

Chapter Three

Economic Growth and Structural Change in Thailand

3.1 Introduction

This chapter discusses social, political, and structural change in Thailand since the 1970s. It explains why Thailand has become a major migratory pole in Asia, and outlines the reasons for the demand for foreign workers in the country. Following the background section, the chapter provides a brief overview of the country's economic development strategies, since this is fundamental to an understanding of the country's economic development. Then, to place the Thai economic situation into a broader regional context, Thailand's past and present economic performance is compared with that of its Southeast Asian neighbours. The chapter will then examine the development of three very important components of economic growth – capital, labour and technology – from the period after the implementation of the country's first National Economic Development Plan (NEDP) in 1961, in an attempt to show how changes in these components led to a demand for, and therefore, the presence of migrant labour in Thailand.

3.2 The economic background

Prior to the Second World War, Thailand's economy was largely based on agriculture and the country was an authoritarian state. Although Thailand was an independent state, the country was, as a matter of fact, 'economically' colonised (under the so-called 'treaties of friendship and commerce' ratified with most of the western colonial powers – Great Britain, United States, and France, to name a few – and Japan (Dixon 1999: 31; Siamwalla 1975: 32). Not surprisingly, after the absolute monarchy was overthrown in 1932 in favour of a constitutional monarchy, the *coup d'état* became a somewhat customary method of changing the government (usually by bloodless means). The last military coup was as recent as February 1991. By the early 1980s, the country was still an agriculturally-based, inward-looking economy, dependent largely on a narrow range of agricultural exports, such as rice, rubber, tin, and teak. The bulk

of the Thai people were engaged in subsistence agriculture, forestry and fishing, and were mainly rural.

However, the country today, by any measure, has changed out of all recognition. Thailand even has a new constitution which received Royal Assent on 11 October 1997. The military coups have become a distant memory for many Thai people, and unimaginable for the younger generation. Never before in contemporary Thai history has the government achieved a parliamentary majority. The current government has not just once but twice in a row overwhelmingly won the majority of seats in the House of Representatives. In Bangkok, sky-trains and subways have already started running. To connect every part of the vast country, more highways (or *Thang-Lung*) linking all major cities have been built, extended and expanded. Budget airlines are now operating in the country and TV and telephones are now an integral part of Thai people's life. Current statistics also show that just about half the Thai population are mobile-phone subscribers (Toomgum 2005: online). Today, the world perceives Thailand as one of Asia's Newly Industrialising Countries – NICs. To many, this transformation began with the implementation of the country's first National Economic Development Plan (NEDP). The structural transformation of the country has been responsible for the country's economic growth and has, thus, brought about a widespread demand for immigrant labour in the economy today.

3.3 Thailand's economic development strategies

By the 1960s, Thailand had embraced industrialisation and under the country's first NEDP (1961-1966), the government shifted its policy from direct involvement to an 'import-substitution strategy' based on labour-intensive industries and local natural resources. The state also encouraged private-sector participation in the economy, promoted private investment and at the same time had a protectionist policy based on a combination of tariff protection, tax holidays, and tax cuts on imported raw materials and machinery. In addition, the Thai government embarked on a programme of basic physical infrastructure construction that was deemed necessary for industrial development – transportation, telecommunications, and energy. However, since manufacturing was geared for the small domestic market, there was limited scope for economies of scale. By the mid-1970s, the domestic market was

saturated and the national balance of payment deteriorated, forcing the government to reassess its economic development strategy.

Under the fourth NEDP (1977-1981) (which by 1972 was renamed the 'National Economic and Social Economic Development Plan' – NESDP), the government changed its economic development strategy to an outward-looking, export-oriented development policy. By this time, Thailand possessed reliable basic infrastructure and, together with tax incentives and other subsidies in place, aimed at attracting foreign direct investment (FDI), as well as fostering domestic investment (Suphachalasai 1995). Nevertheless, due to an unfavourable external economic environment – worldwide recessions following the two oil shocks – the positive effects of the government's new strategy were not obvious until the end of 1986. Subsequently, Thailand, for the first time, achieved double-digit economic growth, and growth continued at a steady high pace at an average of 8.6 per cent per annum throughout the first half of the 1990s. The Thai economy quickly became the world's fastest-growing economy.

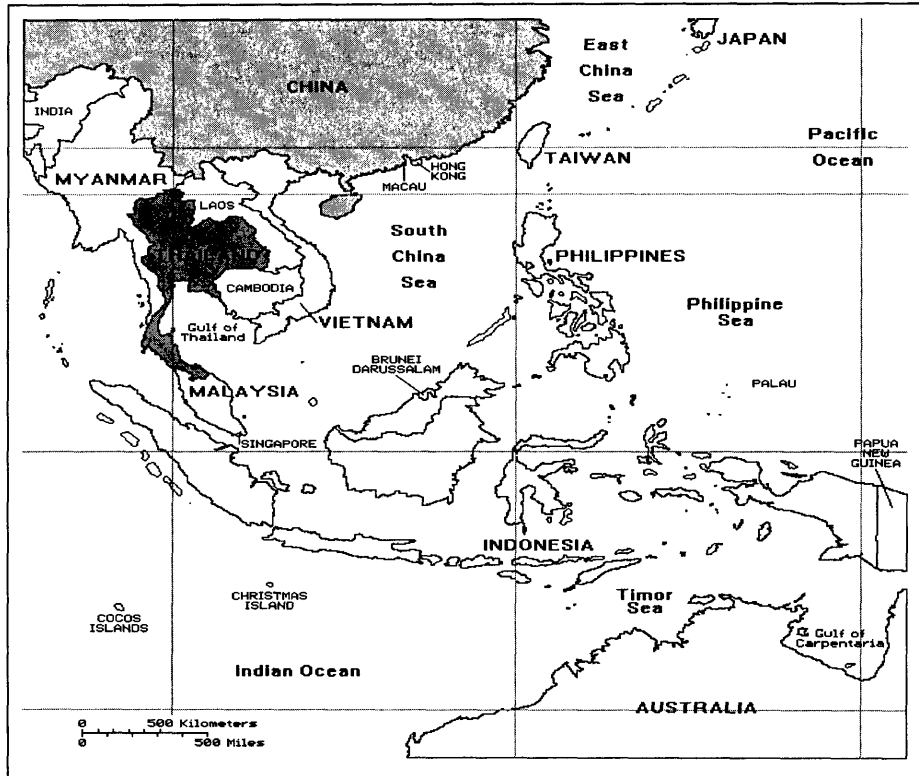
Thailand has already progressed from a resource-based to a labour based economy; and it is pursuing a capital- and knowledge-based realm. This desire is manifest in the statement of the current Prime Minister Thaksin Shinawatra, 'we [the Thai people] don't even have to wait until 2020 like Malaysia to realise the goal of becoming a developed country. We can do it faster' (Ruangdit 2003: online).

3.4 Thailand and its neighbours in ASEAN

Excluding East Timor, the Southeast Asian region consists of ten countries – in alphabetical order, Brunei (Negara Brunei Darussalam), Cambodia (Kampuchea), Indonesia, Lao PDR (Laos), Malaysia, Myanmar (Burma), the Philippines, Singapore, Thailand and Vietnam, all of which are currently members of the Association of Southeast Asian Nations (ASEAN) (Map 1). ASEAN's objective is to strengthen regional cooperation not only in relation to regional security, but also in economic, social, cultural, technical, educational and other matters (Asia-Pacific Economic Cooperation 2005: para 1-2). Thailand is, therefore, not only geographically closely tied to its Southeast Asian neighbouring countries, but through ASEAN, is also

socially, politically and economically linked to and interdependent with the region (Petchsiri et al. 2001).

Map1 Southeast Asia



Source: Elemental Logic (2006), online

There is considerable diversity between Southeast Asian countries to a greater or lesser degree in many aspects. It is necessary to highlight the strength of Thailand's economy compared to other nations in the region in order to explain the reasons for international migration into the country.

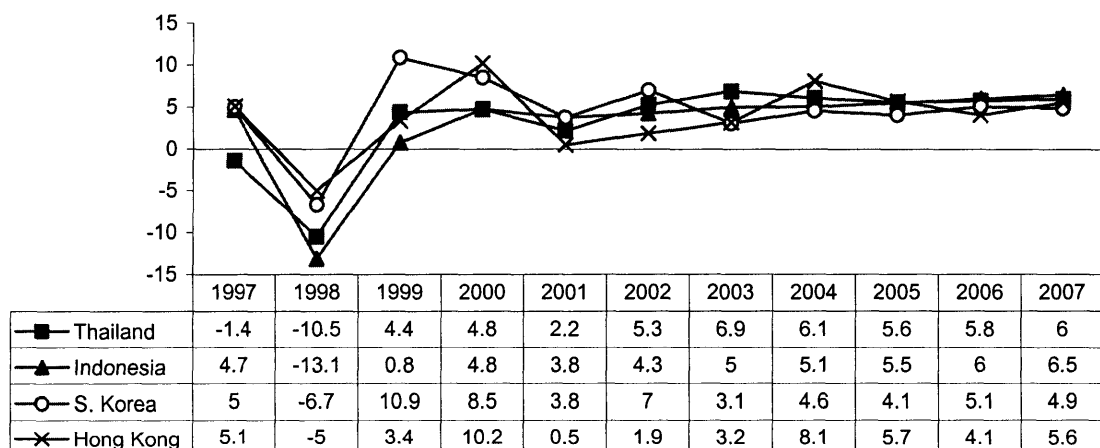
Thailand, like Cambodia and Vietnam, has a relatively homogeneous population, as well as cultural and language uniformity. It is regarded, by some observers, as one of only two liberal democratic economies in the region, albeit by Southeast Asian standards. The Philippines is the other (Mallet 2000). Comparatively, Thailand's neighbouring states have been politically unstable. Myanmar still faces political feuds and the army regularly clashes with ethnic minority insurgent militia (Mawdsley 2002; Nanuam and Khuenkaew 2005). Laos, Vietnam and Cambodia are one party states. They have endured traumatic wars which lasted for

decades, as well as having sluggish economic growth. In contrast, Thailand is a politically stable and settled state in the Mekong region.

Thailand achieved NIC status in the 1990s, although growth slowed down in 1997-1998. The financial and economic crisis hit Thailand first and hard, but the nation survived the crisis. Within less than three years, Thailand exited the International Monetary Fund (IMF) programme, from which it had accepted a US\$ 17.2 billion standby credit arrangement. By the end of July 2003, the country had paid all outstanding liabilities two years ahead of schedule to the IMF and other international creditors (Buaroy 2003: online).

As shown in Figure 3.1, Thai economy continued to grow despite the lagging world economy, the SARS epidemic, and the Iraq and terrorist crises. In the next few years, the economy is expected to continue growing at some five to six per cent, picking up where it had left off years ago.

Figure 3.1 Growth of GDP in Selected Asian Countries since 1997 (per cent per year)



Note: 1) The situations should be seen in the context of the worldwide deterioration in 2001 and the outbreak of SARS in 2003.

2) Figures from 2005 to 2007 are estimated rates.

Source: From 1997 to 1999: Asian Development Bank (2003), p. 281.

From 2000 to 2007: Asian Development Bank (2005), p. 303.

Moreover, the post-crisis GDP growth of Thailand has accelerated at a relatively more steady rate, if not faster than, that of the other three countries – Indonesia, South Korea, and Hong Kong – most stricken by the 1997 Economic crisis. Thus, it cannot be doubted that the effect

of the crisis is waning and the Thai economy is now on a sound basis. Other Southeast Asian countries were also affected by the economic crisis but all experienced much less severe effects than the four most stricken-economies who were forced to seek aid from the IMF (Arndt and Hill 1999; Mallet 2000).

The 'better' economic performance of Thailand in comparison to other Southeast Asian countries is evident in cross sectional and time series economic indicators for all ten Southeast Asian economies, as shown in Table 3.1. In the first half of the 1990s Thailand and all other countries in the region enjoyed growth in GDP per capita. Even though GDP per capita in 1990 of some countries had decreased when compared to 1980, all ten Southeast Asian countries appeared to enjoy significant rises of their GDP per capita from the first half of the 21st century. As can be simply calculated from statistics presented in Table 3.1, by the end of 1995, GDP per capita for Cambodia rose most in the region at 203.8 per cent in US dollar terms; Vietnam's increased to 136.1 per cent; Singapore's 96.6 per cent; and Thailand's was fourth at 86.2 per cent. The lowest increase was for the Philippines; its GDP per capita increased almost 63 per cent.

Unlike Indonesia, Malaysia and Brunei, Thailand has no large oil resources. Compared to Singapore, Thailand also lacked capital and technology. But, like Cambodia, Myanmar, the Philippines, Vietnam and Indonesia, Thailand is a labour-surplus country. Therefore, the country's initial venture into export-led industrialisation was based on the development of labour-intensive industries, such as textiles and clothing. Thailand also attracted sizeable FDI, in response to the strong economic growth especially in the early 1990s.

Singapore achieved developed status in 1995. With regard to the current level of GDP per capita, Thailand may be bracketed with the other three remaining countries – Malaysia, Indonesia, and the Philippines – as the 'middle-class' of Southeast Asian economies. In 2002, Malaysia had the highest GDP per capita at US\$ 3,868, followed by Thailand (US\$ 1990), the Philippines (US\$ 980), and Indonesia (US\$ 804). With regard to foreign debt and international reserves, Thailand has had slightly more international reserves than Malaysia in recent years; Malaysia's foreign debt is much smaller than that of Thailand. Indonesia's international reserve is not much different from that of Malaysia and Thailand. However, it has massive

external debts, twice the size of Thailand's and more than threefold that of Malaysia in 2001 (Table 3.1). Even though the Philippines has a smaller external debt than Indonesia and Thailand, its international reserves are undersized by comparison with all other 'middle-class' economies.

Table 3.1 Basic Economic Indicators, 1980-2002

	1980	1990	1995	1999	2000	2001	2002
Population (millions)							
Brunei	0.185	0.253	0.287	0.316	0.324	0.332	0.340
Cambodia	6.5	8.6	10.2	12.7	12.8	13.2	13.5
Indonesia	147.5	179.4	194.8	207.4	205.8	208.4	211.1
Lao PDR	3.2	4.1	4.7	5.1	5.2	5.4	5.5
Malaysia	13.9	18.1	20.7	22.7	23.5	24.0	24.5
Myanmar	33.6	40.8	44.7	49.1	50.1	51.1	52.2
Philippines	48.1	60.7	68.6	74.8	76.5	77.9	79.5
Singapore	2.4	3.0	3.5	4.0	4.0	4.1	4.2
Thailand	47.0	56.3	59.5	61.7	61.9	62.3	62.8
Vietnam	53.7	66.2	72.0	76.6	77.7	78.7	79.9
GDP per capita (US\$)							
Brunei	25,534	13,972	17,624	12,747	12,755	11,606	11,509
Cambodia	n/a	104	316	261	259	257	272
Indonesia	587	638	1,038	675	715	665	804
Lao PDR	301	210	382	286	330	324	333
Malaysia	1,780	2,432	4,294	3,485	3,837	3,664	3,868
Myanmar	186	68	123	189	210	162	175
Philippines	672	718	1,092	1,035	978	924	980
Singapore	4,854	12,110	23,806	20,598	22,769	20,544	20,849
Thailand	696	1,518	2,826	1,985	1,964	1,832	1,990
Vietnam	514	122	288	372	391	393	428
External Debt (Million of US\$)							
Brunei	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Cambodia	251.0	1,845.0	2,283.5	2,518.5	2,635.2	2,704.3	N/A
Indonesia	16,671.0	69,872.0	124,398.0	150,991.0	144,057.0	135,704.0	N/A
Lao PDR	75.0	1,768.0	2,164.9	2,526.7	2,502.1	2,494.9	N/A
Malaysia	6,611.0	15,328.0	34,343.0	41,903.0	41,797.0	43,351.0	N/A
Myanmar	1,524.0	4,694.8	5,770.5	6,003.5	5,927.8	5,670.1	N/A
Philippines	8,721.0	30,580.0	37,829.0	52,210.0	52,060.0	52,355.0	53,874.0
Singapore	437.6	37.5	N/A	N/A	N/A	N/A	N/A
Thailand	5,239.0	28,095.0	100,832.0	95,051.0	79,715.0	67,511.0	59,459.0
Vietnam	2,603.0	23,270.1	25,426.7	23,260.0	12,834.9	12,577.9	N/A
International Reserves (minus gold: Million of US\$)							
Brunei	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Cambodia	N/A	N/A	192.0	393.2	501.7	586.8	776.2
Indonesia	5,392.0	7,459.0	13,708.0	26,445.0	28,502.0	27,246.0	30,969.0
Lao PDR	N/A	1.8	92.1	101.2	139.0	130.9	191.6
Malaysia	4,387.0	9,754.0	23,774.0	30,588.0	29,523.0	30,474.0	34,222.0
Myanmar	260.6	312.8	561.1	265.5	223.0	400.5	470.0
Philippines	2,846.0	924.0	6,372.0	13,242.0	13,052.0	13,442.0	13,144.0
Singapore	6,567.0*	27,748.0*	68,695.0*	76,843.0*	80,132.0*	75,375.0*	82,021.0*
Thailand	1,560.0	13,305.0	35,982.0	34,063.0	32,016.0	32,362.0	38,055.0
Vietnam	N/A	N/A	1,324.0	3,326.0	3,417.0	3,675.0	4,121.0

Note: * Includes gold reserves

Source: United Nations Economic and Social Commission for Asia and the Pacific (2005), online.

What is especially interesting is that, while the external debts and international reserves of the other three 'middle-class' countries (or of all other Southeast Asian nations for that matter) have been increasing or relatively stable since 1995, the size of Thailand's foreign debt has continuously declined and its international reserves increased after the 1997 Economic Crisis (Table 3.1). This is not least because of the deal made with the IMF rescue programme. However, the trend persisted even after Thailand exited the programme in 2000. According to Table 3.1, the vast size of Thailand's external debt has been remarkably almost halved from US\$ 100,832 million in 1995 to US\$ 67,511 million in 2001 and to US\$ 59,459 million in 2002. The international reserves of Thailand first declined (due largely to the devaluation of Thai baht) from US\$ 35,982 million in 1995 to US\$ 34,063 million in 1999 and US\$ 32,016 million in 2000, but increased to US\$ 32,362 million in 2001 and US\$ 38,055 million in 2002. This not only illustrates the quick economic recovery of Thailand but also demonstrates that Thailand's economic performance is comparatively strong and sustainable. In the Mekong region Thailand stands out among the other countries and this helps explain the large inflows of unskilled labour from these countries particularly from Myanmar, Laos, and Cambodia.

Where structural change is concerned, it has been proportionately greater in the 'middle-class' countries than in the other nations (Table 3.2). In the economically more advanced city state of Singapore, the sectoral composition has barely changed over the last two decades. Nevertheless, there has been a small change among the three main sectors. As can be seen in Table 3.2, both the share of agriculture and industry's share in Singapore's GDP has decreased since 1981. This decline coincided with an expansion of the services sector's GDP. (It is important to note that the services sector of Singapore has always had a major share and has always been based mainly on high value-added activities such as trade, transport and communication, and finance.)

