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FIGHTING
GLOBAL POVERTY

Restricted Rights

Migrant women
workers in
Thailand, Cambodia
and Malaysia



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Preface

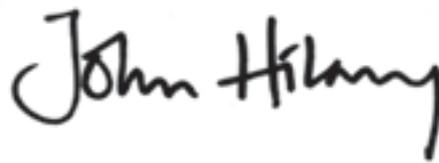
Migrant workers have played a central part in the economic success story of many South-East Asian countries in recent years. As these countries have embraced the 'outwards turn' of export orientation, migrant workers have provided a regular source of cheap labour that has allowed their manufacturing industries to compete successfully on world markets. Women migrants, in particular, have taken on jobs considered too arduous or unpleasant by local workers.

Thailand, Cambodia and Malaysia have reaped huge economic benefits from the contribution made by migrant workers. In Cambodia, almost 90% of garment factory workers are young women who have migrated from rural areas of the country. Migration from neighbouring countries has provided an essential source of cheap labour to the thriving export industries of Thailand and Malaysia. Despite their contribution, these same countries have refused to grant migrant workers the rights and security that are their due.

This report presents the results of new research into the lives and conditions facing migrant women workers in Thailand, Cambodia and Malaysia. In particular, it presents the findings of a series of in-depth interviews with migrant women workers – many of them still teenagers – conducted in each country. The interviews reveal a common tale of precarious lives in the face of state oppression and exploitation at the hands of unscrupulous employers.

Many Western companies are also profiting from the abuse of migrant women workers detailed in this report. High street brands such as Adidas, Nike, Reebok and Levi-Strauss sell goods produced in all three countries, while low labour costs have made Cambodia a key source of cheap clothing for stores such as Gap, Zara, Marks & Spencer and H&M. Workers in Malaysia's booming electronics industry supply market leaders all over the world.

War on Want believes that women migrant workers in South-East Asia, like all workers, have the right to a living wage and decent working conditions. It is wrong for countries such as Thailand, Cambodia and Malaysia to rely on the labour of such workers for their economic success and yet refuse to grant them even the most basic security in their lives. It is equally unacceptable for Western companies to profit from the violation of migrant workers' rights in their supply chains. All readers are encouraged to take the actions listed at the end of this report in order to secure justice for women migrant workers in South-East Asia, and around the world.



John Hilary
Executive Director
War on Want

Executive summary

02

In an effort to become globally competitive, Thailand, Cambodia and Malaysia have focused on developing export-oriented manufacturing industries that rely heavily on cheap, often migrant labour. Governments in each country have created policies that favour these industries and have concentrated the industries in areas set apart from mainstream society, thus making it difficult for workers to get protection or support when they try to exercise their rights against exploitation.

In Cambodia, young rural women have migrated to work in these areas, while in Malaysia and Thailand it is migrants from nearby countries who have travelled to work there. Although such migration is imperative to sustain the economic development of the countries, this mobility is not encouraged or facilitated. In the case of Thailand and Malaysia, existing migration policies are enacted to limit the number of people entering the country and keep the status of migrants temporary.

Consequently an underground system has developed to assist the workers, with brokers organising transport, finding jobs for workers and organising systems for sending remittances home. While the system is mostly efficient and businesslike, it does provide opportunities for businesspeople to put workers in dangerous situations purely for their own profit. Once in the employment sector, workers are given little to no job security. Migrants live in a temporary and precarious state – which is beneficial to the employers, who can hire and fire according to demand, but which is detrimental to a worker's life, livelihood and future.

This report focuses on women who have migrated to Thailand and Malaysia, and within Cambodia, to find work in the garment and electronics manufacturing industries. The majority of women have migrated as an

economic survival strategy, but within the Burmese migrant population there are also refugees who have fled political oppression and persecution in Burma.

All workers have invested a great deal to migrate to the factories. Leaving their families and friends, often borrowing money or selling some of their possessions to make the journey and find work, being sent off with great expectations of the village, they cannot return home empty handed. Fighting for their rights is thus a huge challenge, risking loss of job, livelihood and reputation, and possible danger or legal retribution for inability to pay back debts.

Employers and businesses know this, and exploit the fragility of the workers' lives without fear of legal consequence. Governments are also aware of the workers' vulnerabilities, but have failed to provide any extra protection. Indeed, in most cases it appears that they have failed to ensure even the normal scope of protection and enforcement of labour laws. The workers face a plethora of restrictions which constrain their ability to exercise their rights. Legal restrictions, as in Thailand, or social restrictions caused by the temporary and insecure nature of their contracts prevent migrant workers from forming trade unions, thus denying them a crucial channel to fight for better conditions. Migrants are also restricted in building a legal identity in their destination location, including restrictions on obtaining driving licences, moving around the country, organising events or large gatherings and opening bank accounts.

War on Want's research has found that the garment and textile industry in Cambodia, Malaysia and Thailand and the electronics industry in Malaysia are in many cases dangerously negligent about enforcing legal standards of wages and working conditions for migrant women workers. It found that

workers had no employment contracts or, where they did, these were illegal contracts. Workers regularly worked 10-hour days without overtime pay; faced harassment, unsafe working and living conditions; and in return received wages far below the minimum needed to survive. They were prevented from organising, taking sick leave, going outside their factory grounds or becoming pregnant. They could be fined for taking a day off, arriving late, going to the toilet or other minor so-called transgressions.

Despite the extremely low wages, many workers still aim to save money and send remittances home, often by minimising their

expenditure on basics such as food. Yet these remittances are barely sufficient to support their families' basic needs, and the families' socioeconomic status remains unchanged.

Neoliberal economic policies coupled with the lack of enforcement of labour laws hide the human and social cost for millions of women who travel across countries, borders and continents in search of decent work and secure livelihoods to support themselves and their families. War on Want believes that these women, like all workers, have the right to a living wage and decent working conditions. We urge all readers of this report to join us in the fight to make these rights a reality.



Migration in South-East Asia

04

Migration is a major employment strategy in South-East Asia, whether it be part of governments' development and economic plans or the livelihood plans of individuals. The major source countries include the Philippines, Indonesia, Burma,¹ Vietnam and Cambodia. Migrants from these countries migrate to other countries in South-East Asia, in particular to Malaysia and Thailand, and to the Middle East, Europe and America.

For the past three decades, people from Burma, Cambodia and Lao People's Democratic Republic (Lao PDR) have decided to escape poverty and political conflict in their countries to cross the border into Thailand. They left their countries without any documents, living and working in Thailand similarly without documents. The Thai government responded by providing a leave of stay for one year to migrants who registered with the local authorities, but this provides only a semi-legal status. Migrants are still considered to have entered the country illegally and to have been granted permission to stay for one year while awaiting deportation. The first such registration was in 1992 and the latest took place in June 2011.

In 2003, in an attempt to regularise the status of migrants in Thailand, memoranda of understanding were signed with Burma, Cambodia and Lao PDR. Through this system, migrants would either come directly from their country of origin with documents or they would go through a system of verifying their nationalities and having the country of origin issue them with temporary passports.

Since 2004, around 1.2 million out of an estimated total of 2.5 million migrants have

held some form of documentation. Around 50% of the migrants are women. In Thailand, women migrant workers are employed in various sectors including agriculture, horticulture, sex work, manufacturing, construction, seafood processing and domestic work.

In neighbouring Malaysia there are 1.8 million registered migrant workers, and anything between one million and 2.5 million undocumented workers in addition to those registered. Documented and undocumented migrants work in similar sectors, including manufacturing, construction, oil palm and rubber plantations, domestic work, services and agriculture. Documented migrants come mostly from Indonesia, Bangladesh, Nepal, Burma, India, Vietnam, Cambodia and the Philippines.

Both Thailand and Malaysia receive migrants from Cambodia, although most of the estimated 200,000 Cambodian workers in Thailand migrated without documents and are now in the process of being documented through the nationality verification process. The largest migration flows for Cambodia, however, are internal. As of 2009, there were 2.5 million internal migrants in Cambodia, many of whom are young women from rural areas working in manual, low paid positions. Close to 90% of the garment factory workers in Cambodia are young women who migrated from rural areas.

