

THEMATIC TITLE	PROBLEMS OF MIGRANT WORKER EMPLOYMENT IN THAILAND UNDER FOREIGNERS' WORKING MANAGEMENT EMERGENCY DECREE B.E. 2560 (2017)
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ABSTRACT

The objective of this study is to study the legal problems regarding the employment of migrant workers and the importation of migrant workers in Thailand. At present, the employment of migrant workers must be undertaken under the measures of importing migrant workers to work in Thailand in accordance with Foreigners' Working Management Emergency Decree B.E. 2560 (2017) Decree which contains provisions relating to the import of migrant workers, forms of employment, penalty and introduction of the participation of society or social sector in order to reduce human trafficking concerning foreign workers. Moreover, under the aforementioned provisions of the said Decree, there is a procedure for verifying the nationality of foreigners, which is considered one of the procedures for permitting foreigners to work in Thailand. However, as the process of management and the origin of the workers of each country is different, after the law enforcement, it was the cause of other consequent problems because the content of the Decree does not cover the management of work of foreigners in the system and does not correspond to the situation of foreign workers at the present.

The results of the study found the following problems: (1) problem on management of migrant worker employment in Thailand. It is due to the Foreigners' Working Management Emergency Decree B.E. 2560 (2017) has been issued with the objective to solve the problem of illegal employment but lack the assessment of the impact of the said Decree. In addition, the enforcement was too fast which was not consistent with the number of foreign workers in Thailand causing entrepreneurs and workers to be unable to adjust themselves to such abrupt law enforcement. Moreover, the lack of unified communication

brought misunderstandings, resulting in a large number of workers returning to their countries, causing private employers, businesses, and entrepreneurs to lose their labors. Employers could not find workers to replace them because most of the work is labor intensive, dirty, unskilled, in which Thai workers do not like to work. (2)problem relating to nationality verification methods of migrant workers. The Emergency Decree requires citizenship certification from the countries of origin in order for these migrant workers could legally work in Thailand, but it has been still not able to truly resolve the problem because there are no channels or comprehensive measures that covers the foreigners who come to live and work. Some of migrant workers from Burma, Laos and Cambodia have been registered as illegal migrant, although in the past, these workers could temporarily stay in the Kingdom, In the case of some non-nationals that may not be repatriated, these migrants will have no proof of nationality and the country of origin and will not get a citizen certification because no state recognizes as a person, showing that the new measure is different from the previous legal measures in Thailand. As the legal process does not apply to these groups, it causes problems regarding the employment of migrant workers. Problems that arise are considered immediate problems that must be resolved first because migrant workers facing the problems are unable to solve such problems by themselves and unable to return to their home country of origin. As these migrant workers were brought into Thailand to fill the gap of domestic labor shortages in order to replace Thai workers, there should be specific measures for these migrant workers which would enable them to stay in Thailand as well.

Therefore, the author views that it is appropriate to propose amendments to Foreigners' Working Management Emergency Decree B.E. 2560 (2017) and relevant regulations. Article 17 of the Immigration Act B.E. 2522 (1979) states that in special cases, the Minister, with the approval of the Cabinet, will allow any foreigner or group of aliens to enter the Kingdom under any conditions, or will waive the regulation if it is not necessary to comply with this Act in any case. Therefore, amendment that foreigners may apply for permission from the Registrar to work in accordance with Section 63/1 should be added in (5) pending that “Any foreigner who had domicile in the Kingdom and a regular occupation, although such person does not have a registration status or does not have identification documents but has previously been registered and had an identification card in accordance with the Registrar's Office regulations”. However, in defining the conditions for hiring migrant workers in this group, it may be necessary for their employers or entrepreneurs to supervise and certify their work, provide accommodation and will have to pay fees for submitting application for work permits and issuing work permits, and must also place collateral in order

to insure damage that may occur from the employer bringing foreigners to work with themselves in the country etc.