For the rest of the region, the share of agriculture has also declined rapidly, especially in the 'middle-class' countries. The share of agriculture in Malaysia dropped from 23 per cent in 1981 to 15 per cent and to 9.1 per cent in 1990 and 2003, respectively. The agricultural share in Thailand declined from 21.4 per cent in 1981 to 12.5 per cent in 1990 and to 9.7 in 2003. While, in 2003, the agriculture sector constituted 16.6 per cent and 14.4 per cent of Indonesia's and the Philippines's GDP, the agricultural shares of Cambodia, Lao PDR and

Vietnam were still relatively high at 37.2, 48.6, and 21.8 per cent, respectively (Table 3.2). Interestingly enough, however, Myanmar's agricultural share in GDP actually increased from 47.4 per cent in 1981 to 57.3 per cent in 1990 before declining slightly in 2003 to 57.1 per cent. This indicates that Myanmar is still very much an agriculturally-based economy. The industrial sector of Thailand and many other Southeast Asian countries, especially the manufacturing sub-sector, has expanded along with agricultural decline over the past twenty years. In other words, manufacturing has become a major source of income for Thailand and many countries in this region. The sectoral changes toward manufacturing in the region in part can be explained by the intensification of foreign and domestic investment in labour-intensive industry that has been taking advantage of cheap labour surpluses in the Southeast Asian region. Therefore, manufacturing has been the major contributor of the region's current economic growth.

Table 3.2 Sectoral Shares in GDP (percentage)*

Sectoral Classification	Agriculture			Industry			Manufacturing**			Services		
	1981	1990	2003	1981	1990	2003	1981	1990	2003	1981	1990	2003
Brunei	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Cambodia	N/A	55.6	37.2	N/A	11.2	26.8	N/A	5.2	19.3	N/A	33.2	36
Indonesia	23.9	19.4	16.6	41.2	39.1	43.6	12.1	20.7	24.6	34.9	41.5	39.8
Lao PDR	81.2	61.2	48.6	9.9	14.5	25.9	N/A	9.9	19.2	8.9	24.3	25.5
Malaysia	23.0	15.0	9.1	35.6	41.5	47.0	19.7	23.8	30.2	41.4	43.5	43.9
Myanmar	47.4	57.3	57.1	12.4	10.5	10.5	9.3	7.8	7.8	40.2	32.2	32.4
Philippines	24.9	21.9	14.4	39.2	34.5	32.4	25.5	24.8	22.9	35.9	43.6	53.2
Singapore	1.2	0.3***	0.1***	37.9	32.7	33.0	28.5	25.5	26.3	60.9	67.0	66.9
Thailand	21.4	12.5	9.7	30.1	37.2	44.0	22.6	27.2	35.2	48.5	50.3	46.3
Vietnam	55.0	38.7	21.8	25.0	22.7	40.0	N/A	12.3	20.8	20.0	38.6	38.2

Note: * The sectoral classification has been revised to be in accordance with the International Standard Industrial Classification of all Economic Activities (ISIC): Agriculture also contains the Forestry and Fishing sub-sectors; Industry includes the Mining and quarrying, Manufacturing, Electricity, gas, and water supply and Construction sub-sectors. All other sub-sectors are classified under Services. Also, apart from figures of Lao PDR in 1981 that are calculated from data at constant 1986 factor cost, all figures are calculated from data at current market prices.

** Manufacturing is a component of Industry.

*** Comprises the Mining sub-sector, which is normally a component of Industry.

Source: For 1981: Asian Development Bank (1999), p. 72-376;

For 1990 and 2003: Asian Development Bank (2004), p. 119-327.

In summary, Thailand's and the region's economic development and structural changes demonstrate that the economies shifted from agricultural to Industry and Services sectors. But the economic growth was uneven. Singapore and Brunei led the pack, followed respectively

by Malaysia, Thailand, Indonesia, the Philippines, and the four 'laggards' – all of which are Thailand's neighbouring countries. Thus uneven economic development in the Mekong region explains the flows of labour into Thailand, and the expanding economy of Thailand is responsible for the emergence of the country as the new migratory pole in Asia.

3.5 Economic changes in Thailand

According to the Neoclassical theory of growth, changes in GDP (or a nation's economic development) can be explained by the underlying level of productive potential. Given that land is fixed, this depends on changes in the capital stock, labour and (exogenous) technological improvement, so-called 'economic resources' or 'factors of production'. (Theoretically, improvements in technology or new-found methods of production simultaneously make capital and labour more productive.) Based on this view, the impressive growth of the Thai economy in the past few decades is in essence the product of capital accumulation, growth in the labour force and technological progress.

Land, as total cultivated area, also played a key and defining role in the economic expansion of Thailand; however, land as a current factor of production has become finite and very scarce since the early 1980s after the abrogation of the land frontier practice. This claim is corroborated in the growth-accounting analysis of Tinakorn and Sussangkarn (1994; 1998). The result of their study indicates that the contribution of land to Thai economic growth has constantly declined from 2.8 to 0.9 to 0.4 and to almost -0.5 per cent in the period 1978-1981, 1982-1986, 1987-1990 and 1991-1995 respectively. There is no doubt the contribution of each factor of production is varied from year to year, as detailed elsewhere (Chandrachai, Bangorn, and Chockpisansin 2004; Tinakorn and Sussangkarn 1994; Tinakorn and Sussangkarn 1998). Rather than discussing in detail the contribution of each economic resource or the effects of the changes in economic resources to the country's economic growth, the intention here is to shed light on how changes in economic factors in Thailand have brought about the demand for foreign workers in Thailand.

Capital accumulation

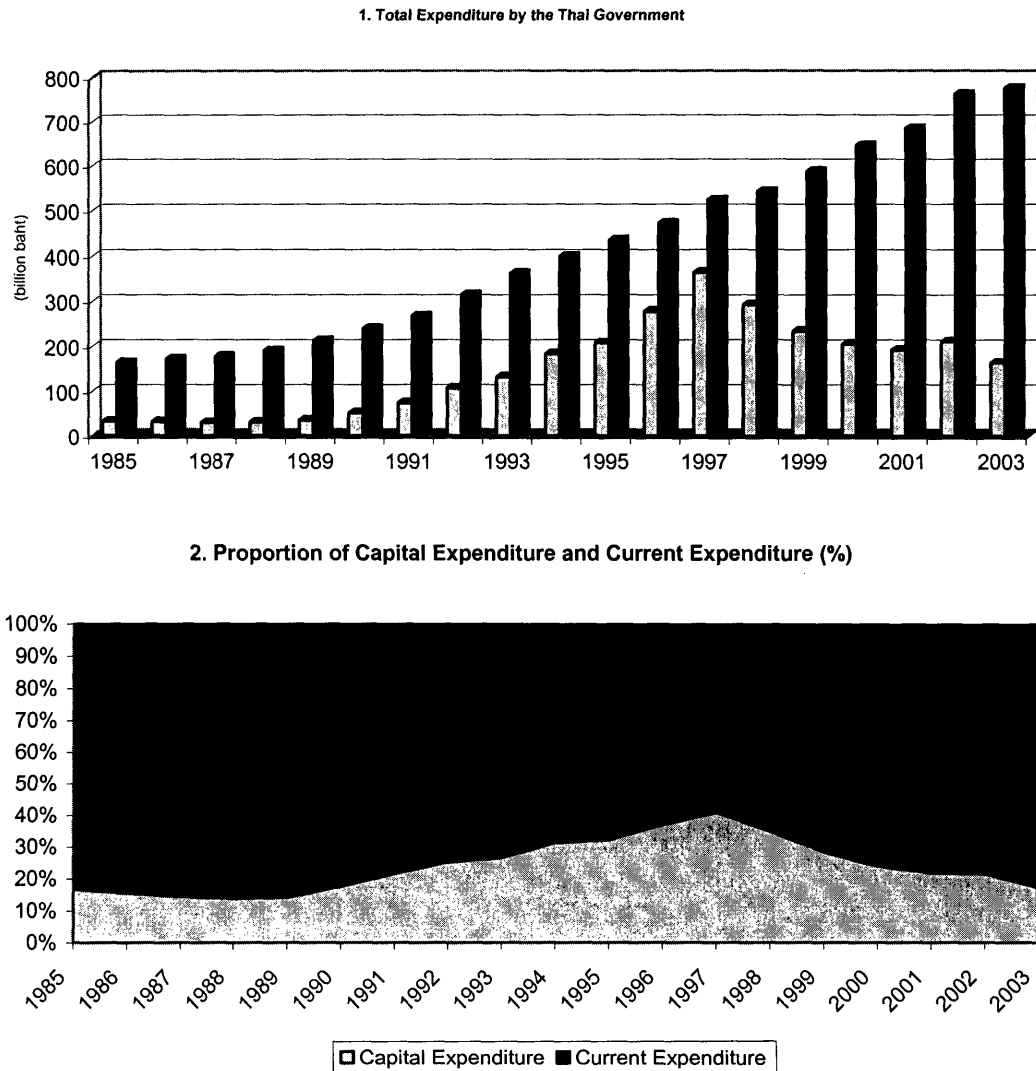
Government annual spending illustrates the public capital increment in Thailand. Figure 3.2, shows the proportion of the Thai government's current expenditure and capital expenditure since 1985 when the country's growth spurt started. Over the last two decades, the total expenditure of the Thai government increased considerably and continuously (Figure 3.2.1). The total expenditure rose from about 197 billion baht in 1985 to just over 888 billion baht in 1997 and more than 938 billion baht in 2003. To put it into perspective, government spending increased almost fivefold from 1985 to 2003 (Figure 3.2.2). More importantly, the Thai government, prior to 1997, appears to have invested a great deal in physical capital, as the proportion of capital expenditure grew enormously from only 16.9 and 14 per cent of the Government's total expenditure in 1985 and 1988, respectively, to 41 per cent in 1997 (Figure 3.2.2).

Nevertheless, Figures 3.2.1 and 3.2.2 reveal that, whereas the actual amount of current expenditure continued to rise after 1997, capital expenditure decreased in both absolute and proportional terms. Prior to 1997, Thailand was still regarded as a developing country with a relatively low state of infrastructure development. In order to provide a boost to the economy during the first half of the 1990s, much of government expenditure went directly to investment in infrastructure. But, due to the economic austerity following the 1997 Asian Financial and Economic Crisis, the government was forced to cut its expenditure. In order to curtail its expenditure, while maintaining salaries and essential functions, the government had no choice but to postpone or cancel some major infrastructure development projects. The Thai government's capital expenditure thus plummeted (Figure 3.2).

In recent years, the government has again embarked on major capital works. For instance, Thailand's brand new multi-million-dollar 'Suvarnabhumi' international airport is scheduled to open in early 2006 (Mahitthirook 2005: online; Suvarnabhumi Airport 2005: online). The first subway network around the inner city of Bangkok commenced operation in August 2004 and a 280-billion-baht expansion project is underway (*Nation* 30 May 2005: online; Mass Rapid Transit Authority of Thailand 2005: online). Furthermore, it was recently reported that, in the 2006 fiscal budget, the government revealed its plans for investment in infrastructure

totalling ‘hundreds of billions of baht worth’ in various mega-projects, especially in transportation, power, water, health and education, ‘to help boost the country’s competitiveness and core infrastructure’ (Yuthamanop and Theparat 2005: online).

Figure 3.2 Thai Government Expenditure, 1985-2003

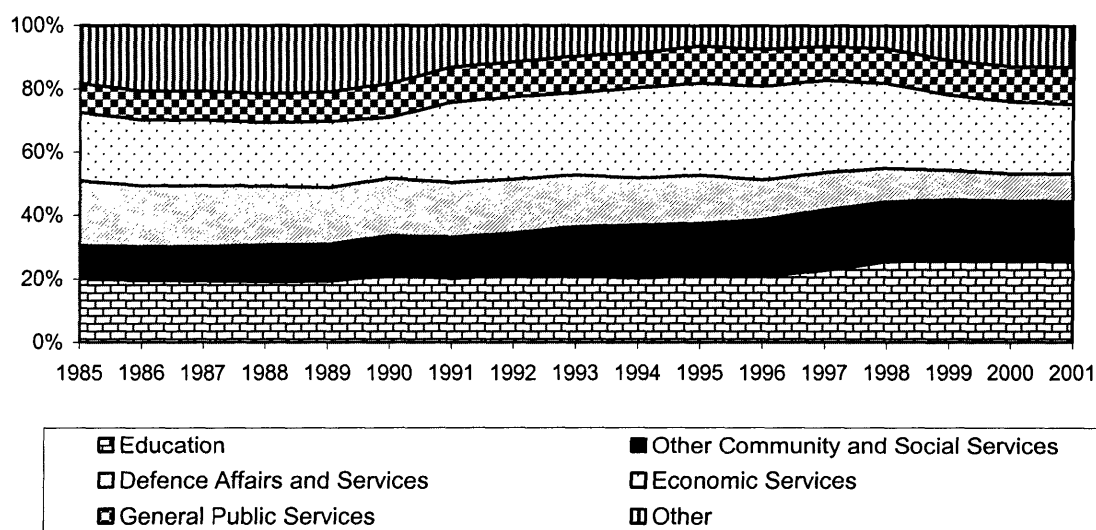


Note: Data for both figures are extracted from tables titled either ‘Government Budgetary Expenditure by Economic Classification’ or ‘Government Expenditure by Economic Classification’ from the source.
 Source: Bank of Thailand (1985-2003)

On the issue of human capital, it is evident from Figure 3.3 that, in the last decade, the government of Thailand spent resources to upgrade its human resources; whereas expenditure on national defence proportionally declined. Figure 3.3 clearly illustrates the share of total government expenditure on defence stood at 20.3 per cent in 1985, but then shrank to 15.2 per

cent in 1995 and then to 8.6 per cent in 2001. In fact, the government's expenditure on Education alone has long been moderately high. Together with expenditure on Other Community and Social Services (i.e. public health, social welfare, communities' improvement), the so-called 'human development' expenditure (Education and Community and Social Services) has, since 1985, constituted the largest share of total government annual spending; and its share has constantly been on the rise. The share of 'human development' expenditure was 30.6 per cent of total government expenditure in 1985, and then increased to 33.6 per cent in 1990 and rose further to just over 44 per cent in 2001. It is also worth noting that, since 1985 and especially after 1990, a large share of total annual government expenditure – between 19 to 30 per cent – has been on Economic Services, including investment in, and maintenance of, public infrastructure, as well as the supply of other economic-related services such as technical advice, training and research. With such proportionally high spending on economic services, it is clear that the Thai government has clearly encouraged economic growth.

Figure 3.3 Thai Government Expenditure by Functional Classification, 1985-2001



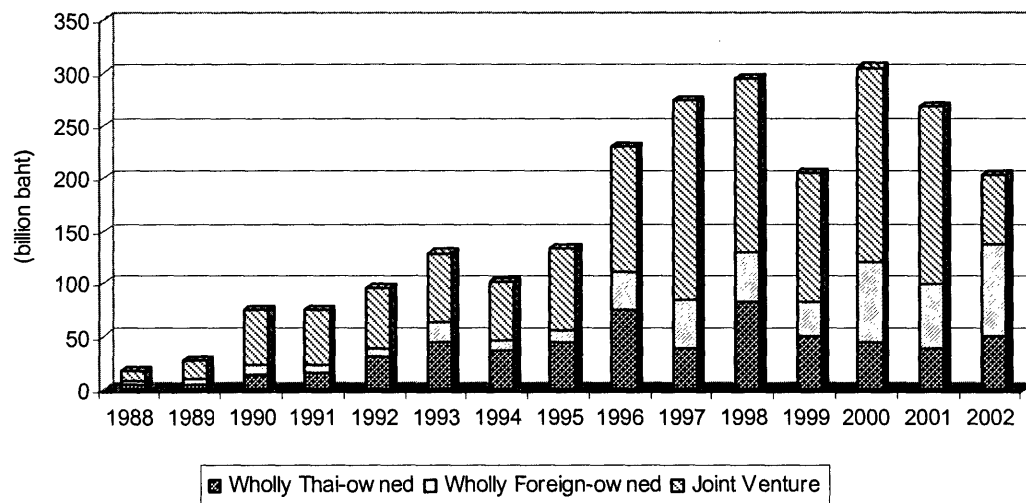
Note: 1) The functional classification has been revised to be in accordance with the current classification used by the BOT. However, in Other Community and Social Services government expenditure on Education is excluded; Education expenditure is presented separately.
 2) Data are extracted from tables titled 'Actual Government Expenditures by Function and Sources' from the source.

Source: Bank of Thailand (1985-2001).

Altogether, since 1985, more than half of the government annual expenditure has gone to physical and human capital investment and maintenance. With the high 'human development' expenditure (especially as a large share goes to Education), one may expect to see a good quality labour force. The extent to which this is so will be explored in the next section. However, there is no doubt that the human development of Thailand, in general, has improved significantly over the past few decades. Empirical evidence shows that Thailand currently has low infant mortality rates, low fertility rates, increased life expectancy and higher literacy rates than in previous decades. As for physical capital, according to the Board of Investment (BOI) (2005: online), Thailand currently possesses six international airports (which at the moment manage over 215,000 flights, 823,000 tons of cargo and in excess of 33 million passengers, per year), over 250,000 kilometres of an extensive road transportation network (40 per cent of which are international standard highways), and at least a 100 ports, wharves and quaysides (that can assist maritime vessels), as well as eight international deep sea ports (which currently provide capacity of over 4.5 million TFU (Twenty Foot Equivalent Unit) and are expected to double their capacity when current expansion projects are completed). Reflecting government annual expenditure, the Thai government has accumulated physical and human capital.

Development of public capital has, no doubt, attracted private investment into Thailand over the past decade, both from within the country and from overseas. The resulting increase in private investment is partially shown in Figure 3.4. It is impossible, because of the inadequacy of available data, and due to the complexity of the subject matter, to detail all private investment in Thailand especially in dealing with the measurement of investment in private, informal micro-business. However, an examination of Board of Investment (BOI) figures in promoted investment demonstrates trends in the development of private investment in Thailand over the past decade or so. In fact, these figures are the most relevant for this study, as the BOI-promoted firms, by law, have the privilege of attracting and/or employing foreign workers and because the BOI assists not only local but also foreign investors (Board of Investment 1998b; Royal Thai Government 1977). In addition, rather than 'portfolio' investment or 'foreign loans', the BOI-promoted foreign investments are in the form of 'direct' investment and mirror private capital accumulation (Board of Investment 1998b).

Figure 3.4 Investment by Newly Started BOI-Promoted Operation, 1988-2002



Note: 1) Joint Venture includes all types of joint venture operations.
 2) Data are extracted from tables titled 'Distribution of Started Operation by Country' from the source.
 Source: Board of Investment (1988-2002).

It is apparent from the statistics collected by the BOI that total annual private investment was close to doubling every two or three years between 1988 and 1998. Total investment grew from 17.8 and 26.4 billion baht in 1988 and 1989 respectively to about 95.4 billion baht in 1992, and rose to 133.1 billion baht in 1995 and further rose to 294.6 billion baht in 1998 (Figure 3.4). Then, it peaked in 2000 at 304.8 billion baht. (Perhaps not surprisingly, in spite of the peak in 2000, the amount of total investment declined in 1999, after the 1997 Crisis.) Nonetheless, the fall in total private investment was contributed to by a decline in local investment (which also to some extent shaped investment in international joint venture operations) (Figure 3.4). However, total investment in Wholly Foreign-owned operations continued to rise, even after the slump of 1997, and has surpassed the total investment of Wholly Thai-owned operations since 2000. This demonstrates the growing role of foreign (direct) investment in the development of the Thai economy (both wholly foreign-owned operations and joint-ventures, as shown in Figure 3.4).

The increase in foreign investment (along with increases in domestic investment described previously) undoubtedly will lead to a rise in overall employment in the economy. New investments have thus been creating between 85,419 and 177,122 new jobs each year since 1990 (Table 3.3). The total of 203.6 billion baht in investments in 2002, for example,

generated new jobs for more than 130,000 workers (Figure 3.4 and Table 3.3). Jobs created by the new investments did not only create additional employment opportunities for Thai workers, but also created a demand for workers with skills not easily found in the Thai labour force. Thus, between 1,175 and 2,642 new foreigners with special skills were employed by the newly established BOI-promoted operations each year from 1990 to 2002 (Table 3.3). Not only did the wholly and partly foreign-owned operations employ foreign workers, but Thai-owned operations also employed skilled foreigners. In 2002, for instance, 127 new foreign workers were employed by Thai-owned operations, 935 recruited by foreign-owned companies and 694 for new joint-venture operations (Table 3.3). The need for foreign specialists, however, appeared to vary by year, depending on the size of the investment (Figure 3.4 and Table 3.3).