The patterns of migration in South-East Asia reflect the state of the political, social and economic development of the individual countries. A comparison of per capita gross domestic product (GDP) levels across the region provides an immediate sense of the uneven development between these

countries: Malaysia \$6,967, Thailand \$3,894, Lao PDR \$884, Cambodia \$729 and Burma \$380. The latter three states are listed by the United Nations among the world's least developed countries.

The Association of South-East Asian Nations (ASEAN) – composed of Indonesia, Malaysia, Thailand, the Philippines, Singapore, Brunei, Burma, Cambodia, Lao PDR and Vietnam – exists to facilitate the economic growth of the region and its ability to compete with economic heavyweights such as the European Union, the USA and China. Over the past two decades, ASEAN has worked to increase economic cooperation and eliminate barriers to trade among its members and to attract more foreign direct investment (FDI) into the region. Additionally, ASEAN has negotiated free trade agreements with countries such as China, Japan, South Korea, India, Australia and New Zealand.

In pursuit of this strategy of attracting FDI as a primary source of capital, ASEAN member states have provided preferential tariffs to foreign investors and established special economic zones (SEZs), often in border areas. Not all economic zones are formalised, but the availability of cheap labour from neighbouring countries makes them attractive to investors in labour-intensive industries. Thailand and Cambodia have also been part of the Greater Mekong Subregion (GMS) economic programme initiated by the Asian Development Bank since 1992, which brought together the six GMS countries to enhance economic relations through the coordinated development of infrastructure.

These policies may increase the economic growth of countries, but they neither help the lower skilled workers whose labour

they depend on nor do they reduce poverty. Rather, in these border economic zones or industrial zones, lower skilled migrant workers face strict regulations on their movements, limited social infrastructure and a lack of documentation for either migrating or working.

The three countries presented in this report have experienced economic migration, forced migration, rural-urban migration and cross-border migration. Specifically, rapid economic growth in Thailand and Malaysia, fuelled by the increase in FDI, has created labour shortages for export industries, in which conditions are such that local workers refuse to work in them. This labour shortage has been largely filled by migrant workers, who are highly vulnerable to exploitation and discrimination. As Cambodia becomes increasingly cash-based, people are finding it ever more difficult to survive on their traditional agricultural livelihoods, so they are moving to cities to find work in the industrialised zones.

As the governments in these three countries seek to become more competitive, market needs rather than existing labour laws are determining the employment conditions for migrant workers. Wages are therefore extremely low, employment is on a short-term basis, and rights are severely limited. It is especially difficult for migrant workers to challenge labour rights violations through the courts due to their precarious immigration status. Many employers simply dismiss migrant workers if they complain, and loss of employment immediately leaves migrants subject to deportation. Migrant workers are thus among the most vulnerable group of workers whom employers believe they can freely exploit.

Thailand Exploited & excluded

06

There are an estimated 2.5 million migrant workers living and working in Thailand.² The majority are from Burma but migrant workers also come from Cambodia and Lao PDR. Around 50% of all migrants are women. Migrant women workers are employed in textile and garment factories, domestic work, construction, entertainment and service industries, rubber plantations and fruit orchards as well the fishing industry, sorting fish on the port or in seafood processing factories.

High economic growth from the late 1980s onwards, focused around an export-oriented market in manufacturing and agricultural products, facilitated a demand for cheap labour and led to large numbers of workers migrating to Thailand from neighbouring countries. Due to the political situation in their home countries, almost all migrants crossed into Thailand without any documentation. Since 1992, the Thai government has responded to the influx of undocumented migrants by allowing those already working in the country to register to work for one year at a time, while awaiting deportation.

In 2003, Thailand signed memoranda of understanding with these countries of origin (Burma, Cambodia and Lao PDR) to regularise migration into Thailand. As the migrant workers were already in Thailand, it was agreed that the countries of origin would send officials to Thailand to verify their nationality and issue temporary passports. The process has been slow, expensive and open to corruption. By March 2011, out of the estimated total of 2.5 million migrant workers in Thailand, the nationality of fewer than 400,000 had been verified.

Textile and clothing manufacturing continues to be one of Thailand's largest industries,

employing more than one million people and bringing in over \$7 billion annually through exports.³ Thailand exports 38% of its textiles and garments to the USA, 30% to the European Union, 7% to ASEAN countries, 6% to Japan and the remaining 19% to Africa and the Middle East.⁴ Well known brands sourcing garments from Thailand include Adidas, Reebok, Nike, Levi Strauss, Timberland and Benetton.⁵ Thailand's expanding garment sector is constantly seeking sources of cheap labour.

2.1 Women's experiences

Interviews were conducted with 22 migrant women from Burma working in Thai garment factories. The youngest women workers interviewed for this report were 17 years old and the oldest in their 40s. The majority (12 out of 22) were 17 or 18 years old.

All of the women interviewed stated that they migrated due to the economic situation and lack of employment opportunities in Burma, but in some cases treatment at home also played a part in their decision to migrate. In the words of one of the women, who moved from Rangoon in Burma to Mae Sot in Thailand:

Women used to be the homemakers and men the breadwinners, but now both need to work in order to keep the family together without debt. I got divorced from my husband. I had two little children and my husband's family didn't let me see my children. For that reason, I was depressed and left home.

For many, the decision to move to Thailand comes from information received from families and friends who have migrated and sent back messages about the ease of getting work and the comparatively good wages. Many garment factories in Thailand are located along the Thai-Burma border in mountainous areas that are impractical for



Photo: © MAP Foundation

transporting the goods to the nearest ports. However, this inconvenience is outweighed by the constant supply of migrant workers from Burma – the largest source of migrant labour in Thailand, which employers freely exploit.

Thailand's Labour Protection Act (1998) regulates working conditions and limits a working day to eight hours, or 48 hours a week. After eight hours, overtime should be paid at the rate of 1.5 times the normal wage. However, in reality this is far from the case. In Mae Sot, on the Thai-Burma border, the women interviewed averaged 11 working hours a day with an unpaid hour off both at lunch and at dinner. Some factories gave an unpaid day off every Sunday; some only twice a month. Overtime payment only starts after these 11 hours, and overtime is mandatory, not optional, according to the migrant workers themselves.

The women working in garment factories in Mae Sot received only 69 baht a day (£1.40) for a 10 or 11 hour working day. Yet the legal minimum wage in Mae Sot at the time of the interviews was 153 baht (£3.10) a day.⁶ In one factory where the workers were employed to do piece work they were paid 20 baht (40p) for 100 pieces. Overtime was paid at 15 baht (30p) for two hours' work, or for those who were experienced, 11 baht (22p) per hour. So in busy times with overtime, the workers said that they may get 100 baht per day (roughly £2.00), still far below the minimum wage. In addition, according to the women interviewed, wages are rarely paid on time.

When the workers produced for Western brands, there were strict limits on working hours: a normal eight hour day and no more than four hours' overtime. However,

as a result the workers were under heavy pressure to produce more garments. According to one garment factory worker in Bangkok:

If we normally produce 80 pieces of clothing in an hour, they pushed us to do 100 pieces. That means we have to work more intensely and quickly but don't get more [paid] hours.

Only workers in factories producing for Western brand names earned the legal minimum wage. The women told us that if they managed to meet the higher quota they could earn 207 baht per day (£4.19) and 38 baht per hour for overtime (£0.77). Therefore, they received a salary of around 10,000 baht (£202.54) per month for working 12 hours a day (including overtime every day) with one day off a week. When taking an extra day off work, with or without permission, they are fined. When asked if they are given sick leave, the workers said that they could take an unpaid day off if they were sick “without being fined”.

Employment contracts are often non-existent for migrant women workers in Thailand's garment industry. Women workers producing goods for Western brands had signed contracts, but they were not given a copy of their contracts, nor were they informed of the company's code of conduct. Women working for non-Western brands had no employment contract or regulation of their working conditions.

Those migrants who have documentation are required to carry them at all times to prove their immigration status. Yet almost all the women interviewed said their employer kept their documents. Interviewees said that the police did not always accept a copy as proof of status and forced them to pay a 100 baht (£2) fine in such cases. Confiscation of

personal documents is commonplace in these factories, despite being illegal in Thailand.

The lack of a comprehensive migration and labour policy provides numerous opportunities for ‘brokers’ to intervene and in some cases exploit migrant workers. Migrants use brokers to travel and to find jobs because the government does not provide a job placement service and there are no regulated private agencies for migrants searching for work. Migrants who need to change provinces to look for work must use a broker to get past police checkpoints along the way.

