law, and inadequate partnership between society and state. Legal and policy aspects include inadequate national and international legal regimes, poor law enforcement, immigration and migration laws and policies, and inadequate and poorly enforced labor laws and standards. Corruption, complicity of the state in criminal activities, support by state officials for underground criminal networks, organized criminal entrepreneurship including underground sex trade, smuggling, trade in arms and drugs are variables under the rule of law.

The last set of proximate factors under partnership between civil society and state includes weak education campaigns, low awareness within vulnerable communities, apathetic civil society, and poor accountability of state organizations.

These sets of factors influencing human trafficking are very explanatory and comprehensive. There have been some other attempts to conceptually explain the phenomenon but more at the individual than at the structural level (GAATW, 2007). The current description can give a deeper understanding of the event and thus can lead to policy discussion and strategic interventions to fight against human trafficking. In this volume, both structural and proximate factors are elaborated in various chapters. Akashi and Saito address the proximate factor of Japanese immigration policy and the trafficking in persons policy respectively. Kuwajiima examines structural factor in terms of networks and brokers while Angsuthanasombat looks at family factors. Kijiwatchakul and Ruenkaew’s study of health care policy on access to HIV/AIDS highlights proximate factors. Kato’s study of Thai female returnees covers both structural and proximate factors.
Exploitation: When and where does it start?

The term exploitation in the UN protocol on trafficking has been the subject of debate, especially on the question of what constitutes "exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs" (Dinan, 2008: 59). Lack of clarity in the definition of exploitation can lead to confusion. Newman and Cameron suggest that labor exploitation is central and essential to trafficking. People are moved to work in exploitative or slavery-like conditions. Unmet demand for migrant workers in the destination drives the market for trafficking (Newman and Cameron, 2008: 15).

In the Southeast Asian context, research on human trafficking indicates various types of exploitation, different from the definition in the UN protocol. Apart from slavery or debt bondage and sexual exploitation, trafficked persons encounter illegal confinement, confiscation of documents, arrest, extortion, forced overtime, and poor, overcrowded, insecure, and violent living condition. Girls and young women are trafficked for marriage and domestic work. The numbers of women voluntarily and knowingly migrating into the sex trade are increasing. Identified victims do not want to be assisted and refuse to go back home (Chantavanich, 2004: 144).

The realities of human trafficking in Southeast Asia indicate a demand for new characterization of the phenomenon. Shifts are taking place in the nature of recruitment (from coercion to deception), in the trafficking process (from forced to voluntary, and from being approached to approaching recruiters for facilitation), in the profile of victims (from girls and young women to boys and men too), in transportation (from abduction to facilitation by villagers, distant relatives, and friends), and, finally, in exploitation (from mainly sex work to various forms of hard labor). The concept of trafficking must be redefined to become more accurate and more comprehensive (Chantavanich, 2004: 144).

A recent study of recruitment and labor migration in Thailand shows that extreme labor exploitation includes unpaid work, confinement, torture, sexual harassment, slavery-like work, forced sex work, and confiscation of travel and identity documents. Less extreme modes of exploitation are lower wages and work different
in type from that specified in employment contracts, crowded living space, and no overtime work as promised (Chantavanich et al, 2010: 243–4).

Migrants who want to go abroad for employment often seek out services from traffickers. Others are approached by informal recruiters who identify potential migrants and tell them about lucrative job opportunities abroad. Sometimes, recruiters are friends or relatives of the migrants they recruit. Most low-skilled potential migrants are unable to arrange the migration process by themselves (Dinan, 2008: 71–3). An informal recruiter in Chiang Rai related that she sent postcards to the addresses of former migrant workers asking whether their relatives at home would be interested in work overseas. Then she would visit them and offer to arrange a loan from the bank in return for a service charge. Potentials migrants needed to borrow against their land and pay a high fee to the agent for services which include arranging the bank loan, preparing for travel, and securing documents from the Ministry of Labor and overseas employers. Migrants were instructed to inform the Ministry of Labor that they were traveling and arranging for job on their own. Unregistered recruiters could thus make profits while also escaping from all responsibilities towards the migrants.

Labor exploitation can take place as soon as a migrant decides to move and cannot arrange the travel without facilitators. Informal agents, opportunistic amateurs, or traditional criminal organizations intervene and start to exploit at the place of origin, mainly by demanding high payments for recruitment and traveling services (including provision of false passports and employment contracts), and misinforming migrants about the income and working conditions at their destination. In rural Thailand, propaganda from unauthorized agents or traffickers reads “งานดี เงินเดือนสูง บินเร็ว” meaning “good work, high pay, and fast departure” (Chantavanich et al, 2010: 217).

Exploitation during transit and in destination countries is more fully reported in the literature. In 2008, fifty-four migrant workers from Myanmar died from suffocation in a frozen seafood container carrying them from a border province to a destination in Thailand (Chantavanich, 2008). Unfortunately, the case was not considered as human trafficking because the migrants had not yet reached their
destination and employer. It was assumed that they had not yet been exploited and therefore were not trafficked persons. This interpretation sparked controversy. As the dead persons were considered as illegal immigrants, their relatives were afraid of showing up to take the corpses and no claim for compensation could be made.

The studies of labor migration and human trafficking from Thailand to Japan in this volume raise conceptual issues. Are Thai migrants in Japan illegal immigrants or trafficked persons? What level of exploitation determines their migration status? Are the factors that drove them to Japan mostly structural or proximate? These questions can be partly answered within the conceptual framework presented in this introduction. Nonetheless, there is room for further discussion and new paradigms.

References