Table 3.3 Number of Total Employees, Thai Employees, and Foreign Employees of Newly Started BOI-Promoted Operations by Type of Operation, 1990-2002

Type of Operation	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Total Number of Employees													
Thai-owned	24050	24582	36202	29716	43857	34993	44694	33554	46683	35098	27847	28134	34729
Foreign-owned	16694	14098	7726	20074	12063	23087	43830	46295	48777	21519	55686	39685	40992
Joint Venture	47819	46739	43610	39762	37401	37550	85722	64605	81662	45460	60485	64116	54777
Total	88563	85419	87538	89552	93321	95630	174246	144454	177122	101077	144018	131935	130498
Total Number of Thai Employees													
Thai-owned	23978	24515	36067	29434	43582	34387	44258	33293	45742	34811	27535	28041	34602
Foreign-owned	16274	13822	7492	19564	11798	22828	42973	45527	47800	20793	54563	38628	40057
Joint Venture	46184	45931	42669	39006	36766	37111	84480	63282	80108	44469	59278	62860	54083
Total	86436	84268	86228	88004	92146	94326	171711	142102	173650	100073	141376	129529	128742
Total Number of Foreign Employees													
Thai-owned	72	67	135	282	275	606	436	261	941	287	312	93	127
Foreign-owned	420	276	234	510	265	259	857	768	977	726	1123	1057	935
Joint Venture	1635	808	941	756	635	439	1242	1323	1554	991	1207	1256	694
Total	2127	1151	1310	1548	1175	1304	2535	2352	3472	2004	2642	2406	1756

Note: 1) Joint Venture includes all types of joint venture operations.

2) Data are extracted from tables titled 'Distribution of Started Operation by Country' from the source.

Source: Board of Investment (1990-2002).

Thus, it is clear that there was a demand for workers with special skills. In order to resolve the skills shortage, the government had three alternatives: it could develop the skills locally (or through overseas training); it could temporarily import specialists; or it could allow entry of

permanent immigrants with the required special skills (Lloyd 1996: 74). Likewise, at the company level, skilled workers – like physical capital – could be recruited from within the local labour force, brought in from abroad or provided with in-house (formal and informal) on-the-job training. It stands to reason that if the education and training programme generally yield results over a long period (especially because there will be the lag in the impact of the education modification) and the admission of ‘permanent’ residents is not in the national interest (as discussed in Chapter Four); in the short-term, the importation of contract workers with the necessary skills is the easiest solution.

Not only was there a shortage of skilled workers, but labour shortages in varying degrees have existed throughout the skill spectrum of the Thai labour force since the mid-1980s. This is evident from the demand for unskilled foreign workers from neighbouring countries. Undoubtedly, the rapid investment since the mid-1980s increased aggregate demand for labour in the economy quite significantly. As shown in Table 3.3, between 84,268 and 173,650 extra Thai workers were required each year to take up the new jobs created by additional investment. The local supply of labour, for reasons that shall be examined in the next section, appeared to be unable to keep pace with the increase in demand for labour. However, as will be discussed in Chapter Four, Thai law strictly proscribes the employment of unskilled foreigners (although skilled workers are permitted entry). As is the case for skilled workers, it is logical that if local resources are insufficient, ‘borrowing’ workers is the obvious remedy. So, it is not surprising that, before the Asian Financial and Economic Crisis, the Thai authorities countenanced the presence of large numbers of illegal unskilled and semi-skilled foreign workers in the country. It was only in 1992 that the Thai government started to control the influx of illegal foreign workers by implementing the ‘Illegal Migrant Worker Registration’ scheme. However, it was not until 1996, and in particular after the 1997 Economic Crisis, that the government actually made a serious attempt to manage illegal foreign workers; this was primarily because the government wanted to retain jobs for large numbers of Thai workers made redundant as a result of the Crisis (Chapter Four).

To summarise, rapid economic growth in Thailand followed the adoption of export-oriented industrialisation by the state which was facilitated by capital formation. Public investment in infrastructure and ‘human’ capital assisted in the growth of the private sector. Therefore, over

the past two decades, Thailand witnessed the growth of private investment, not only from within the country but also from abroad. Despite the effects of the 1997 economic turmoil, the rapid overall expansion of economic activity in Thailand was accompanied by a rapid rise in the aggregate demand for labour, especially at both ends of the skill spectrum of the labour force. The Thai government reacted to the problem by relaxing the restriction on foreign labour recruitment and opening up the labour market at the high skill end. Prior to the Economic Crisis, it also closed its eyes to the influx of illegal foreign workers filling low status jobs.

Thailand's labour supply

According the 2000 census, Thailand had a population of 60,606,947. Thailand also has the fourth largest population in Southeast Asia, with Indonesia (209 million), Vietnam (79 million), and the Philippines ahead of Thailand (74 million) (National Statistical Office 2000a: 31). At the time of the first national census conducted in 1909, Thailand's population was just around 8 million people but had doubled by the time of the fifth census in 1947. Between the sixth census (1960) and the latest census (2000), the population of Thailand grew by over 34 million people (Table 3.4).

Table 3.4 Population Growth in Thailand since 1909

Year	Population	Annual Growth Rate (%)
1909	8,149,487	-
1919	9,207,355	1.22
1929	11,506,207	2.23
1937	14,464,105	2.86
1947	17,442,689	1.87
1960	26,257,916	3.15
1970	34,397,374	2.70
1980	44,824,540	2.65
1990	54,548,530	1.96
2000	60,606,947	1.05

Source: National Statistical Office (2000a), p. 32.

Although, the country's population has expanded, the growth rate has been declining since 1960. The annual population growth rate peaked in 1960 at 3.15 per cent. However, since then, the rate has fallen to 2.7 per cent in 1970, to 2.65 in 1980, and to 1.96 in 1990. From 1990 to

2000, the annual population growth rate was 1.05 per cent, the lowest rate ever recorded since the first census (Table 3.4).

Mortality and fertility transition: As shown in Table 3.5, both infant and under-five mortality rates have declined steadily during the past two decades. During the same twenty year time span, the total fertility rate (the number of children that would be born to a Thai woman if she were to live to the end of her reproductive years and bear children) declined significantly (Table 3.5).

Table 3.5 Basic Demographic Statistics for Thailand since 1960

	1960	1970	1980	1990	1995	2000
Infant mortality rate (<i>per 1000 live births</i>)	N/A	N/A	45	34	29	25
Under-five mortality rate	N/A	N/A	58	40	34	29
Total fertility rate	6.6	5.6	3.5	2.3	2.0	1.8
Life expectancy						
-- Male	56	58	61	66	67	67
-- Female	62	64	66	71	71	71
Age distribution (<i>percentage of total</i>)						
-- Population aged under 15	43.2	45.1	40.0	33.4	25.1	23.3
-- Population aged 15-59	52.2	50.0	54.6	60.6	66.9	67.5
-- Population aged 60 and over	4.6	4.9	5.4	6.1	8.0	9.2
-- Total population (million)*	26.3	36.4	46.7	56.2	59.5	61.9

Note: * Due to the different sources, the total population may be slightly different from figures in Table 3.4.

Source: Infant mortality rate, under-five mortality rate, total fertility rate, and life expectancy data from 1960-1970: Mason, Andrew, and Burnham O. Campbell (1993), p. 2; and data from 1980 to 2000: World Bank (2005), online.

Age distribution and total population data from 1960-1990: Mason, Andrew, and Burnham O. Campbell (1993), p. 2; and data from 1995-2000: National Economic and Social Development Board (2003c), online.

Importantly, Thailand's total fertility rate has been below the replacement rate since 1995. The age structure of the population means total population is not yet in decline, but the rate of the population growth has been declining since 1970 (Table 3.4). There are many factors responsible for the continued fall in both mortality and fertility rates. According to the 'demographic transition theory', as it is commonly known, economic and social changes are the major causes for the decline of a population's mortality and fertility. There is little doubt that medical improvements, urbanisation, improved education facilities, and industrialisation

can play a significant role in lowering mortality and fertility (Hirschman and Young 1998: 4). As well, it is generally believed that the rapid decline in fertility and mortality in Thailand is largely, but not exclusively, a result of the successful national family planning programmes of the Thai government, as well as the strong support of NGO programmes (D'Agnes 2001; Phananimamai 1997; Wongboonsin and Ruffolo 1993).

Additionally, life expectancy at birth has been rising for both males and females. Both Thai men and women today are, on average, expected to live longer than their parents and grandparents. At present, it is expected that the Thai male (born in 2000) will survive until 67 years of age and the Thai female (born in 2000) will live until 71 years of age. This life expectancy at birth for men has increased from about 56 in 1960 and, for women, from about 62 in 1960 (Table 3.5).

Shifts in age-structure: The age structure of the population of Thailand is in transition. By 1970, the share of population under 15 years of age constituted close to half of the entire population (43.2 per cent in 1960 and 45.1 per cent in 1970). Its share, however, started to decline from 40 per cent in 1980 to 33.4 per cent in 1990, to 25.1 per cent in 1995, and to 23.3 per cent in 2000 (Table 3.5). The continued decline in the share of under 15 year olds since 1980 coincided with the increase in the share of the working age population (age between 15 and 59) and the share of aged population (60 years old of age and older). The working age population represented about 54.6 per cent of the total population in 1980 and swelled to 60.6 per cent in 1990 and to 66.9 per cent in 1995. By 2000, the working age population made up around 67.5 per cent of the entire Thai population (Table 3.5). The share of the older aged population has also been continuously increasing since 1960, from 4.6 per cent to 4.9 per cent in 1970, to 5.4 per cent in 1990 and to 9.2 per cent in 2000.

Movement in international population migration: Table 3.6 displays permanent trans-boundary migration for Thailand. Because no data on permanent emigration are available, the annual net balance of Thai departures and Thai arrivals (from broad statistical border registration) are presented here. It must be borne in mind, however, that the net population loss of Thai citizens includes the myriad of temporary, cyclical and recurring emigrants – such as diplomats, business persons and, especially, Thai migrant workers. The extent of Thai migrant

workers will be detailed later in this chapter. There is, therefore, little doubt that the number of Thai citizens emigrating and foreigners immigrating permanently is very small in relation to the total population of the country. As Table 3.6 reveals, Thailand even experienced a population gain of returning Thai citizens, in some years – notably, in 1985, 1986 and 1990. This trend is indeed not so different for permanent immigrants. In the period between 1985 and 1995, only 2,517 foreigners in total were granted permanent residency. The largest number of foreigners granted permanent residency in one year was just 402 people in 1995.

Table 3.6 Number of Thai Departures, Thai Arrivals, and Granted Permanent Resident, 1983-2001

	Thai Departure*	Thai Arrival*	Net Balance of the Thai Departure and Thai Arrival **	Granted Permanent Resident
1983	723,389	576,367	147,022	N/A
1984	773,046	698,161	74,885	N/A
1985	540,315	569,124	-28,809	61
1986	489,577	512,930	-23,353	81
1987	602,283	594,986	7,297	106
1988	709,449	662,894	46,555	164
1989	788,169	769,019	19,150	293
1990	831,060	850,825	-19,765	253
1991	969,638	938,526	31,112	330
1992	1,23,1063	1,193,399	37,664	280
1993	1,486,664	1,412,266	74,398	277
1994	1,627,837	1,551,799	76,038	267
1995	1,786,633	1,725,543	61,090	402
1996	1,875,763	1,839,375	36,388	N/A
1997	1,836,525	1,817,705	18,820	N/A
1998	2,597,442	2,453,201	144,241	N/A
1999	1,673,880	1,621,317	52,563	N/A
2000	1,866,765	1,763,620	103,145	N/A
2001	1,805,552	1,660,154	145,398	N/A

Note: * Data are extracted from tables titled 'Departures Classified by Nationality' or 'Arrivals Classified by Nationality' from the source.

** The net balance of the departure and arrival of Thai citizens is the total Thai departures minus the total Thai arrivals.

Source: Departures and arrivals of Thai citizens: National Statistical Office (1987-2002).

Granted permanent resident: Archvanitkul, Kritaya, Vanna Jarusonboon, and Anchalee Varangrat (1997), p. 14.

The current age structure of the population is crucial to the change in size of the labour force – indeed, it is responsible for the growth of the labour force. Temporary or permanent emigration can also influence the size of the labour force. The size of the labour force also fluctuates when women's participation rates and compulsory schooling periods alter. Even though it is difficult to measure the effects of culture and social mores on the labour force, it seems logical that attitudes towards women's employment, as well as subject of education and

preferred vocation, can effect the participation of the population in the labour market. In all, many factors affect labour supply. Therefore, the next section examines the size, structure and past trends in labour force and employment, as well as the international migration of Thai workers.

It is important to note at the outset that, even though the current Labour Protection Act (commonly known as the Labour Law of Thailand) prohibited the employment of children under 15 years since the beginning of 1998 (also discussed in Chapter Four), it was not until 2001 that the National Statistical Office (NSO) started to re-classify the minimum age of the labour force (Royal Thai Government 1998a: 11). Therefore, some data presented in this part from this source should be treated with some caution. Prior to 2001, the legal working age in Thailand was 13 years old, and 11 years old before 1989. Furthermore, although the NSO currently conducts its labour force survey on a quarterly basis, this study, for simplicity and brevity, draws on only data from Round 3 of the survey. Because Round 3 takes place during the agricultural season, total employment of the population is generally expected to be a little higher than at other times (National Statistical Office 2004: online). While variations in the data between rounds may not be great, they should be acknowledged.

Size of the labour market: Between 1991 and 1995, the size of the total labour force of Thailand grew by almost 8.6 million people (Table 3.7). Nevertheless, despite the fact that the working age population (age between 15 and 59) has increased constantly since 1970, the size of the total labour force after 1995 became relatively stable at around 32.7 million and 35 million people (or between 54.5 and 55.5 per cent of the total population). After the year 2000, the size of the total labour force crept up a little from 33.2 million (53.7 per cent) in 1999 to over 33.9 million (54.4 per cent) in 2000, to 34.4 million (54.7 per cent) in 2001 and to more than 34.9 million people (55.1 per cent) in 2002 (Table 3.7). Statistically, the steadiness of labour force growth is accounted for by dwindling population growth rates (Table 3.4) and by the increased size of the so-called 'non-labour force' (i.e. those of working ages who are not in the labour force), especially the increased number of students.

This is partly a result of extended years of compulsory basic education (initially from four years of compulsory primary schooling to six years and then to nine years of universal

compulsory schooling after 1999) – the number of students increased absolutely (and proportionally) from about 3.3 million (5.8 per cent of the total population) in 1991 to almost 5.2 million (8.7 per cent) in 1995, to 5.9 million (9.7 per cent) in 1998 and to 6.2 million (10 per cent) in 2000 (Office of the Prime Minister 1991: 84; Royal Thai Government 1999b: 6).

Table 3.7 Thai Labour Force by Work Status and Gender, 1991-2002

		1991	1995	1996	1997	1998	1999	2000	2001	2002
		(thousand)								
Total Population		57234.5	59450.8	60045.3	60648.9	61248.4	61856.7	62481.3	63001.1	63526.9
	%	100	100	100	100	100	100	100	100	100
1. Total Labour Force		32143.2	33001.8	32750.0	33560.7	33352.9	33210.2	33973.0	34487.7	34969.6
	%	56.2	55.5	54.5	55.3	54.5	53.7	54.4	54.7	55.1
- Employed		31138.4	32575.0	32232.2	33162.3	32138.0	32087.1	33001.0	33483.7	34262.4
	%	54.4	54.8	53.7	54.7	52.5	51.9	52.8	53.1	53.9
- Unemployed		869.3	375.1	353.9	292.5	1137.9	985.7	812.5	896.3	616.1
	%	1.5	0.6	0.6	0.5	1.9	1.6	1.3	1.4	1.0
- Seasonally Inactive Workers		135.2	51.6	163.7	105.7	76.9	137.2	159.2	107.7	91.1
	%	0.2	0.1	0.3	0.2	0.1	0.2	0.3	0.2	0.1
2. Not in Labour Force		8907.3	12194.1	13119.4	13238.0	13912.9	14763.7	14739.0	12646.7	12784.9
	%	15.5	20.5	21.8	21.8	22.7	23.9	23.6	20.1	20.1
-Housework		2360.5	3031.8	3539.3	3450.1	3589.7	3723.7	3485.1	3805.8	3669.4
	%	4.1	5.1	5.9	5.7	5.9	6.0	5.6	6.0	5.8
-Staying in school		3322.8	5168.3	5518.9	5580.4	5912.5	6176.6	6228.4	4223.4	4401.4
	%	5.8	8.7	9.2	9.2	9.7	10.0	10.0	6.7	6.9
-Too young/ old or incapable of work		2400.3	3221.2	3377.4	3517.1	3623.7	3799.0	3854.0	3797.1	3806.5
	%	4.2	5.4	5.6	5.8	5.9	6.1	6.2	6.0	6.0
-Other		823.5	772.7	683.8	690.3	786.8	1064.2	1171.3	820.3	907.6
	%	1.4	1.3	1.1	1.1	1.3	1.7	1.9	1.3	1.4
3. Person under 13 (15) years of age		16184.1	14254.8	14175.8	13850.2	13982.5	13882.7	13769.2	15866.8	15772.4
	%	28.3	24.0	23.6	22.8	22.8	22.4	22.0	25.2	24.8
		%	%	%	%	%	%	%	%	%
Total Population	Male	50.1	49.9	49.9	49.9	49.9	49.9	49.8	49.8	49.8
	Female	49.9	50.1	50.1	50.1	50.1	50.1	50.2	50.2	50.2
1. Total Labour Force	Male	53.6	54.4	54.8	54.6	54.9	55.1	55.0	55.2	55.1
	Female	46.4	45.6	45.2	45.4	45.1	44.9	45.0	44.8	44.9
- Employed	Male	54.1	54.6	55.1	54.6	55.0	55.2	55.0	55.2	55.1
	Female	45.9	45.4	44.9	45.4	45.0	44.8	45.0	44.8	44.9
- Unemployed	Male	40.3	44.5	52.7	52.8	54.9	55.4	55.9	57.0	60.4
	Female	59.7	55.5	47.3	47.2	45.1	44.6	44.1	43.0	39.6
- Seasonally Inactive Workers	Male	26.8	30.0	21.2	32.9	45.8	33.4	34.3	36.6	35.8
	Female	73.2	70.0	78.8	67.1	54.2	66.6	65.7	63.4	64.2
2. Not in Labour Force	Male	36.0	37.0	36.9	37.3	37.0	37.2	37.3	34.3	34.3
	Female	64.0	63.0	63.1	62.7	63.0	62.8	62.7	65.7	65.7
-Housework	Male	2.4	2.0	2.9	2.8	2.2	2.9	2.6	3.8	3.8
	Female	97.6	98.0	97.1	97.2	97.8	97.1	97.4	96.2	96.2
-Staying in school	Male	53.1	51.7	50.9	50.2	49.8	49.8	49.5	48.3	47.7
	Female	46.9	48.3	49.1	49.8	50.2	50.2	50.5	51.7	52.3
-Too young/ old or incapable of work	Male	43.8	43.3	46.5	46.5	46.0	45.0	44.9	45.4	43.5
	Female	56.2	56.7	53.52	53.5	54.0	55.0	55.1	54.6	56.5
-Other	Male	40.8	49.9	51.2	58.6	58.0	57.1	50.2	52.3	53.3
	Female	59.2	50.1	48.8	41.4	42.0	42.9	49.8	47.7	46.7
3. Person under 13 (15) years of age	Male	50.7	50.7	50.7	50.7	50.6	50.6	50.6	50.6	50.7
	Female	49.3	49.3	45.3	49.3	49.4	49.4	49.4	49.4	49.3

Note: 1) Data are extracted from tables titled 'Number of Population by Sex and Activity' from the source and based on the Round 3 (during the agricultural season).