There are numerous opportunities for brokers and employers to cheat, abuse and coerce migrant workers. Those migrants who file complaints against exploitative employers are usually dismissed immediately; they then have only seven days to find a new employer, which forces them to turn to brokers again. If they do not find a new employer, they lose any legal status they might have and are liable to deportation before they can complete the case.

2.2 Living conditions

About half the workers interviewed for this report lived in dormitories in the factory grounds. In one factory, women workers said that all the workers lived in one hall, a common experience for migrant workers in factories. Conditions in these dormitories are often crowded and unsanitary, with the management doing little to improve things. Ironically, however, the poor conditions in this shared living space can offer a sense of security from harassment. One woman working and living in a small jeans factory said: “I feel safe from the police since no one ever comes near our building as it is so smelly and ruined.”

Workers who live in dormitories in the factory grounds are subject to a range of unexplained deductions from their wages. They sometimes receive dockets with a handwritten figure apparently meant to signify a bill for electricity, food or rent. Most of the workers interviewed did not understand any breakdowns of their pay.

For workers living outside the factory complex, conditions were better. One woman said that workers living in apartments near the factory paid 1,500 baht (roughly £30) a month in rent. She had her own room with a bathroom, and was happy living alone. However, the majority of workers living offsite share a room and any associated costs to save money, with each paying 300 baht (just over £6) a month. One woman shared a single room with eight other people. In her words, the room was “big enough to put eight mats in. We use curtains to separate our spaces.”

Overall, the migrant women live in isolated migrant communities. Only one of the women interviewed said she had Thai friends, and even then only in the workplace. Only one or two could communicate effectively in Thai. Their opportunities to meet and mingle with Thai mainstream society are very limited due to the excessive working hours and restrictions on their mobility.

2.3 Access to services

Migrant workers who register for the semi-legal status described above pay an annual fee of 1,300 baht (£26) to have access to the National Health Service. This covers between 600,000 and 1.2 million migrant workers at any given time. However, the women interviewed for this report cited limitations on their access due to factors such as a shortage of interpreters at hospitals.

All Thais can access free health care through the National Health Service, but those who are working in the formal sector are increasingly contributing to the Social Security System, which provides a more comprehensive social safety net, including maternity, unemployment and disability benefits and pensions. Only the 400,000 migrants who have had their nationality verified and been issued temporary passports can join the Social Security System, which requires the employer, employee and government to each contribute 3% of the salary earned to the Social Security fund. However, it is currently unclear which benefits migrants will be entitled to. Only one of the women interviewed had any idea what the Social Security System was.

Migrants without temporary passports have to pay for their own health care. At a government hospital the costs for general health care are affordable, but the cost of ongoing treatment or surgery is far beyond the means of migrant workers. In addition, in some areas of Thailand – especially Bangkok – undocumented migrants are reluctant to go to government hospitals for fear of being arrested.⁷

Regardless of their immigration status, according to the 2007 Constitution of Thailand migrants are entitled to equal access to justice and are equally protected by the Labour Protection Act 1998. Nevertheless, migrants face many practical obstacles in accessing justice. The Labour Protection Act excludes all domestic and agricultural workers through specific ministerial regulations, and thus excludes a large number of migrant workers. Migrant workers also have to prove that they have a formal employment relationship with their employer in order to be able to utilise the protections in the Act. This can be a challenge



for piece workers, whose employer may claim that they are not employed for wages, or for garment workers in a factory that uses sub-contracted orders.

Migrants who file complaints at the Labour Protection and Welfare Office are normally subjected to threats and harassment from the employer, including dismissal. Migrants taking an official complaint against an employer have reported being blacklisted from all the factories in the area by the Federation of Trade Industries. As a legal case can take many years, a migrant cannot continue with the case unless they find work.

Undocumented migrants are generally visited promptly by immigration authorities

after filing a complaint and summarily deported, thus bringing a neat but unjust closure to their chance for justice. When migrants do manage to overcome these obstacles and take a case forward, they face bureaucratic hurdles and a system that is biased towards the employer.

Additionally, not one of the factories where the women interviewed for this report work had a trade union. The Labour Relations Act (1975) requires all executive committee members of unions to be Thai nationals, thus excluding migrants from setting up their own unions. Although some Thai unions are reaching out to migrant workers, it is still difficult for migrants to be active members due to language barriers, restrictions on travel and contact with the unions. Most

Thai unions are based in Bangkok and there are no branches in the areas where migrants work – which, like Mae Sot, are often exclusively operated by migrant workers. Only the factory that produced for Western brands had a workers' representative, which provided limited ability to negotiate with employers.

2.4 Grassroots responses

The following grassroots organisations were interviewed for this report: Social Action Women (SAW), the Burmese Women's Union (BWU), Burmese Lawyers' Council (BLC), MAP Foundation and Yaung Chi Oo Workers' Association (YCO). The President of the Thai Labour Solidarity Committee (TLSC), a committee of trade unions, federations of unions and NGOs, was also interviewed.

All five of the grassroots organisations interviewed try to facilitate migrants' access to justice. They conduct training on workers' rights, laws, policies and women's rights, and assist migrants' efforts at building self-reliance and empowerment to fight for their own rights. They provide channels for migrants to contact potential partners in their actions such as local trade unions, support approaching the Thai government directly and strategise with workers taking employers to court. Since legal cases can take years to settle, organisations such as the MAP Foundation and Yaung Chi Oo Workers' Association support migrants throughout the duration of their legal battles.

Other types of services provided by these organisations include: monthly forums for workers to share their experiences and strategies, workers' exchanges, legal rights training, cooperation between migrant

workers and Thai trade unions, consultations between Burmese migrant workers in Thailand and in Malaysia, and consultations with regional trade union leaders, including from Cambodia. Organisations also provide paralegal and legal aid to pursue complaints of exploitation against employers, as well as running resource centres, drop-in centres, income generating activities and emergency shelters.

Several organisations also carried out empowerment and advocacy activities with an emphasis on establishing alliances for self-reliance. The MAP Foundation, for example, supported the development of a migrant workers' association in Chiang Mai, the Workers Solidarity' Association (WSA). It is committed to building more such associations in different areas and exploring the possibility of expanding the coverage of the WSA. The TLSC has a sub-committee on migrant workers, and provides a channel for migrants to connect with Thai unions and to conduct advocacy directly with the Thai government.

Grassroots organisations call on consumers of clothes made by migrant women workers in Thailand's garment factories to acknowledge the poor working conditions in those factories and make demands on producers to improve the workers' situation. They say there is a need for a unified voice to call for an end to exploitation of migrant workers and for the working conditions of those workers to be raised to internationally recognised standards, with safe, healthy conditions and a living wage.

Cambodia Migration within

12

The migrant workforce in Cambodia is predominantly made up of internal migrants who have travelled from the countryside to the cities in search of work. As of 2009, there were 2.5 million internal migrants in Cambodia, most of whom are young women.⁸

Migrant workers work in manual, low paid positions in garment factories, or in informal sectors such as domestic work and the entertainment industry. Garments and textiles play a crucial role as the main formal employer of young single women from rural areas, where paid jobs are rare and poverty is widespread. Close to 90% of the garment factory workers in Cambodia are young women migrants from rural areas.⁹

Years of turmoil and oppression under the Khmer Rouge in the 1970s and a civil war that lasted until the early 1990s destroyed most physical, social and human capital in Cambodia. However, since UN-sponsored elections in 1993, Cambodia has been on the path to economic reconstruction. The government normalised its trade relations with Western countries in order to reintegrate its economy both regionally and globally after 10 years of isolation. Cambodia has participated since 1992 in the Greater Mekong Subregion economic cooperation programme initiated by the Asian Development Bank. Cambodia also joined ASEAN in 1999, and became a full member of the World Trade Organisation in 2004.

In just a decade between 1996 and 2007, Cambodian GDP grew approximately 2.5 times, with GDP growth peaking at 13% in 2005. The government's macroeconomic policy was redesigned in the 1990s to attract more foreign direct investment (FDI) in order to make Cambodia's export sector more competitive against neighbouring

countries and to address the country's 10% unemployment rate. FDI in Cambodia reached a peak of \$867 million in 2007, before declining thereafter as a result of the global economic crisis. It is forecast to reach around \$800 million again in 2011. Despite its growth throughout the 1990s and 2000s, Cambodia's FDI stock remains one of the lowest in the region.¹⁰

The garment and textile industry was the sector that benefited most from increased FDI, and garment exports were developed almost entirely by foreign investment.¹¹ This growth in FDI was in turn encouraged by investment incentives such as tax exemptions provided by the government, and the creation of export processing zones – as well as Cambodia's young and cheap labour force. The number of factories in operation in Phnom Penh alone increased from 129 in 1998 to 351 in 2008. Garments and textile products were worth around \$2 billion to the Cambodian economy in 2009, and accounted for 16% of GDP.¹²

Today the industry is the predominant export earner in Cambodia, with garment products accounting for around 90% of the country's exports. All garment and textile products made in Cambodia are exported, of which in recent years the United States accounted for 67%, the European Union 22% and Canada 6%.

Many major Western brands have sourced their products from Cambodia – according to one official USAID report, around a third of all Cambodia's garment exports in 2005 were manufactured for Gap.¹³ Other well known brands sourcing from Cambodia include Adidas, Puma, Reebok, Nike, Marks & Spencer, Levi Strauss, Timberland, Benetton, Zara and H&M.¹⁴



Photo: © Andre van der Stouwe

3.1 Women's experiences

Interviews were conducted with 30 migrant women working in garment factories. The women workers interviewed were aged between 19 and 40, although the majority (18 out of 30) were 19-25 years old.

Over 90% of the women interviewed stated that they had migrated due to their economic circumstances, citing reasons such as lack of income, debts and loss of cultivable land due to land grabbing by the rich or as a result of debts which forced them to sell their land. Many interviewees also added that, as a daughter, they have an obligation to repay their parents by earning money to support their families. As one young woman from Prey Veng said:

I first migrated to Phnom Penh when I was 15, to work as a domestic worker. I worked in a house for two years but as the working conditions were really hard and it was a really low paid job, I decided to leave and returned home. After staying at home for a few months, my mum asked me to go to Phnom Penh and seek a job as a garment

worker like other girls in the village, in order to earn money to pay off my family debt.

Some women interviewed said that their families asked them to drop out of school and migrate to Phnom Penh to seek a job to support their family and help their younger brothers continue studying. Cambodian families traditionally prioritise education for sons over daughters because they believe men are more likely to find better paying jobs as adults than women. When migrating to the cities, most workers found jobs through friends, family or recruitment agencies.

Over 80% of the women interviewed stated that they had a written contract. Only one migrant, who worked for a small, sub-contracted factory, said that she did not have any written contract. However, most workers who had a written contract had minimal understanding of the contract, including their wages, and often no awareness of other rights and benefits they are entitled to.

All those interviewed said that they were on short-term contracts of between three and six months, which is now common practice. According to Ath Thum, President of the Coalition of Cambodian Apparel Workers' Democratic Union, 60% of Cambodia's 400 garment factories utilise short-term contracts.¹⁵ The casualisation of the workforce over recent years enables employers to hire and fire more easily, and provides fewer benefits to workers. For example, workers who have worked for less than a year are not entitled to maternity benefits.

All the women interviewed for this report stated that their normal hours consist of eight working hours a day, six days per week, with additional hours considered as overtime. Most women reported that their factories have a peak season during which overtime becomes compulsory, requiring additional work of between two and four hours per day. Over half said that they technically have the right to refuse overtime hours, but that in practice they could not refuse because they were afraid of dismissal from their work. Other women reported that they have experienced threats of dismissal and intimidation from their employers for not working overtime.

All of the women interviewed said that they could earn more money during the peak season than during the low season. While the minimum monthly wage for footwear and garment factory workers approved by the Labour Advisory Group in 2010 was \$61, workers are able to earn around \$80-90 during the peak season with two hours or more of overtime every day. However, they have to work long hours and eat less, with little time to rest. Over 90% of the women interviewed said that their factory paid salaries on a monthly basis, but one woman had a piece work arrangement. All said that

they did not know what to expect from the calculation of their salary each month, which was prepared by their employer and supervisors.

3.2 Living conditions

Over 90% of the women interviewed said that they share small rented rooms close to their factory with four to five other people, in order to save money. Most women have to spend around \$5-10 for their rent, electricity and water every month. Half of them reported that it was difficult for them to get to the factory during the rainy season because the areas around their rented rooms were so muddy. All of them said that they eat less food to save money. They pay \$1 for food per day, usually at an unhygienic roadside food stall. As one 29-year-old woman migrant worker from Kampong Thom province said:

I live with four other friends who come from the same village as me. We spend \$20 for rent and around \$10 for water and electricity supplies. It is really crowded for us in the small room, but we have no choice: we have to live together in order to save money. We spend around \$0.50-1 a day on food. We eat together every day. Our food is not good enough for our health but we do not know how to improve it. My family at home needs me to send money to pay for their daily needs because they do not have any livelihood other than cultivation.

Migrants must be extremely frugal to survive on such low food budgets. In addition, those who need to travel to the factory compound have to spend around \$5-10 per month on transport. Despite all the expenses, all the women interviewed said they try to send remittances home, ranging from \$20 to \$30 per month. Over half of the women interviewed stated that the minimum wage is not enough to support their basic food, accommodation, water, electricity and medical expenses.



Photo: Fernando Molerres/Panos

BEATEN BACK TO WORK

On 27 July 2010, more than 3,000 workers at the PCCS Garments factory in Phnom Penh went on strike in reaction to the suspension of their factory's union representative due to a dispute over sick leave. PCCS Garments is owned by a Malaysian company and produces goods for international clothes stores such as Gap and Benetton, as well as leading sportswear brands Adidas and Puma. More than 300

riot police used electric shock batons to beat women workers and tear gas to force all the workers back to the factory. Many women workers were injured in the clashes, and all were forced to return to the factory without any response to their demands. This case highlights the difficulty of implementing workers' rights in Cambodia, especially the right to freedom of association, which is protected under the constitution and the Cambodian labour code.

3.3 Access to services

While many foreign buyers (brands) have codes of conduct that relate to the treatment of workers in their supply chains, it is often only the management of the supplier factories who know about such codes. None of the women interviewed for this report were aware of codes of conduct relating to their work. Most of the workers were also unsure which brands they were producing for, making it nearly impossible for workers to find out which (if any) code of conduct may actually apply to them.

According to Cambodian law, all factories are required to have workers' representatives, elected by workers, who are in charge of

facilitating disputes. However, none of the women interviewed for this report knew who the workers' representatives were in her factory. Some of them said workers' representatives were selected by the employer and thus would not represent workers' interests anyway.

Over 90% of the women interviewed stated that there were trade unions in their factory. Over half said that there were multiple trade unions in their factory, including government-run unions, employer-guided unions and worker-led unions, and that they were not sure which trade union they belonged to. Over half said that the unions were active, including in helping workers negotiate with

the factory owner about overtime hours or unfair dismissal. Two women said they felt that employers and supervisors discriminated against trade union members; when they did something wrong, trade union members were more likely to be dismissed or disciplined than non-union workers.

All the women interviewed for this report stated that when they demand better working conditions or protest against unfair dismissals, they do so through the union representatives. If they strike, all the women said that their factory owners rarely agreed to their demands, and that their employers used the court system or police to force them back to work.

All of the women interviewed for this report said that they could take sick leave. However, little more than half of them were able to get paid sick leave – and then only by showing a medical certificate issued by a recognised clinic or hospital in Cambodia, which is expensive to obtain. If they fail to present this certificate, the employer deducts the sick leave from their salary. They also have trouble getting recognised sick leave when they have minor illnesses such as headaches that only require a short recovery stay at home instead of a hospital visit.

3.4 Grassroots responses

Trade unions play a key role in protecting and promoting the rights of workers in the garment and textile industry. The industry has a large number of in-house trade unions, operating within various federations of industrial trade unions and usually with political alignments. Trade unions in Cambodia can be generally categorised into three types: trade unions aligned with the ruling party, those aligned with the opposition party and those not aligned with any political group. While there are a number of NGOs, only a few work specifically for the rights of garment

workers. They often conduct paralegal training on labour rights or healthcare, and provide legal support when cases are taken to court or to the Arbitration Council in Cambodia. However, such legal support is limited due to financial constraints.