2) Person in labour force, 13 years of age and over before 2001; and 15 years of age and over after 2001.

Source: National Statistical Office (1994-2002).

Also, the size of the 'non-labour force' increased absolutely (and proportionally) from 8.9 million (15.5 per cent of the total population) in 1991 to about 12.1 million (20.5 per cent) in 1995, to 13.2 million (21.8 per cent) in 1997, and to 14.7 million people (23.9 per cent) in 1999 before it started to decline slightly in 2000 (Table 3.7). And, largely because of alterations in the legal minimum working age (from 13 to 15 years of age), the size of the 'non-labour force' shrank from just about 14.7 million (23.6 per cent) in 2000 to approximately 12.6 million (20.1 per cent) in 2001 and 12.8 million people (about 20.1 per cent) in 2002.

Gender structure of the labour market: There seems to be virtually no gender gap in Thailand's labour force. Of the total labour force since 1991, men constituted between 53.6 per cent and 55.2 per cent; and women had between a 44.8 per cent and 46.4 per cent share. Both men and women, also, have fairly equal shares in the population of employed persons. As can be seen in Table 3.7, between 1991 and 2002, men have never made up more than 54.1 per cent of the total employed population, while women constituted at least 44.8 per cent.

However, there appears to be some gender gaps in the seasonally inactive labour force, and also, more obviously, in the so-called 'non-labour force'. With the exception of the period during the 1997 economic crisis, women made up about 63.4 per cent to as much as 78.8 per cent of the seasonally inactive labour force between 1991 and 2002. In fact, only in the year after the Crisis, in 1998, was the seasonally inactive labour force divided almost equally between the sexes (Table 3.7).

Likewise, because the population in the 'non-labour force' comprises mainly those who are doing housework, those still at school and those too young, old and/or incapable of work, it is perhaps unsurprising that women persistently dominate this group. Since 1991, men have constituted at most 37.3 per cent, whereas women have made up between 62.7 per cent and 65.7 per cent of the total non-labour force. Undoubtedly, this high gender gap in the 'non-labour force' seen for women, is based largely on the concentration of women in unpaid housework. While the gender breakdown was approximately in proportion in other groups of the 'non-labour force', women have constituted at least 96.2 per cent (and as large as 98 per cent) of those engaged in housework since 1991. Since 1991, the total population engaged in

housework has represented between 4 per cent and 6 per cent of the total population of the country, amounting to between 2.3 million and 3.8 million people (Table 3.7). Therefore, beside students and those incapable of work, the majority of the professed ‘economically inactive persons’ are women. This – at one remove – explains the lower labour participation rate of women than men, which will be discussed in the next section.

Participation and unemployment rate: It appears evidently that, as shown in Table 3.8, the participation rates of Thailand have always been relatively high, although they were in decline between 1991 and 2000. The participation rate was 78.3 per cent in 1991; 73 per cent in 1995; and 69.2 per cent in 1999 (Table 3.8). The decline was, mainly, accounted for by the stagnation of the labour force which is the result of the requisite extension of education at young ages. The rapid decline in the participation rate after 1997 was, without a doubt, the result of the Asian Financial and Economic Crisis. Nevertheless, as the effects of the Crisis waned and the total number of the total labour force increased, the total labour force participation rate started to rise in 2000 to 69.7 per cent and, currently, to 73.2 per cent in 2001 and 2002 (Table 3.7 and Table 3.8).

Table 3.8 Thai Labour Force Participation Rate, Current Unemployment Rate and Total Unemployment Rate, 1991-2002

		1991	1995	1996	1997	1998	1999	2000	2001	2002
Labour Force Participation Rate*	Total	78.3	73.0	71.4	71.7	70.6	69.2	69.7	73.2	73.2
	Male	84.3	79.9	78.8	78.7	78.1	76.9	77.3	81.4	81.5
	Female	72.3	66.2	64.1	64.8	63.1	61.7	62.3	65.0	65.1
Total Unemployment Rate**	Total	2.7	1.1	1.1	0.9	3.4	3.0	2.4	2.1	1.8
	Male	2.0	0.9	1.0	0.8	3.4	3.0	2.4	2.3	1.8
	Female	3.5	1.3	1.1	0.9	3.4	2.9	2.3	1.9	1.7

Note: * Labour Force Participation Rate is the total labour force as a percentage of the total population aged thirteen (or fifteen) and over (i.e. Total Labour Force times one hundred and divided by the total number of the total population aged thirteen (or fifteen) and over). Before the year 2001, the working age began at 13 years old. After 2001, the working age begins at 15 years old.

** Total Unemployment Rate is unemployment as a percentage of the total labour force (i.e. Unemployed times hundred and divided by Total Labour Force).

Source: Based on data in Table 3.7

As mentioned above, because many women are in the informal sector and are not gainfully employed, the participation rate of women in Thailand is slightly lower than that of men. Approximately, the gaps between the male and female labour participation rate in the past

decade were between 12 and 16.4 percentage points. Even so, the participation rate of women in the labour force of Thailand is high in comparison to other nations. During the past decade, the rate of male labour force participation has been between 76.9 per cent and 84.3 per cent; and the female labour force participation rate has been between 61.7 per cent and 72.3 per cent (Table 3.8).

Also, unemployment rates have been low in Thailand since 1991 (Table 3.8). The total unemployment rate was down from 2.7 per cent in 1991 to just 1.1 per cent in 1995 and 1996 and to as low as 0.9 per cent 1997. In 1998, total unemployment went up to 3.4 per cent, owing to the effect of the 1997 Asian economic crisis; however, since then it appears to have continued to decline to 3.0 in 1999, to 2.4 per cent in 2000, and to 2.1 per cent in 2001. The unemployment rate stood at 1.8 per cent in 2002, with just over half a million people unemployed (Tables 3.7 and 3.8). In fact, the unemployment rates of both men and women are commensurate with the total unemployment rate and they were all just as low (Table 3.8). Therefore, with the substantial labour force, high participation rates of both males and females and low unemployment rates, Thailand has been verging on full employment.

In order to throw some light on issues related to the extent of development of Thai employment and the resultant tight labour market, trends in sectoral distribution and structural changes in the work status of Thailand's labour force are examined here.

Employment structure: The total employed population of Thailand has always been comparatively substantial. Since 1991, there have been no less than 51.9 per cent of Thailand's total population employed each year (Table 3.7). However, Tables 3.9 and 3.10 indicate quite a substantial change in the employment composition over the past decade.

The share of unpaid family workers (in the informal sector) decreased significantly from 42.9 per cent of total employed persons in 1985 to 31.2 per cent in 1995 and to just over 25 per cent in 2002, and the share of 'own account' workers (also part of the informal sector) has been relatively unchanged, whereas the shares of all formal sector employment swelled: the share of employers increased from 1 per cent in 1985 to 2.9 per cent in 1995 and to 3.2 per cent in 2002; the share of government employees grew from 6.2 per cent to 7.5 per cent and to 7.8 per

cent; and, in particular, the share of private employees increased from 19.2 per cent to 28.2 per cent and to 32.2 per cent (Table 3.9).

Table 3.9 Employment by Work Status, Thailand, 1985-2002

	1985	1990	1995	1996	1997	1998	1999	2000	2001	2002
(Thousand)										
Total	25851.6	30843.4	32574.5	32231.9	33161.1	32138.1	32086.5	33000.4	33483.7	34262.6
	%	100	100	100	100	100	100	100	100	100
Employer	272	379.8	949.5	813.3	745.1	824.9	933.5	1100.9	956.2	1092.1
	%	1.0	1.2	2.9	2.5	2.3	2.5	2.9	3.4	2.9
Government Employee	1605.6	1848.7	2424.0	2300.5	2426.1	2693.0	2758.8	2719.3	28519	2672.7
	%	6.2	6.0	7.5	7.1	7.3	8.4	8.6	8.2	8.5
Private Employee	4955.5	6926.1	9189.0	9850.5	10062.3	9036.5	9517.4	10350.5	10687.3	11039.1
	%	19.2	22.5	28.2	30.6	30.3	28.1	29.7	31.4	31.9
Own Account Worker	7933.8	9176.0	9836.2	9940.8	9868.8	10016.8	10175.8	9940.9	10719.7	10698.4
	%	30.7	29.8	30.2	30.9	29.8	31.2	31.7	30.1	32.0
Unpaid Family Worker	11084.7	12512.8	10175.8	9326.8	10058.8	9566.9	8701.0	8888.8	8268.6	8760.3
	%	42.9	40.5	31.2	28.9	30.3	29.8	27.1	26.9	24.7

Note: 1) Data are extracted from tables titled 'Employed Persons by Work Status, Industry and Sex' or 'Number of Employed Persons by Work Status, Industry and Sex (Quarter 3)' from the source.

2) From 2001, Own Account Workers also included those in Member of Producers' Cooperatives.

Source: National Statistical Office (1987-2002).

Table 3.10 Employment by Sector, Thailand, 1985-2002

	1985	1990	1995	1996	1997	1998	1999	2000	2001	2002
(Thousand)										
Total	25850.8	30842.9	32574.2	32231.6	33161.2	32137.1	32086.4	33000.1	33483.7	34262.8
	%	100	100	100	100	100	100	100	100	100
Agriculture	17674.4	19725.7	16929.2	16127.0	16691.2	16471.7	15563.5	16095.5	15408.9	15799.8
	%	68.4	64.0	52.0	50.0	50.3	51.3	48.5	48.8	46.0
Industry	2819.4	4321.7	6436.4	6695.9	6537.6	5687.3	5889.9	6276.6	6300.2	6791.5
	%	10.9	14.0	19.8	20.8	19.7	17.7	18.4	19.0	18.8
Manufacture	2066.5	3132.7	4376.8	4334.2	4291.9	4189.4	4394.5	4784.9	4750.4	5039.7
	%	8.0	10.2	13.4	13.4	12.9	13.0	13.7	14.5	14.2
Services	5357.0	6795.5	9208.6	9408.7	9932.4	9978.1	10633.0	10628.0	11774.5	11671.5
	%	20.7	22.0	28.2	29.2	30.0	31.1	33.1	32.2	35.2

Note: 1) Data are extracted from tables titled 'Employed Persons by Work Status, Industry and Sex' or 'Number of Employed Persons by Work Status, Industry and Sex (Quarter 3)' from the source.

2) The sectoral classification has been revised to be in accordance with the International Standard Industrial Classification of all Economic Activities (ISIC): Agriculture also contains the Forestry and Fishing sub-sectors; Industry includes Mining and Quarrying, Manufacturing, Electricity, Gas, and Water Supply and Construction sub-sectors. And all other sub-sectors are classified under Services.

3) Manufacturing is a component of Industry.

Source: National Statistical Office (1987-2002).

Concurrently, the share of agricultural employment declined from 68.4 per cent of total employment in 1985 to 52 per cent in 1995 and to 46.1 per cent in 2002, while industrial employment increased from 10.9 per cent in 1985 to 19.8 per cent in 1995 to about 20 per cent in 2002 and service sector employment increased from 20.7 per cent to 28.2 per cent and to 34.1 per cent. Employment in manufacturing, in particular, increased from 8 per cent in 1985 to 14.7 per cent in 2002 (Table 3.10). These trends, therefore, reflect the changes in the

country's economic activities (as examined earlier), from concentration in the agricultural and informal sector towards concentration in the industrial, especially the manufacturing sector.

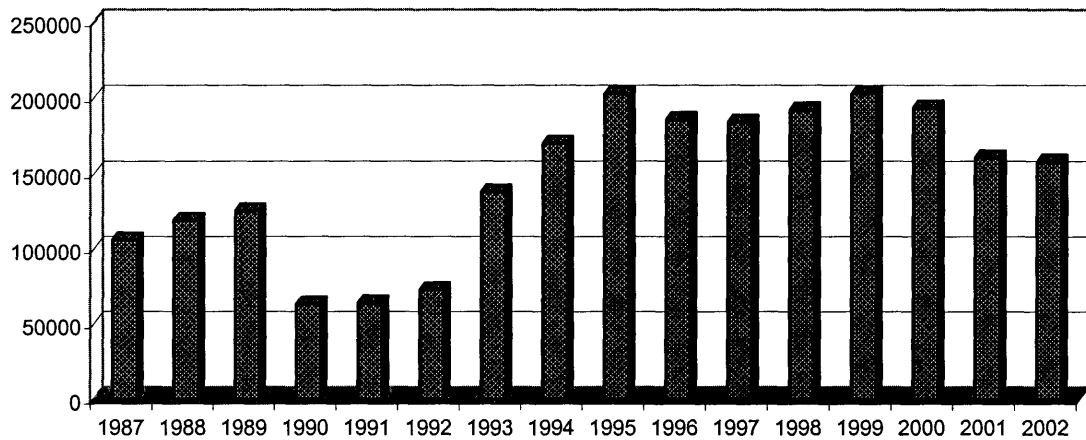
Before moving on, it should be pointed out that the shift of employment away from the agricultural sector to more economically productive activities was facilitated by the spread of the use of mechanisation and new techniques (such as broadcasting rather than transplanting rice production), as well as by the increase in cultivation of less-labour intensive crops (such as maize, cassava and sugarcane) (Office of the Prime Minister 1979: 171-172; Office of the Prime Minister 1991: 159-161; Siamwalla 1996: 7). However, this does not indicate that agricultural production in Thailand is high-technology oriented. Mechanisation of agricultural production is still in rudimentary stages. Therefore, although there has been a decline in agricultural employment, agriculture today still employs a large proportion of the labour force (over 15 million people or 46.1 per cent of total employed persons in 2002) (Table 3.10).

International migration of Thai workers: In the past two decades, Thai workers not only moved between sectors and between provinces, a number of them also moved out to work overseas. The outflow of Thai workers has shaped the labour market and contributed to the current tightness in the labour force. Again for brevity and because of the lack of reliable data, data on legal Thai labour migration alone are presented here. Since illegal trans-boundary labour migration is always occurring, the figures presented in Figure 3.5, calculated from the total number of assenting workers who reported to the 'Department of Employment's Checkpoint' before departure, reveal the bare minimum of the annual outflow of Thai workers.

With the exception of the period between 1990 and 1992 (during the political conflict between Thailand and Saudi Arabia), the outflow of Thai workers has generally increased. The directions of Thai labour outflow are well documented and have been discussed in Chapter One. The total number of Thais leaving for overseas employment surged from 72,434 in 1992 to 137,950 in 1993, and peaked at 202,296 workers in 1995 (Figure 3.5). After 1994, when there were some signs of a tight labour market in the Thai economy (as examined earlier), the trend in outflows of Thai workers, not surprisingly, proved responsive. Between 1995 and 1997, the outflow of Thai workers was in decline. However, as a result of the 1997 Economic Crisis, the number of Thai workers going abroad increased from 183,671 in 1997, to 191,735

in 1998, and to 202,416 in 1999. Yet, again, the trend declined continuously when the effects of the crisis waned and the local demand for labour began to increase after 1999. The recent outflow of Thai workers was down to about 157,624 people in 2002 (Figure 3.5).

Figure 3.5 Number of Thai Workers Travelling to Work Overseas, 1987-2002



Note: Data are extracted from tables titled 'Number of Thai Workers Travelling to Work Overseas Through the Labour Check Point' or 'Number of Thai Workers Working Overseas' from the source.

Source: From 1987 to 1992: Department of Labour (1987-1992).

From 1993 to 1996: Department of Labour Protection and Welfare (1993-1996).

From 1997 to 2002: Department of Employment (1997-2002).

There is enough evidence to suggest that the growth of Thailand's population is largely determined by natural increase, as the size of permanent international immigration and emigration is insignificant. Even though the age structure of the country's population is more mature than it was decades ago, and the population has already theoretically reached below replacement fertility, Thailand is not yet in a phase of stable low population growth or 'demographic instability'; it is common knowledge that it would take many years before the total fertility rate is translated into lower population. This suggests the potential for a continuing labour surplus. The proportion of the working population aged between 15 and 59 has been increasing and currently constitutes 67.5 per cent of the total population (Table 3.5). In addition, according to Navaneethan (2002: 16), the so-called 'demographic bonus' or 'window of opportunity' for Thailand will definitely persist for at least another decade. Similarly, in relation to pessimistic assumptions regarding an ageing population, it is reported that it will take about 20 years before the working population abates and the aging population actually make themselves manifest (Charoensutthiphon 2005: online).

However, the age structure transition is an indicative measure of the situation of a country's labour force, providing only a picture of the supply side. Due to the current rapid growth of Thailand's economic activities, the demand for labour has increased dramatically. It is true that Thailand had before a plentiful disposable labour supply; however, the Thai labour market increasingly shows signs of tightness with high participation, low unemployment, and a declining trend in international labour outflows. This means that the period of plentiful supply of cheap labour in Thailand has passed. The country is verging on full employment.

It is nevertheless important to point out that it is always controversial to suggest that Thailand is facing labour shortages. It is so because, as examined earlier, a relatively large part of the economically active component of the Thai labour force is still to be found in the agriculture and informal sectors, which have always been the major supply of Thailand's reserve army of labour. In that respect, Thailand has not yet entered into the 'absolute' labour shortage phase. However, the existing body of empirical evidence – the low and falling unemployment rate and the constant high participation rate of both male and female – supports the fact that Thailand is indeed encountering a 'relative' shortage of labour or a shortage due to mismatches (Bohning 1996: 12-13; Boswell, Stiller, and Straubhaar 2004: 5). Therefore, the availability of labour for expanding economic activities has been nearly completely exhausted, as it had in many other NICs previously, such as South Korea, Singapore and Malaysia. The importation of labour is therefore unavoidable.

Technology

It is important to discuss the current situation of Thailand's Research and Development (R&D) and the quality of Thai human resources, so as to catch sight of the impacts of technological changes to the economy and, thus, to international labour immigration.

The previous discussion has shown that while the economy expanded in the last two decades, Thailand's population is already below the replacement rate. Its labour market is verging on full employment and the country already has high male and female labour force participation rates. In addition, a large part of Thailand's economic employment activities continuously moves from the informal towards the formal sector. With the exception of the time of the 1997

Asian Financial and Economic Crisis, Thailand's capital accumulation has grown substantially in both public and private sectors over the past few decades.

Despite this, existing studies show that, based on the growth accounting method, the growth rates of the total factor productivity (TFP) of Thailand, both as a whole and by sectors for the past two decades, have always been relatively low and seemingly sluggish even in the country's fast-growing industrial sector. This suggests low technological capability and progress of the economy (Chandrachai, Bangorn, and Chockpisansin 2004; Tinakorn and Sussangkarn 1994; Tinakorn and Sussangkarn 1998). These findings should not, on reflection, be surprising: Thailand does not have a good record when it comes to expenditure for R&D (Research and Development). Statistics collected by UNESCO reveal that the R&D intensity, or the total gross domestic expenditure on R&D (GERD) as percentage of GDP (or GNP) of Thailand since the early 1990s has always been low in comparison to that of many other countries. The figures for Thailand have been far from reaching the one per cent UN set benchmark (United Nations Educational, Scientific and Cultural Organization 2004: 3).

In 2002, for instance, Thailand used only 0.24 per cent of its GDP on national research and experimental development, while Japan and South Korea spent about three per cent, Singapore almost 2.2 per cent, China 1.23 per cent, and Malaysia 0.69 per cent (Table 3.11). While the data for India is not available for 2002, Thailand spent only 0.25 per cent in 2000, whereas India, an economically less advanced country, devoted as much as 0.85 per cent of its total economic resources on R&D. In fact, prior to 1997, the statistics show a constant decline in Thailand's R&D spending, with the R&D Intensity figure for Thailand shrinking from 0.18 per cent of the country's GNP in 1990 to 0.13 per cent in 1995 and from 0.12 per cent of the country's GDP in 1996 to 0.1 per cent in 1997. It was only after 1999 that the country's R&D intensity started to increase a little, from 0.22 per cent in 1999 to 0.25 per cent in 2000 and to 2.4 per cent in 2001 and 2002 (Table 3.11). It is interesting of note, as it has been assessed, that if Thailand is to become at least akin to South Korea in the early 1980s – let alone its current status – in terms of the level of technological progress, the country would have to increase no less than five times its current share of GERD (Arnold et al. 2000 cited in World Bank 2001: 14).

Table 3.11 Research and Development Intensity, by Regions and Selected Asian Countries, 1990-2002

	GERD as percentage of GDP												
	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
World	1.8	N/A	1.7	N/A	1.5	N/A	1.6		N/A	1.7	N/A	N/A	
Americas	2.1	N/A	2.1	N/A	1.9	N/A	2.0		N/A	2.2	N/A	N/A	
Europe	1.8	N/A	1.9	N/A	1.6	N/A	1.7		N/A	1.7	N/A	N/A	
Africa	0.6	N/A	0.4	N/A	0.2	N/A	0.3		N/A	0.3	N/A	N/A	
Oceania	1.1	N/A	1.2	N/A	1.4	N/A	1.6		N/A	1.5	N/A	N/A	
Asia	1.8	N/A	1.3	N/A	1.1	N/A	1.2		N/A	1.5	N/A	N/A	
	GERD as percentage of GNP						GERD as percentage of GDP						
Japan	3.03	2.99	N/A	2.86	2.82	2.96	2.76	2.83	2.94	2.95	2.98	3.06	3.11
Korea	1.88	1.95	2.10	2.32	2.60	2.71	2.60	2.69	2.55	2.47	2.65	2.92	2.91
China	0.68	0.68	0.64	0.75	0.67	0.61	0.60	0.68	0.70	0.83	1.00	1.07	1.23
Singapore	0.94	N/A	N/A	N/A	N/A	1.13	1.38	1.49	1.82	1.93	1.91	2.13	2.19
India	0.80	0.75	0.73	0.77	0.73	N/A	0.55	0.70	0.74	0.78	0.85	N/A	N/A
Malaysia	N/A	N/A	0.40	N/A	0.35	N/A	0.22	N/A	0.40	N/A	0.49	N/A	0.69
Thailand	0.18	0.16	N/A	0.15	N/A	0.13	0.12	0.10	N/A	0.22	0.25	0.24	0.24

Source: World and regions: United Nations Educational, Scientific and Cultural Organization Institute for Statistics (2004), p. 4.

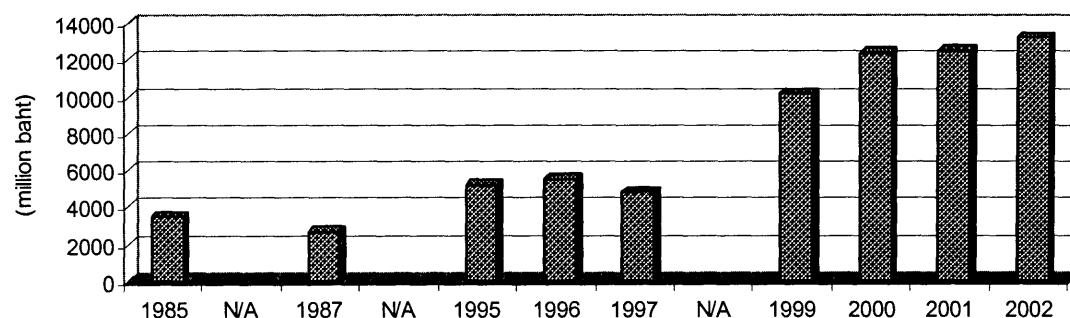
Asian countries data from 1990 to 1995: United Nations Educational, Scientific and Cultural Organization Institute for Statistics (2005a), online; and data from 1996 to 2002: United Nations Educational, Scientific and Cultural Organization Institute for Statistics (2005c), online.

For over three decades, some have argued that the Thai economy has needed better ‘science and technology’ development and more R&D investment to sustain its future economic expansion (Chantramonklasri 1994: 24). However, government and business responses have been slow (Arnold et al. 2003). Since the early 1980s, as is clearly evident in the government’s economic development policy, Thailand has depended on labour-intensive activities and, to some extent, on foreign capital inflow for its economic growth. The country, for a while, seemed to forget the basis of neoclassical growth theories, and so neglected the need for ‘science and technology’ development. In fact, trends in GERD for Thailand reveal that only in recent years has Thailand begun to address this need (Figure 3.6). The GERD figures for Thailand after 1999 suddenly double the size of the pre-1997 figures and the trend is upwards. According to UNESCO, current spending on R&D of Thailand is 13,264 million baht (as of 2002), an increase from 3,473 million baht in 1985 and 4,811 million in 1997 (Figure 3.6).

Thailand, at present, pursues economic development through development of a knowledge-based economy. Along with King Bhumipol’s philosophy – the so-called ‘Sufficiency Economy’ – this aspiration is the mainstay of the Ninth National Economic and Social Development Plan (2002-2006) (National Economic and Social Development Board 2002). However, the quality of the country’s labour resources may cast doubt on the likelihood of Thailand successfully moving up the technological ladder. It is common knowledge that education plays a vital role in the quality of a nation’s human resources. As discussed earlier,

the Thai government has been spending a large share of its total public expenditure on education; it has, however, been reported that, according to a UNESCO education survey of 127 countries, the quality of education of Thailand is still poor by global standards (ranked at sixtieth in the index poll) (*Nation* 9 Nov. 2004: online). Thailand, in fact, has the second-highest ranking budget allocation to education in Asia, after Malaysia. Even so, only a small proportion of the country's educational expenditure goes toward educational development and quality improvement (2.3 per cent). The largest share of the budget is always allocated to construction and salary payment (about 90 per cent), and a substantial part pays the cost of administration (5 per cent) (Bhangananda 2003: 83). Developing countries, like Thailand, need high educational expenditure, mainly because most of their people cannot afford the cost of education (Lim Chong Yah 2001: 225-226). There is, therefore, little doubt that a low quality of education will produce inefficiency in labour resources.

Figure 3.6 Total Gross Domestic Expenditure on Research and Development of Thailand since 1985



Source: From 1985 to 1995: United Nations Educational, Scientific and Cultural Organization Institute for Statistics (2005b), online.
 From 1996 to 2002: United Nations Educational, Scientific and Cultural Organization Institute for Statistics (2005c), online.

According to the fourfold industrial development patterns of Sanjaya Lall (1999: 20), an economy with at least an intermediate level of industrial development (as a minimum, with export-oriented activities in light industry and low-technology products) requires a population with at least good secondary and technical schooling in order to support technological needs. Thailand has already reached an intermediate level of industrial development based on the country's current technological level of production and exports (Dhanani and Scholtes 2002: 18-20). However, even though the proportion of Thai workers with secondary and higher education level has increased over time, the majority of the current Thai labour force still

possess, at most, a primary education (Table 3.12). In 2002, of nearly 64 million Thai workers, 61.3 per cent had only a primary level or lower educational attainment, plus 3.3 per cent had no formal education at all. Only 23.6 per cent of the country's economically active population graduated from secondary school and just about 12 per cent from college or university as shown in Tables 3.7 and 3.12.

Table 3.12 Percentage of Current Labour Force, Employed Population, and Unemployed Population by Level of Education Attainment since 1986 for Thailand

	1986			1990			1995			2000			2002		
	Current Labour Force	Employed	Unemployed	Current Labour Force	Employed	Unemployed	Current Labour Force	Employed	Unemployed	Current Labour Force	Employed	Unemployed	Current Labour Force	Employed	Unemployed
	%	%	%	%	%	%	%	%	%	%	%	%	%	%	%
Total	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100
No Education	5.8	5.9	2.6	5.4	5.4	2.3	4.1	4.1	2.7	3.4	3.4	1.7	3.3	3.4	1.7
Primary and less	79.0	79.7	61.7	78.1	78.2	72.3	74.7	74.8	65.8	64.6	65.0	45.2	61.3	62.3	32.7
Secondary	9.9	9.4	23.6	11.0	10.9	17.6	14.3	14.2	21.0	21.5	21.3	33.9	23.6	23.0	39.1
Higher Education	4.8	4.5	11.9	5.4	5.4	7.7	6.8	6.8	10.5	10.5	10.3	19.2	11.7	11.2	26.5
Others	0.5	0.5	0.2	0.1	0.1	0.1	0.1	0.1	N/A	0.03	0.03	N/A	0.1	0.1	N/A

Note: 1) Data are computed from figures in tables titled 'Population 11 Years and Over by Level of Education and Sex', 'Population 13 Years and Over by Level of Education and Sex', or 'Population 15 Years and Over by Level of Education and Sex' of the source.

2) Person in labour force, 11 years of age and over in 1986, 13 years of age between 1990 and 2000, and 15 years of age in 2002.

Source: National Statistical Office (1989; 1993; 1996; 2000b; 2002)

This is not unexpected since there was an alarmingly low net secondary enrolment ratio in Thailand, even as recently as 1997 (Table 3.13). (The net enrolment ratio is the proportion of total enrolment, regardless of age, of the population of official school age for a relevant education level.) Thailand, by international standards, has always had a high adult literacy rate, due to universal compulsory primary education and because of the resultant high net primary enrolment ratio (Table 3.13). However, as of 1997, Thailand's net secondary enrolment ratio was one of the lowest in the region, if not in the world. Yet, the net secondary enrolment ratios of Japan and South Korea were almost 100 per cent and, in almost all other Asian countries, exceeded 50 per cent. Thailand's net secondary enrolment ratio was 47.6 per cent, just 8.8 percentage points higher than that of Cambodia; and 10.7 percentage points lower than the

regional average and, not surprisingly, 17.8 percentage points less than the world average. As mentioned earlier, the Thai government has recently extended the period of compulsory basic education from six years to nine years; it can, as a result, be expected that the recent net enrolment ratio of secondary school in Thailand may improve. However, the extension covers only the first three years of the secondary school programme (known as 'lower secondary' education), so the improvement in the current net secondary enrolment ratio is not likely to be very high (National Electronics and Computer Technology Center 2005: 68). Thus, there are deficiencies in educational qualifications of the Thai labour force.

Table 3.13 Adult Literacy Rate and Net Enrolment Ratio by Region and Selected Asian Countries, 1997

	Adult Literacy Rate (%)	Net Primary Enrolment Ratio (%)	Net Secondary Enrolment Ratio (%)
World	N/A	87.6	65.4
Southeast Asia and the Pacific	N/A	97.8	58.3
Japan	N/A	99.9	99.9
South Korea	97.2	99.9	99.9
Singapore	91.4	91.4	75.6
China	82.9	99.9	70.0
India	53.5	77.2	59.7
The Philippines	94.6	99.9	77.8
Malaysia	85.7	99.9	64.0
Thailand	94.7	88.0	47.6
Indonesia	85.0	99.2	56.1
Lao PDR	58.6	73.0	63.4
Cambodia	N/A	99.9	38.8
Vietnam	91.9	99.9	55.1
Myanmar	83.6	99.3	54.2

Source: United Nations Development Programme (1999), p. 176-179.

A further breakdown of the current labour force by employment status of Thai workers reveals another problem about Thailand's education and work force (Table 3.12). It seems generally logical that the higher the country's level of technological and economic advancement, the greater demand for a better educated worker population. Therefore, lower unemployment of the worker group with higher educational attainment is likely. However, this seems to be only partially the case for Thailand. In keeping with the country's economic and technological development, the shares of employed population with secondary and higher education have doubled in the past two decades, from 9.4 per cent in 1986 to 23 per cent in 2002 for the worker group with secondary education attainment; and 4.5 per cent to 11.2 per cent for the higher education attainment population (Table 3.12). The proportion of unemployed

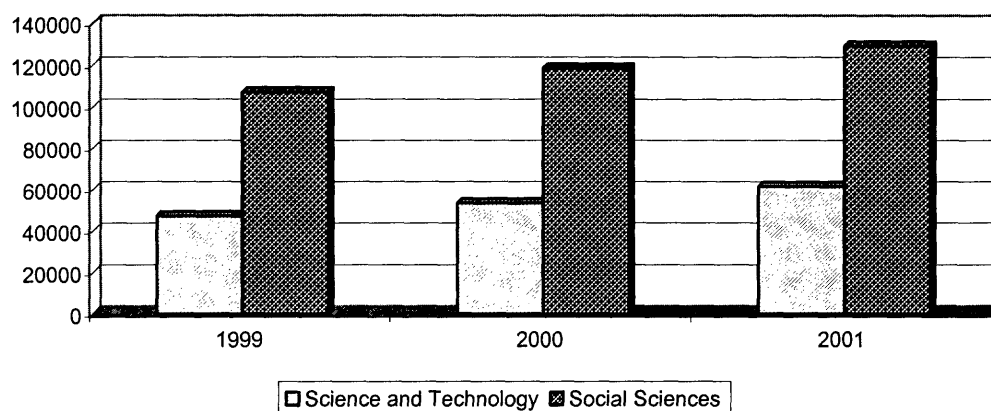
population with education beyond secondary schooling decreased in the period between 1986 and 1990; however, the share of this group increased steadily after 1990. The share of workers with secondary schooling in the unemployed population increased from 17.6 per cent in 1986 to 21 per cent in 1995 to 33.9 per cent in 2000 and to 39.1 per cent in 2002. The percentage of workers with a college or university degree increased almost 12 per cent to 7.7 per cent, to 10.5 per cent, to 19.2 per cent and to 26.5 per cent for worker groups with a college or university degree. (It is also important to remember here that the unemployment rate in Thailand is always low.)

This phenomenon reflects the so-called 'skill mismatch' in Thailand's workforce, particularly in the case of workers in the higher education attainment group. The four main causes of such 'skill mismatch' and the surprisingly high proportion of the better educated worker groups are: the recent rise in the supply of better educated workers as the number of graduates increased; a fundamental change in the main source of demand and employment of the better educated population from the public sector to the private sector; wage discrepancies between the formal and informal sectors (due to higher wages in the formal sector, people tend not to go to the informal sector and prefer to wait for a vacancy in the formal sector); and, most importantly, the tardy response of the education system and labour supply to the changing labour qualifications needed in the new market environment (Sussangkarn 1990: 14-17).

In view of the structural changes in the economy, an increase in the demand for science and technology workers in the country's labour market would be expected. However, Thailand today still produces many more social science graduates than the much-needed science and technology professionals (Figure 3.7). Thus, 107,160 graduates in 1999, 118,644 graduates in 2000, and 129,326 graduates in 2001 graduated from the field of social sciences; whereas there were only 47,221 science and technology graduates in 1999, 53,487 in 2000, and 61,439 in 2001. In addition, during 1994 and 1997, Thailand had a comparatively low percentage of science, math and engineering college and university students among the total enrolled higher education students, compared to those of the other Asian countries (Table 3.14). Only 21 per cent of the total Thai college and university students undertook Science, Math or Engineering degrees between 1994 and 1997, compared to as many as 53 per cent of science, math and engineering college and university students in China, 37 per cent in Myanmar, 34 per cent in

South Korea, 28 per cent in Indonesia, 25 per cent in India, and 23 per cent in Cambodia and Japan.

Figure 3.7 Number of Thai Graduates by Educational Field, 1999-2001



Source: National Electronics and Computer Technology Center (2005), p. 69.

Table 3.14 Percentage of Science, Maths and Engineering College and University Students by Selected Countries between 1994 and 1997

	College and University Students in Science, Maths and Engineering (as percentage of all college and university students)
China	53
Myanmar	37
South Korea	34
Indonesia	28
India	25
Cambodia	23
Japan	23
Thailand	21

Source: United Nations Development Programme (2004), p. 176-179.

3.6 Conclusion

Thailand has reached the ‘turning point’ and the country is changing from a country sending to a country receiving migrant workers. By tracing something of the background to the country’s historical economic development and by comparing the country’s economic performance to

that of its Southeast Asian neighbours, this chapter has shed light on how Thailand emerged as Asia's new migratory pole.

Thailand has transformed itself from a developing country to one of the Asia's NICs. In comparing the economic trends and performance between countries in the Southeast Asian region, there appear to be discrepancies in development. Thailand is regarded as belonging to the (upper) 'middle class' and is one of the region's leading economies. The four 'laggards' of the region – Cambodia, Lao PDR, Myanmar, and Vietnam – are Thailand's immediate neighbours. This makes the discrepancies more obvious, and, because of proximity, movement of labour is both possible and relatively painless.

The past economic achievement of Thailand is explained largely by changes in the factors of production – capital, labour and technology. Economic success is the result of capital accumulation, growth in labour force, and technological progress. This chapter argues that these production factors of Thailand, over time, have become increasingly disparate. Rising capital accumulation and increasing investment have brought about a pressing demand for labour, not only in terms of quantity but also of quality. However, the Thai population has not been able to keep up with the demand for labour. The country's labour supply, while not shrinking, is not growing much either at both ends of the skills spectrum of the labour market. Owing to the insufficient investment in technical and professional education, the quality of Thailand's labour force has not really improved, nor has it developed according to market demand. This has caused the demand for, and the presence of, migrant workers in Thailand.

Chapter Four

International Labour Migration in Thailand: Migration Flows and Governance of Migration

4.1 Introduction: ILM and state policy

As noted in the previous chapter, in looking at geographical links and migration flows within ASEAN, two main geographical groups may be discerned. The first is the archipelagic group, comprising Singapore, Brunei Darussalam, Malaysia, Indonesia and the Philippines, with a long history of trade links and ‘Malayness’. The second is the Mekong River states, consisting of Thailand, Myanmar, Lao PDR, Cambodia and Vietnam with extensive land links and ‘Buddhist’ cultural ties. International labour migration (ILM) among unskilled workers within the Southeast Asian region, as noted previously, is associated with geographical proximity and contrasting economic structure and labour force development. In the case of Thailand, therefore, unskilled and undocumented workers from Myanmar, Cambodia and Lao PDR have dominated the labour flows. In contrast, skilled and business workers tend to come from outside the region. Thailand has been a net importer of skilled workers.

In adopting policies directed towards foreign workers, Thailand has sought to have a balance between achieving longer-term goals of industrial upgrading and technological change and maintaining its competitiveness in labour-intensive industries. Thus the entry of unskilled labour has also been promoted through shifting policy mechanisms.

4.2 Changing policy contexts: governance of labour migration

One cannot study international migration without understanding laws and regulations shaping such movement (see also, Schuck 2000). The ‘nation-state’ has transposed ‘natural’ boundaries into ‘national’ borders, and thus instigated ‘international’ migration and consequently migratory regulations. Through the conception of ‘state autonomy’ and various migratory regulations, modern states now play a crucial role in shaping the size and

composition of international population movements, as evident in the record of world labour migration. Generally, discussion of the legal dimension of ‘international migration’ is confined to the subject of control of population mobility, dealing with laws, rules and regulations of migrants across borders (Shamsulbahriah 2003: 143). As the discussion is broadened to include further legal dimensions of international ‘labour’ migration, it must deal not only with border control but also with governing employment and acceptable conditions of work or ‘labour standards’.