Two organisations were interviewed for this research: the Community Legal Education Centre (CLEC), an NGO providing legal training on labour rights to trade union members and other workers, and the Coalition of Cambodian Apparel Workers' Democratic Union (CCAWDU), a confederation of trade unions with members in garment factories. Both organisations see their main challenge as the lack of accountability and political will of the government in responding to workers' rights violations. The government often cracks down on workers' strikes by saying that strikes are illegal, and employers often threaten workers with legal action.

Trade union members and labour activists also face regular intimidation and threats. In addition, the government often refuses to recognise or listen to civil society groups and trade unions, so participation from workers is limited. While workers do have the right to join a trade union, lack of solidarity among the unions makes it difficult to create unified demands.

Activists in Cambodia are campaigning for longer term contracts with increased benefits for workers, as well as an increase in the minimum wage to at least \$93. They work not only at local and national levels but also with the international community, with international trade union members, labour activists and consumers in order to put pressure on governments, international buyers and suppliers to respect the labour rights of women workers in Cambodia.

Over 2.3 million migrant workers registered under the Malaysian government's official registration programme in August 2011. However, there are known to be many more who chose not to register under the scheme.¹⁶ Most migrant workers in Malaysia come from other South-East Asian and South Asian countries, with roughly half of the total from Indonesia and others from Bangladesh, Nepal, Burma, India, Vietnam, Cambodia and the Philippines. Close to 40% of all documented migrants work in manufacturing, with a further 20% in the construction industry.¹⁷ Around 300,000 workers are employed in Malaysia's electronics industry, of whom 70-80% are women.¹⁸ The textiles and garment industry employs more than 68,000 workers.¹⁹

Since the 1980s, Malaysia's economy has been driven largely by export-oriented manufacturing sectors. There is a huge demand for migrant workers in these industries because Malaysia's population growth is slow and native workers have moved into safer, more desirable work. Documented migrant workers alone make up 20% of the labour force in Malaysia, but taking into account the number of undocumented migrant workers, the true figure is known to be much higher.

The country's competitiveness relies on migrant workers' cheap labour, and the government has therefore allowed employment of migrant workers since the 1990s. The 1991 Policy on Recruitment of Foreign Workers stipulated that migrant workers should have working arrangements

similar to those of local workers, including comparable wages, benefits, a written contract and satisfactory food and accommodation. However, migrant workers have regularly been denied decent wages and proper treatment for the past two decades.

In order to promote economic growth, the Malaysian government encouraged foreign investment in electronics and manufacturing by developing more than 200 industrial estates and 18 free industrial zones (FIZs) that are fully equipped with facilities, roads and utilities such as water and telecommunications services to cater to private export-oriented businesses. Companies in FIZs are granted duty-free imports of materials, equipment and component parts necessary for their manufacturing processes.

Government policies are designed to keep workers' status temporary by restricting their family life and making them highly dependent on their employers. For example, unskilled or semi-skilled migrant workers are prohibited from marrying local Malaysians; have no path to permanent residency or citizenship; are subjected to mandatory health checks and deported if their tests are positive for HIV/AIDS, tuberculosis or pregnancy; are subject to street arrests and raids of their homes by the police and a national volunteer immigration control force, then are detained and whipped in immigration 'depots' under an official deterrence policy; are fired if they file a complaint against employers or are known to be active in labour organising; and are subject to deportation if fired.²⁰

Companies which employ fewer than 50 foreigners are required to hire them through



Photo: Moritz Siebert

‘contractors of labour’, which removes the employment relationship between workers and their principal workplace. Instituted in August 2006, this policy resulted in the creation of 277 labour outsourcing companies within just two years. This has created significant problems for migrant workers: since they are legally employed by the labour outsourcing company rather than the factory where they work, they have no right to enter into negotiations regarding workers’ rights and conditions in the workplace.²¹

Moreover, many contracts explicitly prohibit migrant workers from joining a trade union or any form of association. This is in direct violation of three laws: the Trade Unions Act 1959, which states that a foreign worker can become a member of a trade union; the Employment Act 1955, which states that a contract of employment shall not contain a clause prohibiting a worker from joining a union; and the Industrial Relations Act 1967,

under which a worker cannot be dismissed for union activity.

Despite protests from workers, trade unions and civil society organisations, the Malaysian government speedily passed its Employment (Amendment) Bill 2011 through the House of Representatives at the end of 2011. The Bill sought, in effect, to consider labour suppliers as employers of workers. The proposed changes to the Employment Act would be most detrimental to workers’ rights, trade unions and the existing two-party employment relationship between worker and end user (the principal).

Electronics has become Malaysia’s most successful manufacturing sector, contributing around 60% of total manufactured exports and accounting for 8% of the country’s GDP. The majority of electronics export factories are owned by foreign companies. Major companies investing in this sector in recent years include (from the USA) Dell, Western

Digital, Intel, Motorola, Seagate, Texas Instruments, Freescale Semiconductor, Agilent Technologies, AMD, Linear Semiconductor; (from other Asian countries) Fujitsu, Sony, BenQ, NEC, Panasonic, Hitachi, Toshiba, Sanyo, Alps, Brother, Canon, JVC, Konica-Minolta, Rohm, Samsung, Nichia, Funai, TDK, Sharp, Mitsubishi, Fuji Electric; (and from Europe) Bosch, Infineon, Osram, Siemens, Alcatel, Philips, STMicroelectronics and Marconi.²² Well known brands sourcing garments from Malaysia include Adidas, Nike, Reebok, Gap and Levi Strauss.²³

4.1 Women's experiences

Interviews were conducted for this report with 30 migrant women from Burma, most of them documented migrants. The women workers interviewed were between 18 and 32 years old, and work in garment and electronics factories.

Interviewees stated that their reasons for migrating to Malaysia included family and self-survival, bad economic and political conditions in Burma and a desire to experience greater freedoms. All respondents said the economic situation in Burma was so bad that they could not survive or earn enough money to support their families – and that, as daughters, most of them saw that as their obligation. In the words of one Burmese woman working in an electronics factory in Selangor, Malaysia:

I am an elder daughter and I need to go to work in a country where wages are higher. My salary is going to support the daily expenses of my household and school fees for my sisters and brother.

Most women interviewed work six days a week, 13 hours a day during peak periods and five days a week, 8 hours 45 minutes per day during the low season. Holidays are rare and most are not entitled to paid holidays or

leave. In busy months they work without any days off, and most workers cannot refuse to work overtime. As noted by a Burmese woman worker from a garment factory in Selangor:

My employer always said they don't have enough workers but we already work so hard we cannot do anything more. Last month, 18 Indonesian women workers ran away from our factory.

Most women said they work under great pressure and found their working environment stressful. Another woman worker from an electronics factory – this time in Butterworth, Penang – said:

My supervisor always tells me not to make mistakes and she says I am very slow. I feel like a lime and she is squeezing me all the time. I cannot finish 650 pieces per day in these first months as I am new to this factory and work. I didn't get any overtime payment and I earned only RM 150 [£30] per month after all the deductions. I want to change employers but I am afraid to ask my agency.²⁴

All of the interviewed women's passports were held by their employer or their outsourcing agents, leaving the workers with only a photocopy. This is despite the fact that Malaysia's Human Resources Minister had in 2008 openly questioned the legality of employers' holding the passports of their foreign workers.²⁵ The majority of interviewees have never asked to have their passports and work permits returned, even though without their documents they are vulnerable to arrest.

In 2009 the government announced that a levy on employing foreign workers is to be paid by the employer and not deducted from workers' wages. However, most women workers interviewed for this report experienced a variety of wage deductions,

including the levy, charges for medical expenses, cleaning costs for their accommodation, transportation costs and penalties for being absent from work when they were sick or late. Under this 'attendance fee', a portion of wages are paid only to workers who come to work promptly and have no absences. This amount is often included in the calculation of workers' expected wages, but many workers do not receive it. Instead, their wages are docked for lateness.

Most migrant women workers signed a three-year contract before they came to Malaysia. However, the contracts were written in English so they did not understand the details and can only remember the amount of salary stipulated. Less than half were given a copy of their contract. As one woman stated:

I signed on to this recruitment agency because they told me in Burma I will get paid more than RM 900 [£180] per month, but now I learned they are cheating us. We do not receive according to our contract and what they promised us. Last month I earned only RM 280 [£56] after deductions.

Some garment factory workers did not read or sign any contract. They signed only a letter stipulating that they will pay back recruitment fees by allowing the agency to deduct these fees from their wages. Migrants were generally reluctant to talk about recruitment agencies, but gradually revealed that they had to pay agency fees ranging from \$800 to \$1,000. To recover these payments, RM 300-400 (£60-80) is deducted monthly from the women's wages for the first six or seven months after they start working in Malaysia. As one said:

The deductions are really a problem. The agency is making money out of us. Before, I hoped that I

could make money by paying the agency to work here, but now I think being illegal is better. At least I don't have to pay any money to the agency, and now I can send money home.

High transfer fees are also charged if the worker wants to change their workplace. According to one Burmese woman worker who had moved from a garment factory in Subang Jaya, Selangor to another in Butterworth, Penang:

The agency deducted RM 500 [£100] per month from me for recruitment fees and other expenses. I didn't earn any money so I decided to leave that agency and factory. When I asked them to return my passport and work permit, they said that I would have to pay RM 1500 [£300] to the recruitment agency.

Because of these illegal practices, workers were not earning the salary promised them. They all earned less than RM 500 (£100) per month compared to around RM 900-1,200 (£180-240) earned by local workers. Even worse, some employers and brands use a piece rate system in which workers are paid by piece produced rather than by time worked. According to one woman from a garment factory producing for Eider UK, Reebok, Adidas and Nike, "The factory ordered us to sew 200 pieces in eight hours. We need to work overtime to reach the target, and we get no additional payment."

All workers interviewed said that even though they work overtime, their wages are not sufficient to cover living expenses. In the words of one woman worker in a garment factory in Kajang: "If you ask us how much we need to have a decent life and have some money to send back home, I think it should be RM 1,000 [£200] per month. But after all the deductions, last month I earned only RM 320 [£65]."



In one small garment factory in Penang, the workers used to be documented with a work permit, but they chose to become undocumented because they could earn more once they are no longer burdened by the agency. As one woman said: “We earn around RM 400-550 [£80-110] per month, and I send back to my family in Burma around RM 200-300 [£40-60] per month. I can save more now than when I had a work permit.” Another woman stated: “Before, when I had a work permit and passport, I never saw them anyway. It is no different now that I do not have the documents, but the problem is, when I want to go back home, I do not know how to go back without a passport.”

4.2 Living conditions

Most of the women interviewed for this report live in accommodation provided by the employer near their workplace, and with many other workers. One migrant woman worker in Shah Alam reported that she lived with 17 other people, and that her room

measured just 3m². Women pay around RM 8-10 (£1.60-2.00) each month for electricity, water etc. As one group of migrant women workers in Butterworth, Penang attested:

We pay RM 8 (£1.60) per month for electricity for one worker, RM 2 (£0.40 pounds) per month for water. Last month the basin in our hostel broke down and we had to pay for it to be repaired; it cost us RM 27 (£5.40) each. In the hostel 10 people live together in a two bedroom apartment and have only one toilet.

Most women interviewed felt that they are discriminated against in Malaysian society, but said they would not complain because their priority is keeping their job. Among the few places for socialising are a Burmese temple that migrants visit during Buddhist ceremonies, and evening markets where they can meet up with other Burmese friends. Otherwise most do not dare speak Burmese when they are in public. Seven of the 30

migrant women interviewed could speak some level of Bahasa Melayu (Malaysia's local spoken language) or English. The lack of language played a part in the segregation of migrants from the local community. Only a few women had Malaysian friends, and those were their factory mates. Besides language, segregation resulted also from lack of time and opportunity and the restrictions on movement caused by not holding a passport or work permit.

Most women said they typically make phone calls home about once a month using a neighbour's mobile phone, usually after they had sent money for their family. Four women said that they had yet to call home as they had not earned enough to be able to send anything home. As one migrant woman worker in Penang said: "I miss my family but I don't want to call them yet because I am afraid they will ask about money. Last month I earned only RM 176 (£35.20) and I spent that on myself just to survive. I'm waiting for the month when I can make enough to send them. Then I can call them too."

4.3 Access to services

When foreign brands have contracts with Malaysian factories, they may have their own code of conduct, but that information is not available to workers in the factory. When there are visitors, workers' representatives tend to be chosen by the company. As one group of women working in a garment factory in Selangor said:

In the last few months, we saw some Japanese people come to our factory. One day before that the manager told us to clean the factory and our rooms. We learned later that the visitors were from the well-known brand and they were checking our working conditions. But the problem is that those who represented us in the meeting

room were workers selected by the factory without our knowledge.

Migrants' access to information was mostly dependent on two Burmese language journals which cost about RM 2 (£0.40). The migrants' connection with civil society organisations is also limited. One migrant said she had met Burmese groups but the groups did not talk about workers' rights issues nor did they ask the workers about their working and living conditions. They did not know anything about Malaysian trade unions or NGOs.

With regard to health care, the Employment Act of 1955 states that medical expenses are to be borne by the employer and that workers are entitled to paid sick leave when there is an injury arising from an accident at work. Yet none of the women interviewed for this report received paid sick leave. Some were fined, and some had even been dismissed for taking leave when sick. One woman working at an electronics factory in Butterworth, Penang said: "When I feel sick in the morning, I cannot go straight to the clinic to see a doctor. I have to go to the factory and see the supervisor for her to give permission for me to go and see the doctor." Another interviewee from a garment factory in Selangor said: "We cannot go to a government hospital because we do not have our passports with us. They are held by the recruitment agency." When they feel sick at work, therefore, many women stay in a rest room for one or two hours before starting work again. All of them take paracetamol and tiger balm when they are not feeling well.

None of the women migrant workers interviewed had received any kind of safety training. Workers commonly suffer from back pain because of sitting too long in the same position, or in some cases from standing



Photo: Moritz Siebert

continuously for many hours during work. Two women complained of pain in their eyes because when they work they have to look at electrical equipment for a long time. Despite the Workmen's Compensation Act guaranteeing compensation for workplace injuries or accidents, none of the workers had heard about it.

Most of the women interviewed said they had never received education or training on health and reproductive rights. Given their traditional background that holds that unmarried women should not be sexually active, many women were also reluctant to talk about it. Some said they do not need information about their reproductive health

because they are not yet married. Only two women said that they had received training on how to use a condom from UNICEF in Burma.

4.4 Grassroots responses

Five organisations working with Burmese migrant workers were interviewed for this research: Multinational Women of Burma (MNWOB), Burma Campaign-Malaysia (BCM), National League for Democracy – Liberated Areas, Burma (NLD-LA-Burma), Workers Hub for Change (WH4C) and Network of Action for Migrants in Malaysia (NAMM). All except for MNWOB have contact with women migrant workers in textile and electronics factories; MNWOB works

with Burmese women migrant workers in other sectors.

The main work of all these organisations is to provide paralegal advice on migrant workers' rights and to liaise with other concerned NGOs and trade unions to provide further support. BCM and NLD-LA-Burma also provide direct services such as accompanying migrant workers to hospital. BCM's vision is to empower migrants to become active agents of change for a future Burma, so those workers who take part in BCM activities learn about democracy as well as about their rights as workers. WH4C works on labour and human rights education and conducts training on redress mechanisms in Malaysia for migrants. It also produces educational materials for migrant workers to understand their rights and campaigns for policy change at national, regional and international levels. At the national level WH4C works with NAMM, national trade unions, the Department of Labour and the National Human Rights Commission (Suhakam). At the regional level, it works with the Mekong Migration Network and the Asia Pacific Forum on Women, Law and Development (APWLD). At the international level it works with the Clean Clothes Campaign, Good Electronics Network and Worker Rights Consortium.

All the organisations interviewed emphasised the importance of educating and empowering migrant workers on their rights so that they can take action to seek justice and improve their own situations. Empowerment work is done through training and counselling on workers' rights, laws, policies and health rights, and assisting migrants gain access to social services such as health care. When migrants decide to take complaints against their employers to the Department of Labour after receiving relevant information from

grassroots organisations, they are referred to the Malaysian Trade Union Congress, who will accompany the migrants to the court and assist the process from there.