In Thailand, there appear to be three aspects of existing laws and regulations relevant to migrant workers. The first concerns legal entry and residence of non-Thai nationals into and in the country. The second comprises laws and regulations in relation to economic activities and employment of foreigners. The third has to do with their rights and welfare entitlements as economically active people in Thailand. Working through these three legal aspects, the chapter examines the general process of labour migration in the country. It explores briefly the development of immigration policy in Thailand and the concept of the term ‘migrant’ under Thai legislation. The chapter then examines the current regulatory framework governing permission to enter, reside and work. An examination of this type reveals the legal status of migrants, the current trends of Thai immigrant policy, and most importantly, the labour migration process in the country.

History of regulation

The concept of the ‘nation state’ had important ramifications for Thai society after the ratification of the first treaty of ‘friendship and commerce’ between Thailand and England in 1826. However, the ‘nation-state’ brought with it concepts of national boundaries particularly after most of the Southeast Asian countries came under the colonial yoke in the second half of the nineteenth century. Thailand escaped formal colonial domination, situated as it was between British Malaya and Burma and French Indochina. The rulers of Thailand (Siam) were also astute, and this was reflected in the ‘open door’ policy followed by the Thai government (Ingram 1955: 33-35). It was indeed not only trade, but also people, to whom Thailand opened its doors.

Through global integration and formal trade treaties, Thailand was propelled into the world market. This led to the expansion of the Thai economy. The expansion of rice cultivation and other activities and labour shortages soon led to labour recruitment from abroad. Bangkok, in particular, became ‘a foreign sort of place, full of Siamese [Thai] aristocrats, *farang* businessmen, Chinese merchants and coolies’ (Phongpaichit and Baker 1998: 14). Anna Leonowens observed during her time in Thailand:

Bangkok, the modern seat of government of Siam, has (according to the best authorities) two hundred thousand floating dwellings and shops, – to each house an average of five souls, – making the population of the city about one million; of which number more than eight thousand are Chinese, twenty thousand Birmese [Burmese], fifteen thousand Arabs and Indians, and the remainder Siamese (1870: 135).

King Rama V (1868-1910) had an ‘open door’ policy regarding foreigners, especially Chinese, in the country: “‘I regard them not as foreigners but as component parts of the Kingdom and as sharing in its prosperity and advancement’” (Smyth 1898: 285 quoted in Skinner 1957: 162).

By the early 1930s the state’s immigration policy started to take a crucial turn. In the 1930s and 1940s, the 1932 Revolution, economic depression followed by World War II and conflict in Indochina resulted in nationalism coming to the fore in Thai government policymaking, and with it, anxiety over immigration (Batson 1984; Dixon 1999; Silcock 1967). In May 1947 the Thai government imposed an unprecedented immigrant quota system. This was initially directed at Chinese immigration. Subsequently, in 1950, the government implemented the first Immigration Act (Skinner 1957: 177). Even though Thailand was a relatively tolerant society, the ideal conceptualisation of foreign integration became ‘assimilation’ rather than ‘multiculturalism’ or ‘segregation’ (United Nations 1998a: 47). Since then, the Thai government has continued to put into effect various restrictions and controls on immigration, and extended them to foreign employment and economic activities.

However, it appears that the country’s subsequent economic boom in the 1980s and 1990s put pressure on the government to consider more open approaches to labour immigration. This was reflected in the implementation of three special Acts – the Petroleum Act, the Investment Promotion Act, and the Industrial Estate Authority of Thailand Act – and legalisation

programmes (or ‘Illegal Migrant Worker Registration’), as well as permitting the adoption of dual citizenship.

Migrant concepts under Thai legislation

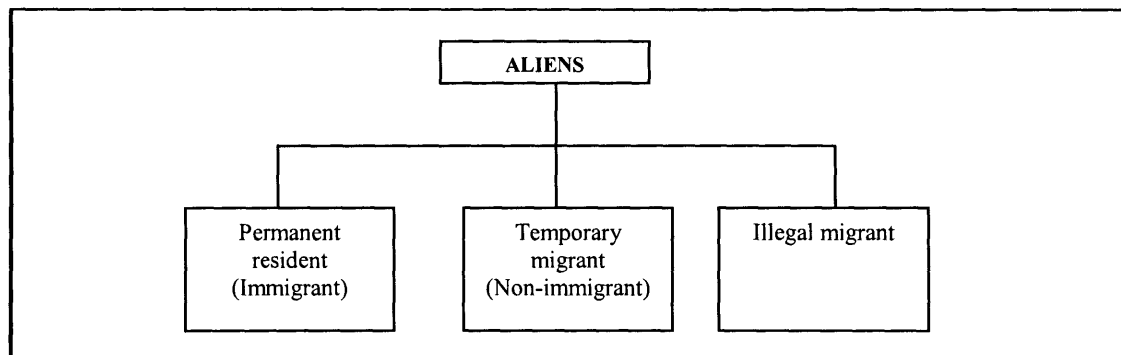
The International Labour Organization (ILO) (1984: 99) defines the term ‘migrant’ as persons who are devoid of the citizenship of the country of their current residence. Similarly, under Thailand’s laws, ‘aliens’ are defined as persons who do not possess Thai citizenship. There are a number of terms used to refer to foreigners in the Thai language. However, the terms most used in Thai legislation are ‘Alien’ (*Khon-Tank-Down*) and – to a lesser extent – ‘Migrant’ (*Cheow-Tank-Chart*). Persons born to a Thai national parent (under *jus sanguinis*), or born or naturalized in Thailand (under *jus soli*), and subject to the jurisdiction thereof are citizens of Thailand, according to the Nationality Act of 1965. However, Thailand is not prepared to grant Thai citizenship to the Thailand-born-children of illegal immigrants (Royal Thai Government 1997b: 3-4).

There is, nevertheless, a grey area in which ‘migrant’ and ‘alien’ are defined in the content of Thailand’s laws. ‘Aliens’, as defined earlier, are any persons who are not of Thai nationality. Yet, it is not necessarily that a particular ‘alien’ has been involved in a migration process (departure, arrival, settlement, and – perhaps – return), such as in the case of ‘stateless people’, who may never take the action of crossing international frontiers. Paradoxically, despite the quintessence of migration – movement – in all of Thailand’s laws relating to immigration and citizenship, ‘migrants’ *ipso facto* means ‘aliens’, and vice versa. The term ‘migrant’ and ‘alien’ are often used as synonyms in the statutory content. It is for this reason and with all this in view that this study makes no definitive distinction between the terms ‘alien’, ‘foreigner’, ‘expatriate’, and ‘migrant’.

It is also interesting to note that, in the Immigration Act of 1979, unlike the term ‘migrant’ or ‘alien’, the term ‘immigrant’ is more specifically defined. An ‘immigrant’ is defined as an alien who enters the Kingdom of Thailand (Royal Thai Government 1979a: 47). However, in practice, the Immigration Bureau uses the term ‘immigrant’ (*Khon-Kow-Mung*) in association with some notion of permanent settlement. The term ‘non-immigrant’ (*Khon-You-Chow-Klow*)

is used instead to refer to an alien entering the country for a temporary stay (Saisoonthon 1997). Therefore, ‘aliens’, ‘migrants’ or ‘foreigners’ under Thai law can be aggregated into 3 main categories, distinguishing between permanent residents (immigrants), temporary migrants (non-immigrants), and illegal migrants (Figure 4.1). There is no doubt that migrants in the different categories migrate to Thailand through different migratory processes.

Figure 4.1 Types of ‘Aliens’ in Thailand



4.3 Border restrictions and migratory processes

[A]mong all types of spatial mobility, international migration has the distinction of being subject to State regulations...[And an] intrinsic attribute of State sovereignty is the right of the State to determine who can enter and stay in its territory and under what conditions (United Nations 1998b: 8).

Like many countries, various migration pathways into Thailand are governed and administered by different legislation and different government bodies. Immigration into and residence of foreigners in Thailand comes under the jurisdiction of the Immigration Bureau of the Royal Thai Police Department, the Ministry of Interior and Royal Thai embassies and consulates acting on behalf of the Ministry of Foreign Affairs. It is governed by the Immigration Act B.E. 2522 and its 1980 and 1999 Protocols. Likewise, economic activities and employment of foreigners fall under the jurisdiction of the Department of Employment, the Ministry of Labour, and the Ministry of Commerce; and are governed by the Alien Employment Act B.E. 2521, the Foreign Business Act B.E. 2542, and some special Acts to promote investment, namely, the Petroleum Act B.E. 2514, the Investment Promotion Act B.E. 2520, the Industrial Estate Authority of Thailand Act B.E. 2522. Also, basic rights and protection of both Thai and foreign workers (or ‘labour standards’) are protected through a collection of laws, including

the Labour Relations Act B.E. 2518, the Social Security Act B.E. 2533, the Compensation Act B.E. 2537, the Labour Protection Act B.E. 2541, and the State Enterprise Labour Relation Act B.E. 2543, which come under the administration of the Ministry of Labour.

This section examines the main constraints and conditions imposed by these regulations in three parts according to the three different stages of migration: entrance, residence and employment. Subsequently, the circumstances that 'create' illegality of migrants, current immigration trends, and the means of migration and employment in the country are explored.

4.3.1 Conditions for entrance

Under the Immigration Act B.E. 2522, entry into Thailand is permitted at immigration check points and at designated landing stations or areas (Royal Thai Government 1979a: 51). There are currently about 54 immigration check points nationwide (Immigration Bureau 2005a: online). Foreigners who wish to enter the country are required to have a valid visa or entry permit. Exceptions are made for members of the foreign diplomatic corps and some international organisations (Royal Thai Government 1979a: 55-56). In order to promote tourism, nationals of certain countries (currently about 41 countries) entering Thailand for tourism purposes (for no longer than 30 days) are excluded from the visa requirement (Ministry of Foreign Affairs 2005: online).

There are two types of visas issued to foreigners: Tourist or Visitor Transit visa, and Non-immigrant visa. This distinction is important because each type of visa comprises a number of categories in which each category is subject to specific conditions, and is for a particular purpose (Table 4.1). Visas (excluding the Non-migrant visa Category IB) can normally be obtained only outside the country and issued by Royal Thai embassies or consulates.

Nevertheless, nationals of three neighbouring countries – Myanmar, Cambodia, and Laos PDR – making a temporary journey across the border in accordance with bilateral agreements between these countries and Thailand are not required to show passports (Royal Thai Government 1979a: 54). All they require is a so-called 'border-pass' or 'day-pass' at the immigration check point. This special treatment is, in part, a result of the strong traditional

relationship amongst people living along the border areas. As a result, it has provided a window of opportunity for a large number of ‘frontier’ workers traversing the border on a regular basis for employment, as well as for many illegal migrant workers living along Thailand’s borders.

Table 4.1 Type of Visa and Its Category

I. Tourist or Visitor Transit visa		
Category	Purpose	Period of extension at a time
TR	For tourism	30 days
TS	For transit purpose	30 days
TR 15	For tourism (issued ‘on arrival’)	30 days
II. Non-migrant visa		
Category	Purpose	Maximum period of extension*
F	For those who wish to perform official duties	1 year
S	For those who wish to participate in an officially recognized sports event	30 days
B	For those who wish to conduct business or to work	1 year
IM	For those who wish to invest with the concurrence of the Thai Ministries or Government Departments concerned	2 years
IB	For those who wish to invest or perform other activities relating to investment, subject to the provision if the established laws on investment promotion	As deemed appropriate
ED	For those who wish to study, to come on a work study tour or observation tour, to participate in projects or seminar, to attend a conference or training course, to study as a foreign Buddhist monk	1 year
M	For those who wish to work as a film-producer, journalist or reporter	1 year
R	For those who wish to perform missionary work or other religious activities with the concurrence of the Thai Ministries or Government Departments concerned	1 year
RS	For those who wish to conduct scientific research or training or teaching in a research institute	1 year
EX	For those who wish to undertake skilled work or to work as a expert or specialist	1 year
O-A	For retirement purpose	-
O	For other activities	1 year

Note: * Expatriates may be granted an additional one-year period on top of this period of time.

Source: Tourist or Transit visa: Royal Thai Consulate-General Sydney. (2004b), online; and Royal Thai Consulate-General Sydney (2004c), online.

Non-migrant visa: Royal Thai Consulate-General Sydney (2004a), online; and Thailand Expat Forum (2004), online.

Maximum period of extension: Royal Thai Government (1979a), p. 66-67

In addition, following the signing of the free trade agreement between Australia and Thailand, the two countries have agreed on special visas for tourism and employment between them. This will allow young Australian nationals to work while travelling in Thailand and vice versa

(*Nation* 1 Aug. 2005: online). However, the conditions and procedures for such visas have to be worked out, as the regulation has yet to come into effect.

4.3.2 Conditions for residence

Foreigners are normally allowed to travel and reside anywhere in the country so long as they possess a valid visa. A Tourist or Visitor Transit visa is renewable and is normally valid for 60 days for a visa under Category TR; 30 days for category TS; and 15 days for Category TR15. Renewals are granted for a period of up to 30 days at a time (Royal Thai Consulate-General Sydney 2004b: online; Royal Thai Consulate-General Sydney 2004c: online).

A non-immigrant visa (excluding Category IB) permits the holder an initial stay of up to 90 days and is subject to renewal or extension. However, as shown in Table 4.1, there is a cap on the period of extension. The maximum period of extension allowed on the Non-immigrant visa can only be up to three years, including an additional one-year period. The non-immigrant visa Category IB confers special privileges which allow the holder of such a visa to stay in the country as long as the authorities involved deem it appropriate.

In addition, providing they meet certain conditions outlined (but periodically amended) by the Immigration Bureau (2005b), foreigners can apply for Permanent Residency status. The criteria (as of 26 December 2003) cover broader issues than previously, including the applicant's financial background, investment plan, humanitarian concern, and skills qualifications (Immigration Bureau 2005b: online). However, the Immigration Act still limits the annual number of granted permanent residence permits to less than 100 persons per nationality and not more than 50 persons having no nationality (Royal Thai Government 1979a: 70). With this and other restrictions, it has become increasingly clear that the Thai government does not encourage settlement. As shown in Table 4.2, only 2,514 foreigners were granted permanent residency between 1985 and 1995, and over 27 per cent of total applications for permanent residency were rejected.

It also needs to be emphasised here that, in the past, permanent residence was granted to various groups of people (such as fleeing former Chinese nationalist soldiers around 1950 and

hill tribe people), who are normally referred to as 'Registered aliens' by Thai authorities. Unlike most permanent residents, some of these groups face restrictions on travel and/or domicile (Archvanitkul and Kudsavang 1997; Saisoonthon 1997).

Table 4.2 Number of Foreigners Who Applied for and Received Permanent Residency, 1985-1995

Year	Number of Application	Number of Granted Permanent Residents	Number of Rejected Application
1985	72	61	11
1986	136	81	55
1987	144	106	38
1988	194	164	30
1989	349	293	54
1990	291	253	38
1991	432	330	102
1992	381	280	101
1993	412	277	35
1994	411	267	144
1995	639	402	237
Total	3,461	2,514	947
	100 %	72.6 %	27.4 %

Source: Archavanitkul, Kritaya, Vanna Jarusonboon, and Anchalee Varangrat (1997), p. 14.

4.3.3 Conditions for employment

Once inside the country, the activities of foreigners are governed by two sets of laws. The first set of laws, which include the Alien Employment Act, the Foreign Business Act, and the three special Acts to promote foreign investment, deals with the employment and business activities of foreigners. The second set of laws, which include the Labour Relations Act, the Social Security Act, the Labour Protection Act, and the State Enterprise Labour Relations Act, covers the 'labour standards'.

Foreign employment and business activities

Since the implementation of the Alien Business Law (now 'the Foreign Business Act B.E. 2542') in 1972 and the Alien Employment Act in 1978, business and employment activities of foreigners in Thailand have become restricted. Foreigners are not allowed to operate a business in the country without obtaining a business operation license from the Ministry of Commerce. Moreover, foreigners can operate only certain businesses and in specifically

allocated areas (Royal Thai Government 1999a: 3-4). The businesses that are prohibited to foreigners are listed in Appendix D.

Since the term 'work' is defined broadly by the Alien Employment Act to mean working by using one's physical energy or employing one's knowledge, whether for wages or other forms of remuneration, all foreigners, seeking employment, wanting to manage or operate a business, and/or to provide a service (even if it is work of a voluntary nature) in the country, are required to obtain a work permit from the Department of Employment (DOE) (Royal Thai Government 1978: 16-17). The authorised foreigner is, nevertheless, prohibited from performing any type of work and any function other than that prescribed by the work permit, and is forbidden from changing the locality or place of work from that specified in their work permit, unless prior permission is obtained from the DOE (Royal Thai Government 1978: 22).

There are currently 39 occupations and professions that foreigners are prohibited to engage in (Appendix E). Interestingly, the rigid prohibition of the 39 occupations over time has become more relaxed through amendments made in 1993 and again in 2000. This is due to the acute shortage of labour in some occupations (Royal Thai Government 1993: 25; Royal Thai Government 2000a: 23).

Under the Alien Employment Act, a work permit can only be issued to foreigners holding a 'Non-immigrant visa' or for permanent residents of Thailand (Royal Thai Government 1978: 19). Foreigners are not permitted to work until their actual Work Permit has been issued. Employers are allowed to apply for work permits before the arrival of their foreign workers in Thailand. Nevertheless, the actual Work Permit is only issued after the foreigners are in the country (Royal Thai Government 1978: 16-17). Even though foreigners are allowed to hold more than one position with one or more employers, they must obtain permission for each position and for each employer. A Work Permit is, normally, valid for no longer than one year (and no longer than the permitted period to stay) and can be renewed annually (Royal Thai Government 1978: 19).

Notwithstanding these restrictions, the Thai government has made some exemptions and implemented special laws to ease the increasing demand for foreign workers in the economy.

Under the following special legislation – the Petroleum Act, the Investment Promotion Act, and the Industrial Estate Authority of Thailand Act – the government gives special rights and privileges not only to the ‘promoted’ companies by the Board of Investment (BOI), the Industrial Estate Authority or the Petroleum Authority, but also to their foreign employees. Foreigners employed under these special laws are allowed to bring their dependents with them. The foreigners are given a special Non-immigrant visa Category IB. Unlike other categories, a Non-immigrant visa known as Category IB can be issued in the country. The foreigners are allowed to stay in Thailand so long as the authorities deem their stay appropriate: there is no cap on the period of time to stay (Royal Thai Government 1977: 17; Royal Thai Government 1996: 18). Additionally, such foreigners are allowed to start (or continue) working even when their application for a Work Permit, as well as the renewal and modification of their work permit, is being processed (Royal Thai Government 1978: 17).

Likewise, under the Alien Employment Act, there are two key exceptions that the Thai government currently exercises to allow foreigners, who are normally not eligible for a work permit, to work in the country, and thus, help to alleviate the current shortages of labour. First, under clause 7, a temporary exemption from work permit requirements can be given to foreigners performing work deemed to be of an ‘urgent and essential nature’ for a period not exceeding 15 days, with the approval from the DOE, regardless of whatever types of visa are currently held by foreigners (Royal Thai Government 1978: 16-17). Second, and most importantly, under Clause 12 of the Alien Employment Act, if deemed appropriate, some illegal immigrants and *personae non gratae* may be allowed to apply for a work permit while waiting for deportation (Royal Thai Government 1978: 18-19). The traits of *personae non gratae* are listed in Appendix F. For obvious reasons, foreigners hired under this condition are normally called ‘Under-Clause-12’ workers. By virtue of this exception, and with the sanction of the Cabinet, the Thai government can also register illegal migrants, permitting them to work legally. So far, there have been seven so-called ‘Illegal Migrant Worker Registrations’ (and five re-registrations) since the first Registration in 1992. Each registration, however, imposed different conditions, regulations, and procedures, which are outlined in Appendix G. Because such registration needs approval from the Cabinet, foreigners under this condition are normally called ‘workers under the Resolution of the Cabinet’.

The initial purposes for implementing such Registration was to restrict the increasing number of illegal migrant workers and to bring them under some form of control; however, with the continuous implementation of such registrations for over 12 years, it is clear that the government uses the registration of illegal immigrants exercise as an additional means to ease labour shortages, especially where the unskilled labour force is concerned. In fact, due to the government's impending mega-projects and thus looming demand for labour; the government has already announced a plan for the 2006 registration (*Nation* 8 Nov. 2005: online).

ILM in Thailand: state policy and practice

It is clear that the nature of migration into Thailand is defined by reference to the regulations that cover all points on the migration spectrum. As a result, three issues regarding to migration processes come to light. These are first the legality and illegality of migrants, second the current trend in labour immigration policy, and finally the possible means for foreign employment in the country.

Foreigners in Thailand are subject not only to restrictions on entry and domicile but also to regulations governing access to the local labour force and economic activities. Therefore, the issue of the legal status of migrants is very complex, as schematically shown in Appendix J. Migrants with a residence permit and/or work permit may not necessarily become *prima facie* legal (e.g. refugees and migrants under the 'Illegal Migrant Worker Registration'). Illegal migrants, however, can eventually become legal if their status is adjusted (e.g. via marriage or amnesty).

As discussed above, under Thai laws, foreigners are generally stratified into three categories: permanent residents, temporary migrants and illegal migrants. Since permanent residents and temporary migrants have already been discussed, this section looks mainly at illegal migrants. Because illegality is the negative result of constraints and conditions imposed by laws, illegal migrants in Thailand can be, effectively, classified into five categories, including migrants violating the conditions of entry, migrants violating the conditions of residence, migrants violating the conditions of employment, stateless people and refugees. Illegal migrants of each category will be briefly discussed in turn.

Migrants violating the conditions of entry: Illegal migrants violating the conditions of entry are those who do not enter the territory of Thailand by way of immigration checkpoints, designated landing stations or areas, as well as those who enter the country by means of fraudulent documentation or other kinds of deceit and misrepresentation (termed *mala fide*).

Migrants violating the conditions of residence: Illegal migrants violating the conditions of stay are those who over stay their visa or residence permits. These kinds of illegal migrants are normally called 'visa over-stayers'. In addition, so-called 'Registered aliens' can become illegal when they stay outside their restricted area of residence.

Migrants violating the conditions of employment: Illegal migrants violating the conditions of employment are those who are economically active without a work permit, as well as those who work in prohibited and/or unauthorised work. Foreigners involving in illegal activities (such as trafficking and prostitution) are considered both as criminals and illegal migrants.

Stateless people: As mentioned above, the term 'aliens' or 'migrant' under Thai laws also comprise 'stateless persons' born and domiciled within the territory of the country. The United Nations defines 'Stateless persons' as persons who are not recognized as citizens of any country (United Nations 1998b: 22). Without Thai citizenship, stateless people are, simply, illegal aliens.

Refugees: According the United Nations 1951 Convention relating to the Status of Refugees and its 1967 Protocol, refugees are those who flee from their country of nationality and are unable or unwilling to return to their country due to a well-founded fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion (Bilsborrow et al. 1997: 45). However, even though persons crossing Thailand's borders might qualify for 'refugee' status under the UN Convention, they remain 'illegal immigrants' in accordance with Thai law. This is because, despite being a member of the Executive Committee of the High Commissioner's Programme of the United Nations High Commissioner for Refugee (UNHCR), Thailand is a signatory to neither the UN 1951 Convention nor the subsequent 1967 Protocol. Thailand has, also, no legislation regarding the treatment of refugees.

Nonetheless, the Thai government has obligations towards refugees based on customary international law, the most vital of which is the principle of ‘non-refoulement’, which is the obligation not to repatriate refugees to where they are likely to encounter persecution (International Organization for Migration 2004: 44-45). Thus, the government avoids using the term ‘refugee’ for those granted asylum: the government statutorily uses the term ‘temporarily displaced’ instead to refer to this type of migrant, demonstrating their illegal status (Bureau of Democracy 2003: online; Stern 1997: 24). A ‘temporary displaced’ person under the Thai government’s traditional interpretation is basically ‘a person fleeing fighting’, or in broader terms – which the Bangkok UNHCR office is compelled by the Thai government to accept as their admission consideration for refugee status – is ‘a person who has a well-founded fear of persecution owing to their *political* beliefs’ (Human Rights Watch 1998: online).

Thus, refugees or ‘temporarily displaced’ persons are not exactly *de jure* illegal migrants but rather *de facto* illegal foreigners. Unlike other illegal migrants, refugees or ‘temporarily displaced’ persons are not subject to imprisonment; instead they are *in situ* confined in detention centres – loosely called ‘refugee’ or ‘temporary’ camps – and are under special regulations, which sometimes allow working in the camps or adjacent areas (D’Agnes 2001: 256-266; Rajaram and Grundy-Warr 2004: 54-55). It is important to note, however, that once ‘temporary displaced’ persons abscond from the camps, they instantly become (illegal) ‘migrants violating the condition of residence’, and, if they cannot prove their original status of ‘temporary displaced’ persons, they are regarded as illegal (‘migrant violating the condition of entry’). They are thus liable to arrest, imprisonment, and deportation in accordance with the Immigration Act.

After reviewing the migratory and foreign employment-related regulations and restrictions, it is clear that the current labour immigration policy of Thailand is adopted mainly as a result of the government’s ‘laissez-faire’ approach to labour demand (Abella 1997: 8 cited in Waddington 2003: 4). This indicates the ambivalence of the Thai government in dealing with immigration issues, as well as causing complexity in the practice of management of foreign employment. While the government may unwind some restrictions and controls on immigration and foreign employment, the overall immigration policy is still very restrictive

and exclusive. Foreign settlement or naturalisation is not seen to be in the national interest. Even though the government has recently adopted a dual citizenship provision, this is effectively directed at the return of former Thai nationals as part of the government's reverse brain drain scheme (United Nations 1998a: 137). Family migration or family reunification is applicable only to a small group of foreigners under the Special Laws.

Governance

The practice of management of foreign employment in Thailand is complex. The government not only allows legal migrants to work in the country, but also – through the use of the laws' exception – legalises the employment of illegal immigrants and *personae non gratae*. As a result, legal migrants in Thailand can become illegal migrant workers. And, while being illegal migrants, foreigners can paradoxically be legal migrant workers. What are the possible pathways and processes for foreign employment in Thailand?

Besides the so-called 'urgent and essential nature' of employment of foreigners, there appear to be six distinct pathways for foreign employment. The first three pathways are included in the process of employment of legal migrants, while the last three are in the process of employment of illegal immigrants. These pathways are the Permanent Resident path, Non-immigrant pathway, Under-Special-Laws pathway, Under-Clause-12 pathway, 'Illegal Migrant Worker Registration' pathway, and Illegal Employment pathway.

Process of employment of legal migrants

Employment of legal migrants is straightforward. The employment of foreigners complies with the constraints and conditions of the law. Because the details are nevertheless complex, a schematic diagram of the process is provided in Appendix K. There are three relatively distinctive pathways in this process.

Path one: Permanent Resident pathway

If foreigners have not already been granted a Thai permanent residency before entering the country, they can apply for a permanent resident permit with the Immigration Bureau when in the country. (Note that while it is uncommon to obtain a Thai permanent resident status when abroad, it is not impossible.) Even though the resident permit allows foreigners to reside in the country permanently, permanent residents are, by law, still foreigners and, therefore, if intending to work or operate a business in the country, are subject to a work permit and the other foreign employment-related conditions and prohibitions. Previous to receiving the actual Work Permit, they are not allowed to engage in work.

It is very important to note that, contrary to the belief of many researchers such as Bilsborrow, Hugo, Oberai and Zlotnik (1997: 172), a work permit granted to a permanent resident is only issued for a one-year period and subject to renewal. A so-called ‘permanent’ Work Permit (or ‘lifetime’ or ‘whole time’ Work Permit) was granted only between late 1962 and early 1963 under the Announcement of the National Exclusive Council No. 322 to permanent residents who were granted residency and worked in the country before 13 December 1962. Even though the permanent Work Permit is still legally valid, this type of work permit is no longer issued (Royal Thai Government 1978: 27).

Path Two: Non-immigrant pathway

If not permanent residents of Thailand, foreigners are required to hold a Non-immigrant visa in order to acquire permission to work in the country. In practice, the DOE normally issues a work permit only to foreigners with a Non-immigrant visa in business or economic activities-related categories such as Category B and Category BA (Skonchai & Oliver Law Office 2005). (Note that the Non-immigrant visa Category IB confers special privileges which entail the third pathway of the process.)

Because a Non-immigrant visa can only be issued by a Royal Thai embassy or consulate and a visa for business or economic categories can only be issued if foreigners have evidence of

their employment or business in Thailand, it is essential for foreigners to have a job offer or business before entering the country. Or else, they have to do the so-called 'Visa Run' (Box 1).

Box 1 Visa Run

A 'Visa Run' is merely the practise of exiting and re-entering the country due to the time restrictions on the visa. It is commonly practised and completely legal. In Thailand, this activity can be done by any means of transportation via one of the designated immigration checkpoints. The destination varies, though neighbouring countries are favoured, and it depends on time available, financial capacity, and type of visa needed. Expatriates normally do the 'Visa Run' when they have to:

- Get a proper visa (for example, to change from a Tourist visa to a non-immigrant visa)
- Renew their expired visa
- Validate their visa or permission to stay
- Reapply for a visa after leaving the country without a 're-entry permit'

Intriguingly, to allow expatriates to stay without leaving the country, anecdotal evidence shows that a so-called 'Short Cut Visa Run' may be *illegally* possible by sending expatriates' passport out of Thailand and returning it with exit and re-entry stamps or a new visa. This activity is done by illegal agencies. The process is perceptively illegal; the outcome seems scarcely illegal. In fact, the outcome is legal, providing offenders do not get caught.

To save time, employers may apply for a work permit before their foreign workers arrive in the country. However, foreigners are not allowed to start working until the actual Work Permit is issued. A work permit is valid for only one year or no longer than the period of permitted stay, and it is subject to renewal. It is, also, important to note that a work permit is invalidated, if – for any reason – the visa is invalidated.

A non-immigrant visa is normally only valid for 90 days or, after extension, no longer than three years. Prior to the end of the authorized period of stay, the foreigners have to leave the country and do a 'Visa Run'. Therefore at one point or another, a 'Visa Run' is an unavoidable course of action for foreigners following this pathway.

Path Three: Under-Special-Laws pathway

This pathway is best described as ‘facilitated migration’ (International Organization for Migration 2004: 24). It is discretionary; however, open only to foreigners, who work or wish to work for companies promoted by the Board of Investment (BOI), the Industrial Estate Authority or the Petroleum Authority. Foreigners can enter the country with any type of visa or entry permit, or with a special Non-immigrant visa Category BI. If they have not yet held the Non-immigrant Category BI, then foreigners are able to apply for it in the country. This means no need for the ‘Visa Run’. Foreigners, then, can apply for a work permit. There is no limit to the period of time to stay. After the application for a work permit, the foreigners are allowed to work straight away. To assist and to steer clear of delay and inconvenience in the visa and work permit application for the foreigners under the special laws, as well as other foreign investors and foreign executives and experts, the Thai government established a special agency, which is the One Stop Service Center for Visas and Work Permits (OSSC) (Box 2).

Process of employment of illegal migrants

According to the Immigration Act B.E. 2522, foreigners are not allowed to enter the country to work as labourers or unskilled workers (Royal Thai Government 1979a: 52). This is, therefore, partly the reason that the Thai government currently countenances the employment of many illegal immigrant and *personae non gratae*. In this process, there are three different pathways: Under-Clause-12 pathway, ‘Illegal Migrant Worker Registration’ pathway, and Illegal Employment pathway.

Path One: Under-Clause-12 pathway

When foreigners become illegal migrants and are detained, while waiting for deportation or after being granted temporary stay, together with the evidence of their employment, they can apply for a work permit. It, in practice, differentiates the type of work permits issued for this group of foreign workers from those in the previous process. The DOE issues a specially designed Work Permit, so-called WP9, for Under-Clause-12 workers. The WP9 is valid no

longer than one year or the authorised period of stay. Nevertheless, if the permission is issued to the foreigners for temporary stay without a definite period, such as in the case of stateless people, the work permit is valid for 30 days and can be subject to renewal (Royal Thai Government 1978: 19). Usually, there is no restriction on travel and/or domicile.

Box 2 One Stop Service Center for Visas and Work Permits

The One Stop Service Center for Visas and Work Permits for Foreign Investors, Experts and Correspondents (OSSC) was established on 30 June 1997. With collaboration between the BOI, the Immigration Bureau, and the DOE, in order to speed up the procedure to promote good investment conditions, the Center provides expeditious services (within three hours) of all aspects of applications, renewals, and transactions of visas and work permits. Changing visa status from tourist (category TR) or transit (category TS) or other types of visa to non-immigrant visa can even be done at the Center. The services of the Center are available to expatriates who are:

- Foreign executives or experts obtaining prerogatives according to
 - The Investment Promotion Act
 - The Petroleum Act
 - The Industrial Estate Authority of Thailand Act
- General investors (work or office must be in Bangkok only);
 - Investing not less than 2 million baht, will be granted 1-year approval
 - Investing not less than 10 million baht, will be granted 2-year approval
- Foreign Exclusive and experts;
 - Working for a company with registered capital or total assets of not less than 30 million baht
 - Conducting research or development in fields of Science and Technology
 - Working as an official of a branch office of an overseas bank, foreign banking office of an overseas bank, provincial foreign banking office of an overseas bank, and the representative office a foreign bank that is certified by the Bank of Thailand
 - Working for the branch office of overseas enterprises
 - Working on a 'necessary and urgent' basis

Source: Ministry of Foreign Affairs (2005), online.

Path Two: 'Illegal Migrant Worker Registration' pathway

Since the second 'Illegal Migrant Worker Registration' in 1 September 1996, this pathway has been open only to migrants from Myanmar, Cambodia and Laos. Even though the Registration was initially intended to be an ad hoc policy, for over the past 12 years the Thai government has continually implemented new registrations or re-registration. In addition, in 2002-2003, the governments of the three countries have signed a Memoranda of Understanding, expressing their concern regarding illegal migrant workers in Thailand and calling for a future plan for bilateral agreements. It is clear this 'Illegal Migrant Worker Registration' pathway is becoming a permanent pathway for foreign employment.

After a careful study of the conditions, regulations and procedures imposed in past registrations and re-registrations, a clear pattern emerges. Foreigners are from specific countries (Myanmar, Cambodia and Laos), unskilled, and violating conditions of entry and/or the conditions of residence. In order to work legally in Thailand, after the government announces the Registration, foreigners must register themselves with the Immigration Bureau during an allotted period and, like Under-Clause-12 foreigners, acquire a permit for temporary stay (a so-called Temporary Resident Permit for Immigrants Awaiting Deportation – *Tor Mor 69*). However, unlike Under-Clause-12 foreigners, before receiving a temporary residence permit, they have to pass a health check. Normally, the residence permit is valid for between six months to two years, but mostly for one year. Both employers and foreigners are required to apply for the foreigners' work permit at the DOE. There are geographical restrictions (to live and work in a certain area). Re-registrations only allow the previously registered foreigners to take part.

Path Three: Illegal Employment pathway

This final pathway simply means working without a work permit. Foreigners can come into and/or stay in the country legally or illegally. Foreigners who enter the country legally (such as on a Tourist visa or 'days-pass') can keep their residence permits valid by doing the 'Visa Run'. Foreigners normally choose or are forced to follow this pathway when they are involved in criminal activities, work only for a short period, work in prohibited jobs, or are simply

unable to afford the permit fees. Without a work permit, these foreigners, unlike those in the other two pathways of this process, are both illegal migrant workers and illegal migrants.

Labour standards

Although, as seen in Table 4.3, Thailand (like many other countries) is not yet a full signatory to all eight core International Labour Organisation (ILO) conventions and the United Nations International Convention on the Protection of the Rights of All Migrant Workers and Member of Their Families, the new Thai Constitution (enacted in 1997) and its existing labour and employment statutes largely conform with the ILO conventions on International Labour Standards (Munck 2002: 129; Tungsuwan 2001: 1). Complying with the principal ILO Labour Standards, new Thai constitutional provisions regarding human rights take in, *inter alia*, freedom of association, the right to organise and engage in collective bargaining, non-discrimination in employment, the ban of servitude, and the protection of children (Munck 2002: 70; Royal Thai Government 1997a: 6-15).

Table 4.3 Core International Labour Organisation Conventions

Core conventions	Date of ratification of Thailand	Number of countries having ratified the convention (As of 10 August 2004)
Force Labour		
C29 – Force Labour (1930)	Ratified on 26 February 1969	140
C105 – Abolition of Force Labour (1957)	Ratified on 2 December 1969	151
Freedom of Association		
C87 – Freedom of Association and Protection of the Right to Organize (1948)	Not yet ratified	160
C98 – Right to Organise and Collective Bargaining (1949)	Not yet ratified	157
Discrimination		
C100 – Equal Remuneration (1951)	Ratified on 8 February 1999	117
C111 – Discrimination (1958)	Not yet ratified	122
Child Labour		
C138 – Minimum Age (1973)	Ratified on 11 May 2004	158
C182 – Worst Form of Child Labour (1999)	Ratified on 16 February 2001	156

Source: International Labour Standards Department (2004b), online.

It is worthy of note that, in recent times, with regard to workers' rights, as a result of growing globalisation of the world economy, the debate raging about labour standards has been prominent on the international policy agenda (Busse 2002: 1921). The so-called 'social clause' has been, in fact, debatable since post Second World War – whether labour standards affect

the international competitiveness of an economy (Busse 2002: 1921; Munck 2002: 128). On the one hand, it has been predicated by an old school of thought that higher 'labour standards mean higher labour costs' (Munck 2002: 129). The imposition of high labour standards, especially in labour-intensive economies such as Thailand, will diminish their competitive advantages.

From a neo-liberal point of view, on the other hand, the effect of the 'social clause' on a country's competitiveness is unclear. The empirical work of Matthias Busse (2002), for example, finds that some types of labour standards – such as the suppression of forced and child labour – even improve such competitiveness, especially in unskilled-labour-intensive countries, whereas there appear to be variously ambiguous findings about the impacts of the imposition on the other fundamental standards. Likewise, an OECD study refutes the old school of thought, discovering that 'any fear on the part of developing countries that better core standards would negatively affect either their economic performance or their competitive position in world markets has no economic rationale', especially if fundamental labour rights are to be universally abided by (OECD 1996: 105 quoted in Munck 2002: 129-130). It is, perhaps partly because of incompatibilities of national laws or regulations with the ILO conventions, but partly too no doubt because of the dichotomy of the two schools of thought, that there are currently only 74 countries having ratified all eight main ILO conventions, which are often called 'core conventions', albeit there is unanimous agreement on and pervasive observance of the provisions of the conventions among the international community (Busse 2002: 1923; International Labour Standards Department 2004b: online). All of the countries in the EU, for example, are a signatory to all core ILO conventions; the United States, however, has ratified only 2 core conventions – No. 105, the Abolition of Force Labour (1957) and No. 182, the Worst Form of Child Labour (1999).