In addition, interviewed groups agreed that there is a need for training more specifically focused on women's rights. However, many community-based groups such as the Malaysian Trade Union Congress, NLD and BCM are male-dominated organisations. Thus they found it necessary to adjust their trainings to focus more on women's rights and provide spaces for women workers to discuss their situations freely.

The main challenge identified by all the organisations is that significant numbers of Burmese migrant workers are undocumented, and it is therefore very difficult for them to claim their rights. The situation is also tough for documented Burmese migrant workers, who can expect little support from their embassy – unlike other national embassies, which tend to have a labour attaché and/or provide shelter for migrants in distress. The organisations observed that when documented Burmese migrant workers contact the Myanmar embassy for help, they are told that the embassy cannot do anything.

The groups also identified lack of enforcement of labour laws by the Malaysian government, discriminatory policies and practices against migrant workers, and patriarchal attitudes in the communities towards migrant women that make it harder for women to take action to claim their rights. They also pointed out that the authority in their country of origin (the State Peace and Development Council in Burma) only works with recruitment agencies and outsourcing agencies to collect their fees, and does not help migrant workers.

HUMAN RIGHTS DEFENDERS AT RISK

Organisations and individuals campaigning for migrants' rights in Malaysia are at risk from the companies or the government. This is highlighted by the ongoing case of Asahi Kosei against human rights defender Charles Hector.

Asahi Kosei Malaysia Sdn Bhd, a Japanese-owned company, has a factory with around 1,700 employees that produces die-cast aluminium parts for hard disk drives. Burmese migrant workers working in the factory reported getting paid less than promised, difficulty in getting sick leave and confiscation of their passports. Additionally, they were threatened with deportation when in February 2011 they complained to the National Human Rights Commission, the Department of Labour, the Malaysian Trade Union Congress, and human rights defender Charles Hector.

Charles Hector contacted Asahi Kosei to seek clarification from the company on the alleged threats of termination and deportation of workers. After receiving no response from the company, Hector began to document the allegations on his blog. The company then filed a retaliatory lawsuit against Hector demanding

compensation of RM 10 million (£2 million) in addition to a public apology and deletion of the blog posts. The company argues that they are being defamed and that they are not in an employment relationship with the workers since the workers are supplied by an outsourcing agent. The case has raised questions of who is responsible for treatment of workers as an employer, and has also highlighted the risk of campaigning for migrants' rights in Malaysia.

On 25 August 2011, Charles Hector and Asahi Kosei reached a settlement, the terms of which dictate that Hector will pay RM1 (£200,000) in costs and a further RM1 (£200,000) in damages to Asahi Kosei. A further condition that Hector has to satisfy is the publication of a half-page advertisement in two national daily newspapers. This case shows how powerful corporate interests can take on and silence a human rights defender. Using exorbitant libel suits against human rights defenders who have reported alleged corporate abuses sets a dangerous precedent, with a chilling effect on the legitimate work of human rights defenders in future.

Despite these mounting challenges, there have been some notable success stories. In 2009, the WH4C and their partners worked together to assist a Burmese worker who was injured at his workplace. After the injury, the worker lost his job and became unemployed, resulting in the loss of his work permit, thus leaving him undocumented. The organisations helped the worker receive back wages and compensations for his injury. This was the first case where an undocumented migrant

was able successfully to claim benefits. Since then, there have been an increasing number of actions brought by migrant workers demanding their rights. The support groups continue to raise concerns from migrant communities to the public and relevant authorities, and report the response back from the authorities to migrant communities. The confidence of migrant workers seems to be increasing, and they are becoming more willing to fight for their rights.

Conclusion

The case studies of Thailand, Malaysia and Cambodia reveal similar economic and development strategies for all three countries. Each has focused on developing an export-oriented economy and tried to attract as much foreign direct investment (FDI) as possible. Government efforts to attract FDI are often explained as a means to enhance macroeconomic development, create employment opportunities and reduce poverty throughout the country. Yet to attract FDI, each of the governments has created special economic zones (SEZs) within which wages are kept extremely low to maintain competitiveness. Workers – especially women migrant workers – are given only temporary status so as to ensure a flexible and disposable labour force.

The SEZs are deliberately concentrated in areas that attract migrant labourers, who are less able to demand their rights. These SEZs are dependent for their success on the clandestine movement of migrant workers, but these workers are liable to exploitation, arrest and deportation. Migrant workers' immigration status in Thailand and Malaysia is fragile even when they are documented. Yet employers and agents regularly confiscate the personal documents of migrants, despite their right to keep their documents themselves. Those who are not documented fear arrest, detention and deportation if they complain about working conditions. Within Cambodia, although rural-urban migrants do not face immigration challenges, they nonetheless have little or no job security and their employment contract is typically only for 3-6 months. Employers benefit from increased competitiveness as a result of having this

temporary and legally insecure migrant work force.

Export-oriented industries such as the garment and textile industry in Cambodia, Malaysia and Thailand and the electronics industry in Malaysia are dangerously negligent in enforcing legal standards of wages and working conditions for migrant women workers. In all three countries, these women struggle to meet their basic needs, putting in many more hours than workers have to do in the UK to pay for basic commodities. A normal working day in the textile and garment industry regularly breaches the countries' labour laws, which all prescribe an eight hour day. In all three countries, migrant women reported regularly working 10-hour days. Employers only consider working beyond 10 or even 11 hours as overtime, and overtime payment is often calculated at rates below those prescribed in labour laws.

While most migrants aim to save money to remit home, wages are so low that many workers have to minimise expenditure on basics such as food in order to save money. Even so, most state that their incomes are not enough to support their families properly and that remittances are spent on their families' basic needs and survival rather than improving their socioeconomic status. Migrants in Malaysia can rarely send any money back home, especially for the first six months, as they have to pay back a recruitment agency fee and other levies deducted from their wages by their employers.

Working environments are detrimental to women migrant workers' physical and mental well-being, especially as they often have no access to health care and other basic services.

Women migrant workers in Thailand and Malaysia are not granted paid sick leave, while garment workers in Cambodia are entitled to paid sick leave but encounter significant obstacles in accessing it. In all three countries, many migrants live close to their factory or in dormitories provided by their employers. These are often overcrowded and unhygienic, and migrants report a lack of security at their living quarters or on their commute between home and the workplace.

Women in all three countries are denied reproductive health rights and face discrimination if they become pregnant. In Malaysia, migrant women must undergo a mandatory health check and pregnancy test before entering the country, and will not be granted a work permit if they test positive. Once in Malaysia, women are again mandatorily tested, and if they test positive they are deported. In Thailand, the policy does not officially address pregnancy; however, migrant women workers are not eligible for maternity leave and migrant women can only stay in the country if they are working. Most employers dismiss pregnant women, who then lose their legal status to stay in the country.

Migrant women workers in all three countries face obstacles to being active in trade unions. Without unions, women lack collective bargaining power and constantly have to fight local battles against individual employers, which can never result in widespread change. In Thailand, migrants are allowed to join trade unions but not to form them. Due to their long working hours, restrictions on travel, poor wages and difficulties with the host language, it is almost impossible for migrant women to play an active role in a Thai union. In Malaysia,

migrants are allowed to join trade unions, but most employment contracts explicitly prohibit them from being involved in any union activities. While there are no legal restrictions on women joining or forming trade unions in Cambodia, independent unions operate in an environment of danger and fear.

Migrant women workers rarely know which brands they are producing for, and this is an added factor weakening their negotiating power. Workers do not know about codes of conduct that might cover their factory, although some migrants in Malaysia and Thailand said they have seen representatives of big brands or other foreign visitors visiting their factory. In the case of Malaysia, the trend of using labour contractors to avoid direct hiring makes it even less clear who is legally responsible for the workers, and results in many employers avoiding their obligations to uphold workers' rights. In all three countries featured in this report, grassroots organisations emphasised the importance of alliance building and collaborating internationally to place more pressure on governments, international buyers and suppliers to respect workers' rights.