With internal and external pressure, while becoming a more democratic society and integrating into 'the world contract labour migration system', it seems Thailand – in recent times – espouses the neo-liberal perspective, and thus the core conventions, more than it has in the past. The Thai government reportedly reiterates its intention to ratify all core conventions (Ministry of Finance 2004: online; Stern and Chantavanich 2003: 255). Thailand has, so far, ratified five of the eight core ILO conventions (International Labour Organization 2003b:

online). However, according to the Ministry of Finance (2004: online), there are still some incompatibilities between the national laws and the ILO conventions, as well as the lack of provision of Thai laws in application of the conventions, stifling the further ratification of the remaining core ILO conventions. In addition to the five ratified core conventions, Thailand has become a signatory to another nine ILO conventions (of which eight conventions are in force). This includes No.14 (1921) on weekly rest, No.19 (1925) on equality of treatment, No.80 (1946) on final articles revision, No.88 (1948) on employment service, No.104 (1955) on abolition of penal sanctions, No.116 (1961) on final articles revision, No.122 (1964) on employment policy, No.127 (1964) on maximum weight, No.123 (1965) on minimum age (which lapsed on 11 May 2004 due to the ratification of Convention No.138) (International Labour Standards Department 2004a: online).

Thus, Thailand now has an array of laws and regulations governing the rights and protection of workers or labour standards, covering most fundamental areas of labour welfare such as employment, industrial relations, social security, discrimination, and occupational safety and health. The existing major labour-related laws consist of the Labour relation Act B.E. 2518 (1975), the Social Security Act B.E. 2533 (1990), the Compensation Act B.E. 2537 (1994), the Labour Protection Act B.E. 2541 (1998), and the State Enterprise Labour Relations Act B.E. 2543 (2000). The contexts, coverage and exclusions of the laws are summarised in Appendix H.

Generally, the major labour-related laws of Thailand (except the State Enterprise Labour Relations Act) define ‘an employer’ as any person who pays workers, which also includes individuals or firms acting under the employer’s direction – such as those who subcontract work to a contractor for a lump sum, or those who use labour contractors. An ‘employee’ or a ‘worker’ means any person who works for an employer for pay. Theoretically, therefore, apart from being unable to form and administer labour unions, foreign workers working in Thailand possess equal labour rights with Thai workers.

In the report to the UN Secretary-General, the Thai government, also, re-states its commitment to the UN General Assembly that it enshrines full protection of legal migrants’ rights, which correspond to those of Thai nationals, under Thai national statutes and its new Constitution. In

addition, the government affirms that the legitimisation of employment of illegal immigrants prior to their repatriation warrants equal treatment and full protection of their rights, including social security, as well as other provisions (United Nations 2001: online). It is, therefore, appropriate to underline the statutory rights of workers, or 'acceptable conditions of work', that are most pertinent to foreign workers, under the following heads:

Recruiting: Although, it is now unlawful to discriminate against people on the basis of race, religion, sex, age, disability, politics, education and status, no Thai national labour-related law actually forbids discriminatory hiring. Not surprisingly, it is still common to find employers narrowly defining work conditions in Thai newspaper job advertisements, for example, 'the successful candidate will be male, under 35 years of age, not a member of a labour union, and at least 150cm. in height, etc.' (Royal Thai Consulate-General UK 2004: online).

Nevertheless, the law prohibits discrimination in the workplace, necessitating equitable treatment for both males and females (except in a job where the natural conditions of work do not permit such treatment). The law, also, prohibits sexual harassment by employers, supervisors or inspectors towards female or child employees (Royal Thai Government 1998a: 6).

Work Rules and Regulations: Employers with a minimum of ten workers are required to adopt and display the company's work regulations and rules concerning working days, normal working hours, recreation periods, holidays, overtime and holiday work, details of wage payment (including overtime and holiday payment), leave, disciplinary rules, claim procedures, and mode of employment determination (Royal Thai Government 1998a: 25-26).

Work Hours, Overtime, Holiday and Leave: By law, the maximum normal working hours must not exceed eight hours a day and 48 hours a week, except for activities that may be detrimental to the health and safety of workers, in which case a normal working day is not to exceed seven hours and a normal working week is not to exceed 42 hours (Royal Thai Government 1998a: 7). Workers are required to have a one-hour break after five hours of work (or at least a one-hour rest period in a normal working day) and they must take one day off per week. Weekly days-off shall have an interval of no longer than six days (Royal Thai Government 1998a: 8).

Workers (except pregnant workers) may work overtime but this must not exceed 36 hours per week. Workers are entitled to have at least 13 national holidays a year, including National Labour Day. After working for over a year on a continuing basis, workers are also entitled to an annual six-day vacation. Employers cannot compel their employees to work overtime or to work on holidays, except where employees agree of their own free will to do so, or the type or nature of work requires them to perform continuously, the cessation of the work may damage production, the work is urgent, as in some hospitality industries (such as hotel business, restaurants and hospital), or other works as stipulated under Ministerial Regulations. Providing overtime work takes longer than two hours, the law requires at least 20 minutes recreation period to be provided before workers resume their work. Overtime work or work on holidays must be paid at overtime rates, ranging from one and one-half to triple the normal average hourly rate (Royal Thai Government 1998a: 7-15).

In addition, there are provisions for sick, sterilisation, military, maternity, and personal leave from work with pay. By law, workers are entitled to take sick leave with pay for up to 30 days a year. Both male and female workers are entitled to a number of days-off as deemed appropriate by a first class medical practitioner for sterilisation, provided there is a medical certificate. If needed, workers can take military leave for up to 60 days per year with full pay. Female workers are entitled to 90 days maternity leave, with 45 days as paid maternity leave. Workers are, also, entitled to days off from work for necessary or emergency personal business (with pay or without pay depending on the company's work regulations). By complying with procedures and rules stipulated in the Ministerial Regulation, workers can take training and education leave; however, workers may not get pay during this leave (Royal Thai Government 1998a: 9-15).

Remuneration: Workers have a statutory right to receive their (full) wages at their work place, unless the workers agree otherwise. The deduction of debts from wages (though with some exceptions) is not allowed (Royal Thai Government 1998a: 17). Since 1972, legislature determining a minimum wage has been imposed, so as to ensure social equality by upholding standards of living and purchasing power and to prevent labour exploitation and poverty. The law, thus, enjoins employers to pay wages to their employees not less than the minimum wage rates, which are periodically set by the National Wages Committee. The minimum wage is a

daily rate set according to the cost of living, inflation, standard of living, cost of production, firms' competitiveness, labour productivity, GDP, and other economic and social conditions of the applied areas (Royal Thai Government 1998a: 21).

The law specifies two types of minimum wage rates: the standard minimum wage rates, and specific minimum wage rates for particular business activities which shall not be lower than the standard minimum wage rates. By law, the standard minimum wage rate shall apply universally, unless specific minimum wage rates have been determined (Royal Thai Government 1998a: 21). Currently, there are various standard minimum wage rates which are determined by region (not by industry), ranging from 133 to 170 baht per day, as can be seen in Appendix I.

Nevertheless, it is well known that enforcement of the minimum wage in the country is quite lenient: the government has insufficient numbers of officers to inspect and control this. As such, it is not surprising that a large number of people still work for less than their entitlement. For instance, in 1999, over 30 per cent of total private employees were found to be earning below the stipulated minimum wages (Brown, Thonachaisetavut, and Hewison 2002: 14-15; Shivakumar and Premyothin 2000: 5).

Suspension: Employers have no right to suspend an employee who is under investigation for fault unless such suspension is stipulated in the company's Work Regulations. Suspension must not exceed seven days in one event and the suspended employee is entitled to receive half of his/her normal wage during the suspension period. If the suspended employee is later exonerated, he/she is entitled to receive full wages retroactively (from the first day of suspension) and 15 per cent interest (Royal Thai Government 1998a: 28).

Termination of Employment: It is lawful for employers to terminate employment without paying compensation or severance pay where employees are dishonest in their work, employees deliberately execute a criminal action against their employers, employees intentionally cause harm to their employers, employees' negligence results in immense damage to their employers, employees flout the work regulations and rules (normally after having been given a written warning), employees have been absent from work for three

consecutive days without reasonable explanation, employees are sentenced to imprisonment, and/or employees have completed their work of a temporary nature with a specified schedule for commencement or completion (no more than two years), or their work is of a seasonal nature. In all other circumstances, employees are entitled to severance pay on their departure. The rate of severance pay is varied depending on the duration of their employment prior to the time of the termination, as shown in Table 4.4.

Table 4.4 Rate of Severance Pay

Duration of Employment	Severance Pay Rate (of the last wage paid)
120 days to 1 year	30 days
1 year to 3 years	90 days
3 years to 6 years	180 days
6 years to 10 years	240 days
At least 10 years	300 days

Source: Royal Thai Government (1998a), p. 28-29.

Employees may be given a so-called ‘special severance pay’ if the termination of their employment is a result of organisational re-structuring, changes in a manufacturing and/or production process, improvement in the distribution and/or administration on account of use of new machinery or technology which thereby results in the reduction of the number of employees. The general rate of ‘special severance pay’ is equivalent to the rate of the last 60 days wages, provided the employees are given 60-days advance notice. But, if the employer fails (for any reason) to notify his/her employees about the termination of their employment 60 days in advance, the dismissed employees are entitled to both the normal severance pay (as outlined above) and, in lieu of the advance notice, the ‘special severance pay’ (at the rate of the last 60 days of wages paid).

Additionally, if their employees have worked continuously for six years or more, employers are required to pay the dismissed employees an extra ‘special severance pay’ at the rate of 15 days’ wages for every full year of employment; however, the entire ‘special severance pay’ cannot exceed a sum equal to the last 365 days wages. It is also important to note that, in case of workplace relocation, the relocated employees have a statutory right to resign and receive a ‘special severance pay’ at the rate at least 50 per cent of what they may get from the ‘normal’

severance pay, providing the employees are given an at least 15-days advance notice. If they are not notified at least 15 days in advance, such employees may be compensated with an extra ‘special severance pay’ at the rate of the last 30 days of wages paid in lieu of the advance notice (Royal Thai Government 1998a: 30-31).

Compensation Benefits: Where workers sustain injury or become ill or die or disappear as a result of or during the normal course of their employment, under the Compensation Act B.E. 2537, workers (or the bereaved – namely parents, spouse, and children under 18 years of age or those with disability or who still undergo studies not higher than undergraduate level) – are entitled to medical, disablement and/or death compensation benefits. The benefits are paid by employers who get the wherewithal from the ‘compensation fund’. By law, the payment of compensation benefits must be calculated and made according to the criteria, precepts and rates stipulated in the Ministerial Regulation. There appear to be four broad categories of compensation benefits to which the injured, ill or dead workers are entitled, according to the Compensation Act B.E. 2531. This includes a monthly indemnity, medical expenses, work rehabilitation expenses, and funeral expenses (Royal Thai Government 1998a: 7-9).

General Social Security: Workers with social security registration (or statutorily called ‘insured persons’) are entitled to benefits for the loss of wages as a consequence of non-work related injury, illness, disability or death, and childbirth. The benefits also cover child welfare, old-age pension and unemployment (Royal Thai Government 1990: 24). Even though the benefits paid may not be sizable, they can be significant in cushioning the financial loss for low-income earners.

In case of injury or sickness, all medical expenses are covered by social security benefits; however, the benefits are limited in an emergency, depending on the kind of treatment required. For example, the benefits currently cover at most 14,000 baht for surgery. In the case of childbirth (which is covered only twice per person), ‘insured persons’ are paid 4,000 baht and half of 90-days wages to compensate the loss of their income. The current monthly child allowance is 150 baht per child (maximum of two children per one ‘insured person’). If the ‘insured persons’ are unable to work due to permanent disability (which is unrelated to work), in addition to necessary medical treatments and the child allowance, they will receive a

monthly medical expenses support (maximum 2,000 baht) and will be compensated for their income loss with half of their wages for life. In cases of non-occupational-related death, the benefits currently pay 30,000-baht funeral expenses and provide financial support to their dependents (which varies depending on the duration of their social security registration). 'Insured persons', who are over 55 years of age and retired, are entitled to a lump sum or periodic pension. The rates for this also vary, depending on the duration of social security registration. Even though the provision of unemployment compensation is not yet enforced by law, resigned or terminated workers with social security registration are covered by the social security scheme for injury or illness, childbirth, disability and death within six months after their resignation or termination of employment (Ministry of Labour 2004: online).

In exchange for a 3,360-baht fee per year, self-employed persons can now insure themselves with the social security scheme and obtain vital benefits pertaining to childbirth, disability and death. Illness, however, is not included in the social security benefits for self-employed persons because there is no government contribution and any self-employed persons already possess the right to apply for the newly promulgated 30-baht health care scheme, providing free medical services or charging a flat fee rate of 30 baht per visit. However, this new health care scheme is exclusively for Thai nationals (Pitayanon 2002: 261-262). Nevertheless, registered illegal migrant workers under the 'Illegal Migrant Worker Registration' scheme are covered by health insurance which provides medical services like those of the 30-baht health care scheme (Huguet and Punpuing 2005: 38).

Occupational Safety and Health: Under the Labour Protection Act B.E. 2541, employers are required to ensure and provide for the safety, occupational health and welfare of their workers in accordance with the Ministerial Registration and Announcement, or else, they are liable to a fine of up to 20,000 baht (Royal Thai Government 1998a: 24-39). Up until now, the government has promulgated at least 17 Ministerial Regulations and Announcements in relation to the occupational safety and health of workers in various (specific and universal) business activities (Asian Workers' Occupational Health 2004: online; Thai Labour Campaign 2004: online). For example, the Ministerial Announcement of the Ministry of Interior on Safety at Work in Connection with Environmental Condition, which is applied to all businesses, aims to prevent the common perils that may arise from the work environment

(such as heat, lighting and noise) and to regulate the standard of safety equipment (such as helmets, earplugs and earmuffs) (Royal Thai Government 1976). And, as a signatory to the ILO convention concerning maximum weight, No.127 (1964), under the Labour Protection Act B.E. 2541, employers in Thailand are not allowed to require their workers to lift, carry, pull or push something exceeding a weight determined under the Ministerial Regulation (Royal Thai Government 1998a: 10). In addition, the government requires a business with at least 50 workers to establish a so-called Welfare Committee to look after and make recommendations pertaining to workers' welfare to the employers (Royal Thai Government 1998a: 23).

Industrial Relations: For a long time, the Thai government did not recognise the right of workers either to unionise, or to bargain collectively with employers (Chantaravittu 2001: 206-207). Even after the enactment of the Labour Relations Act B.E. 2518 and the State Enterprise Labour Relations Act B.E. 2543, foreign workers are still banned from forming their own labour unions or federations (Royal Thai Government 1975: 51; Royal Thai Government 2000b: 12). This perhaps explains the failure to ratify the two core ILO conventions on the freedom of association and collective bargaining – No. 98 Freedom of Association and Protection of the Right to Organize (1948) and No. 98 Right to Organize and Collective Bargaining (1949).

Nonetheless, because of the persisting dichotomy in political and economic factors (strong opposition from employers and sometimes from the government itself, the politically charged nature of unions, and the changes in the Thai labour force accompanying recent rapid economic development), unions in Thailand, it appears evidently, are still relatively in their infancy (Brown, Thonachaisetavut, and Hewison 2002: 23-28; Chantaravittu 2001: 207-240). In 2000, of just over three million employed persons in the country, only 283,124 workers or about 9.4 per cent were members of a union. There were nine councils, 19 federations and 1,063 unions in the private sector (Brown, Thonachaisetavut, and Hewison 2002: 24; National Statistical Office 2004: online).

Female Labour: In order to protect women, the Labour Protection Act B.E.2541 regulates various aspects of the employment of female workers. Employers are not allowed to require

their female workers to perform mining or construction work that is carried out underground, underwater, in caves, in tunnels or in passageways in mountains (except where the nature of the work is not detrimental to the workers' health and safety); to work on a scaffold over ten meters above the ground; to carry out the production and/or transport of explosives or inflammables; or to engage in other works stipulated under the Ministerial Regulation. Nor are employers permitted to have pregnant workers carrying out night-work (between the hours of 10 p.m. and 6 a.m.), overtime or holiday work, work that involves machinery or tools with vibration, driving or work associated with transportation, work that involves lifting, carrying or moving an object weighing more than 15 kilograms, or work performing in ships.

Pregnant workers, as is mentioned earlier, are entitled to a total 90-day maternity leave (but a 45-day paid maternity leave). Female workers are also protected by the law from dismissal on the grounds of pregnancy. Furthermore, with a medical certificate, female workers have the right to request their employers to change their work responsibility as appropriate on a temporary basis either previous to or following childbirth (Royal Thai Government 1998a: 10-11). As a corollary to these laws and regulations, 'labour standards' for female workers in Thailand have greatly improved over the last decade, as incidence of contravening female worker provisions has substantially declined (from 70.67 per cent in 1992 to 40.93 per cent in 2000 nationwide) (Brown, Thonachaisetavut, and Hewison 2002: 19-21).

Child Labour: Thailand is a signatory to both core ILO conventions that concern child labour – No. 138 Minimum Age (1951) and No. 182 Worst Forms of Child Labour (1999). The employment of children is currently governed by the Labour Protection Act B.E. 2541. The law strictly prohibits the employment of a child less than 15 years of age. The employment of a child aged less than 18 years without concurrence from the Labour Inspectorate is banned (Royal Thai Government 1998a: 11).

Where consent is given to employers to employ a child under 18 years of age, it is incumbent upon the employer to provide such workers an uninterrupted recreation period of at least one consecutive hour after four hours of work. Child workers cannot undertake work between the hours of 10 p.m. and 6 a.m., overtime work or work on holidays. Persons under the age of 18 years cannot work in places that are deemed to be morally inappropriate. Nor can child

workers work in situations that may involve physical danger or discomfort (Royal Thai Government 1998a: 11-12).

Child workers are entitled to receive 'full' emoluments earned from their work with the rate not less than the stipulated minimum wages, and are also entitled to child development leave with pay (a maximum of 30 days per year). It is prohibited to pay entitlements of a child worker to a third party (even to their parents), and deducting from a child worker's wages for any reason is also banned. With appropriate notice and documentation, child workers have the right to paid leave to attend meetings, seminars, and training sessions which are held by approved educational institutes or agencies (Royal Thai Government 1998a: 13).

In all, most fundamental areas of labour welfare are, in theory, protected by Thai laws. This indicates that the Thai government has become more neo-liberal, owing partly to 'the world contract labour migration system'. Nevertheless, due to Thailand's historically poor record on 'labour standards', the exercise of such workers' basic rights in practice is in question (Chantaravittru: 2001; Pitayanon: 2002). The extent to which some of these basic rights are currently exercised among migrant workers in the country will be examined in the two case studies (Chapters Six and Seven).

4.4 Conclusion

In summary, laws and regulations do not only shape the size and component, but also impinge on the processes of international migration and employment. On the legislative front, the Thai government imposes a quota or ceiling system based on nationality for the admission of permanent residents and stipulates various restrictions on entrance, residence and activities with which foreigners must comply. All the same, the government enforces varying conditions and exceptions for different groups of foreigners. For economic rationale, when the demand for foreign workers rises, the government reacts by promulgating special laws, relaxing some restrictions, and making use of exceptions to the law to widen the door for foreign workers to come in. With the exclusion of rights to form and administer labour unions, authorised foreign workers (both legal and illegal migrants) possess equal labour rights with Thais under the law. However, the overall current immigration policy is no less prohibitive than previously.

Following a through examination of the current legal situation, this chapter described the Six-Pathway process of labour migration into the country: the Permanent Resident pathway, Non-immigrant pathway, Under-Special-Laws pathway, Under-Clause-12 pathway, 'Illegal Migrant Worker Registration' pathway, and Illegal Employment pathway. The conception of this Six-Pathway process of labour migration into Thailand will be particularly useful in the next chapter where characteristics and trends in migrant workers to the country are examined.