War on Want is campaigning for a living wage and decent working conditions for all workers who supply British companies, wherever they are in the world. To this end we urge all readers of this report to:

I. Call on the UK government to stop companies profiting from sweatshop labour.

War on Want is calling for the UK government to establish a specialised Commission on Business, Human Rights and the Environment in order to hold British

companies to account for exploitation in their supply chains. Such a commission would have the powers to investigate complaints from workers whose rights have been violated in supply chains serving British retailers. It would also fulfil the call from the former UN special representative on business and human rights, John Ruggie, for non-judicial grievance mechanisms to be established at the national level to complement judicial avenues for redress.²⁷

Please write to Rt Hon Kenneth Clarke QC, Secretary of State for Justice, 102 Petty France, London SW1H 9AJ, calling for the introduction of a Commission on Business, Human Rights and the Environment to protect the rights of workers in the supply chains of British retailers.

2. Urge all companies sourcing from Thailand, Malaysia and Cambodia to respect the rights and voices of migrant workers in their supply chains.

This includes consulting closely with migrant workers' associations or relevant NGOs, supporting the development of workers' associations and representatives, and formally recognising the right of migrant workers to collective bargaining.

3. Call on your MP to press for an end to the exploitation of workers in supply chains overseas.

Please write to your local MP asking them:

- (a) to support the introduction of a specialised Commission on Business, Human Rights and the Environment
- (b) to join the All-Party Parliamentary Group on International Corporate Responsibility: Business, Human Rights and the Environment

If you do not know the name of your MP, you can find it at www.theyworkforyou.com

4. Join War on Want and bring justice for workers across the world.

It is only as a result of dedicated support from members of the public and trade unionists in the UK that War on Want can continue its campaign for workers' rights around the world. Please join us by becoming a member of War on Want today – go to www.waronwant.org/joinus or phone us on 020 7324 5046.

Comparison of wages, earning power and basic commodity prices

	Cambodia		Thailand (on typical migrants' wage)		Malaysia		UK (minimum wage)	
	price	work hours required to earn this	price	work hours required to earn this	price	work hours required to earn this	price	work hours required to earn this
Rice (1kg)	1,170 riel (17p)	1 hour	30 baht (60p)	nearly 2.5 hours	6 RM (£1.20)	2.7 hours	£2	20 mins
Cooking oil (1 litre)	7,000 riel (£1.10)	Nearly 6 hours	50 baht (£1)	4 hours	3.9 RM (government subsidised) (80p)	1.8 hours	£1.80	18 mins
Chicken (1kg)	1,900 riel (30p)	Almost 2 hours	75 baht (£1.50)	6 hours	19.5 RM (£4)	9 hours	£2.50	25 mins
Petrol (1 litre)	5,000 riel (80p)	More than 4 hours	40 baht (80p)	Over 3 hours	1.9 RM (government subsidised) (40p)	Around 45 mins	£1.35	Around 15 mins

Notes

- ¹ The unelected military regime in Burma changed the name of the country to Myanmar. Researchers for this report prefer to use the name Burma until the people of that country have the opportunity to choose for themselves.
- ² Office of National Security Council figures, cited in *UNGASS Country Progress Report: Thailand*, United Nations, 2010
- ³ Vichaya Pitsuwan and Nanchanok Wongsamuth, 'Thai Textile Exports Set to Pick Up', *Bangkok Post*, 23 July 2009
- ⁴ Nanchanok Wongsamuth, 'Incentives Sought to Invest Overseas', *Bangkok Post*, 7 January 2011
- ⁵ Data on supply chain sourcing taken from company factory lists, annual reports and other records.
- ⁶ Minimum wages in Thailand vary by province. The 2010 rate for Bangkok and Samut Prakarn was 206 baht per day, increased in 2011 to 215 baht a day. In Chiang Mai it was 171 baht, increased to 180 baht in 2011.
- ⁷ See, for example, the case of Burmese migrant Charlie Tiyu, 'Chained to a hospital bed with no escape', *Bangkok Post*, 3 February 2011
- ⁸ *Labour and Social Trends in Cambodia 2010*, Cambodian National Institute of Statistics and ILO, September 2010
- ⁹ *Cambodian Women Migrant Workers: Findings from a Migration Mapping Study*, UNIFEM, June 2006
- ¹⁰ *World Investment Report 2011: Non-Equity Modes of International Production and Development*, UNCTAD, July 2011
- ¹¹ Kaoru Natsuda, Kenta Goto and John Thoburn, 'Challenges to the Cambodian Garment Industry in the Global Garment Value Chain', Working Paper No. 09-3, Ritsumeikan Center for Asia Pacific Studies, July 2009
- ¹² Kang Chandararot, Sok Sina and Liv Dannet, 'Rapid assessment of the impact of the financial crisis in Cambodia', ILO Asia-Pacific Working Paper Series, ILO, March 2009
- ¹³ *Measuring Competitiveness and Labor Productivity in Cambodia's Garment Industry*, USAID, June 2005
- ¹⁴ Data on supply chain sourcing taken from company factory lists, annual reports and other records.
- ¹⁵ Kong Sotharith, 'Unions Want Longer Contracts for Workers', *VOA Khmer*, 26 May 2010
- ¹⁶ 'More Than 2.3 Million Foreigners Registered Under 6P Programme', Bernama (Malaysian National News Agency), 5 September 2011
- ¹⁷ Asrul Hadi Abdullah Sani, 'Foreign Worker Levy Hike 2011', *Malaysian Insider*, 20 May 2010
- ¹⁸ *Migration in a Digital Age: Migrant Workers in the Malaysian Electronics Industry*, WEED, December 2010
- ¹⁹ 'Industries in Malaysia: Textiles and Apparel Industry', Malaysian Investment Development Authority, www.mida.gov.my
- ²⁰ Thin Lei Win, 'Sabah's stateless children seek official status', Alertnet, 23 August 2011; 'Malaysia', Joint United Nations Initiative on Mobility and HIV/AIDS in South East Asia, www.junima.org; *Undocumented Migrants and Refugees in Malaysia: Raids, Detention and Discrimination*, International Federation for Human Rights and SUARAM, March 2008
- ²¹ Philip Robertson, 'Migrant Workers in Malaysia: Issues, Concerns and Points for Action', Fair Labor Association, October 2008
- ²² Data from Malaysian Investment Development Authority, cited in *Migration in a Digital Age: Migrant Workers in the Malaysian Electronics Industry*, WEED, December 2010
- ²³ Data on supply chain sourcing taken from company factory lists, annual reports and other records.
- ²⁴ For convenience of illustration, the conversion rate from Malaysian Ringgit to sterling has been rounded up throughout this report to RM 5 = £1.
- ²⁵ Sylvia Looi, Florence A. Samy and A. Raman, 'Subra: No reason for bosses to hold passports', *The Star Online*, 25 October 2008
- ²⁶ See *The Reality of Rights: Barriers to accessing remedies when business operates beyond borders*, Corporate Responsibility (CORE) Coalition and London School of Economics, London, April 2009
- ²⁷ *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, Final report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises, John Ruggie, UN document A/HRC/17/31, 21 March 2011

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War on Want relies on the generosity of its supporters to continue its work empowering poor people around the world. Every pound counts in our fight against injustice and inequality and we are grateful for your support.

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I enclose a cheque / CAF Voucher / Postal Order made payable to **War on Want**

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Expiry Date - Start Date -

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Security Code *last 3 digits on your signature strip*

Name of Cardholder(s)

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War on Want would like to keep you informed about the important work we do. However, if you'd prefer not to receive any further communications from us or related charities, please tick the appropriate box: War on Want Other relevant charities

YOU CAN ALSO DONATE ONLINE AT WARONWANT.ORG OR CALL 020 7324 5040

YES, I WANT TO SUPPORT WAR ON WANT BY BECOMING A MEMBER

Here's my gift of £5 £ a month until further notice

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Should be at least four weeks from today

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Banks and Building Societies may not accept Direct Debit Instructions for some types of account



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If you are already a member of War on Want, please pass this on to a friend so that they can join our fight against poverty. Thank you

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Written by Reiko Harima, Managing Director of the Asian Migrant Centre; also Regional Coordinator of the Mekong Migration Network



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War on Want

War on Want fights poverty in developing countries in partnership and solidarity with people affected by globalisation. We campaign for human rights, especially workers' rights, and against the root causes of global poverty, inequality and injustice.

Cover picture: Mikkel Ostergaard/Panos.
A worker catches some sleep in a garment factory, Phnom Penh, Cambodia

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