

Human Security in ASEAN: The Cases of Health Security versus Industrial Development and Insecurity of Immigrants in Thailand

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INTRODUCTION

During 1980s and 1990s, UNDP has been promoting rights-based development paradigm. The concept of “Human Security” was the theme of the 1994 UNDP Human Development Report and an independent Commission on Human Security was launched at the 2000 UN Millennium Summit. The Commission on Human Security was officially established in June 2001, it had the life span of 2 years and the Report titled *Human Security Now: Protecting and Empowering People* came out in June 2003. Since a conventional “state security” framework alone can no longer fully ensure people’s survival, livelihood, and dignity; “human security” is needed to complement state security ideas. “Human security” also complements existing ideas, such as human rights and human development. The definition of human security given by the Commission is to protect the vital core of all human lives in ways that enhances human freedoms and human fulfillment. Human security means protecting fundamental freedoms—freedoms that are the essence of life and creating political, social, environmental, economic, military and cultural systems that together give people the building blocks of survival, livelihood and dignity. (Commission on Human Security, 2003:4).

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The concept of “Human Security” has been proposed to be viewed in terms of threats and rights. The conventional development strategy of satisfying “basic minimum needs” of the people has been gradually changed to view human development in terms of rights of people to have decent way-of-life. In the UNDP 1994 Human Development Report, threats can be considered under seven main categories: economic, food, health, environmental, personal, community, and political. These are issues identified as threatening to the well-being of people and need to be securitized. In the process of securitization to achieve the goal of the well-being of the people, people must have “freedom from want” and “freedom from fear”. This means that in terms of development paradigm, there has been a shift from needs-based to rights-based. Furthermore, human security issues may be largely classified into (1) human security of people affected by development, and (2) human security of people on the move.

This paper examines two human security cases in Thailand and ASEAN region representing the two categories of affected people identified above. The first case is on the development-related issue concerning environmental and health security affected by industrial development. The second case is on the insecurity of immigrants.

HEALTH SECURITY AND ECONOMIC DEVELOPMENT: The Case of Maptaphut Industrial Estate and the People

In 1981, the Eastern Seaboard Development Plan was announced after the discovery of natural gas in the Gulf of Thailand. The master plan designates Laem Chabang Seaboard in Chonburi to support light industry and Maptaphut Seaboard in Rayong to support heavy industry. In addition, the Master Plan of the Petrochemical Industry Phase III (2003-2018) identified Maptaphut and its neighboring districts (Muang, Banchang, and Pluakdaeng) as industrial estates zone. There has been no mechanism to monitor the implementation of the master plan.

A research report of the Cancer Research Institute of Mahidol University indicates higher incidence of cancer cases in Maptaphut area during 1997-2001, both in terms of number of cases and severity of incidents (Dejrat *et al.*, 2007)

The 2007 Constitution and the 2007 National Health Act are the two instruments which empower the people to demand for their right to safe health conditions.

Part 12 of the 2007 Constitution titled “Community Rights” has two sections:

Section 66: Right to Community

Persons assembling as a community, local community or traditional local community shall have the right to preserve or restore their customs, local wisdom, arts and goods culture of their community and of the nation; and participate in the management, maintenance and exploitation of natural resources, the environment including the biological diversity in a balanced and sustainable fashion.

Section 67: Right of participation in managing natural resources and environment

The right of a person to participate with the State and communities in the preservation and exploitation of natural resources and biological diversity and in the protection, promotion and conservation of the quality of the environment for usual and consistent survival in the environment which is not hazardous to the sanitary health condition, welfare or quality of life, shall be appropriately protected.

Any project or activity which may seriously affect communities with respect to the quality of the environment, natural resources and biological diversity shall not be undertaken, unless, its impacts on the quality of the environment and health for the people in the communities have been studied and evaluated in

consultation with the public and interested parties through organized public hearing, consisting of representatives from private environmental and health organizations and from higher education institutions providing studies in the field of environment, natural resources or health, prior to the operation of such project or activity.

The right of a community to take legal action against a government agency, state agency, state enterprise, local government organization or other state authority which is a juristic person to enforce the performance of duties under these provisions shall be protected.

At the same time, the 2007 National Health Act, requires that Health Impact Assessment be carried out before public policy projects can be implemented. The 2007 National Health Act states:

Part I: Rights and Responsibility Related to Health

Section 11: Persons or group of persons have the right to request for health impact assessment and have the right to participate in health impact assessment of projects concerned with public policy.

Persons or group of persons have the right to request for information, explanation, and reasons from government agencies prior to the implementation of projects or activities which may have health impact on the persons or communities and may express opinion on the issues concerned.

June, 2009

The President of the Anti-Global Warming Association and 43 other persons living in the Maptaput Industrial Estate filed a suit against the National Environment Commission, Secretary General of the Natural Resource and Environmental Planning Board, Minister of

Natural Resources, Minister of Industry, Minister of Energy, Minister of Transport, Minister of Health, and Thailand Industrial Estate Office, asking the Administrative Court to revoke EIA reports of projects or activities of 76 projects in the Maptaput area and to order termination of all activities of the 76 projects.

September ,2009

The Prime Minister on behalf of the Public-Private Coordinating Committee approved EIA reports of 55 projects to be granted permission for construction and operation without fulfilling Section 67, clause 2 of the 2007 Constitution. The argument was because the organic law indicated in the clause has not been promulgated.

Suthi Atchasai, Coordinator of the Eastern People Network, lead the protest and requested the Administrative Court to issue temporary rescue order. The administrative Court issued the temporary rescue order for the 76 projects to stop all activities on September 29, 2009. Approximately, two weeks later, the Cabinet approved the decision to appeal the court order.

October 2009

Sutthi Atchasai submitted a complaint to the National Human Rights Commission of Thailand (NHRCT) detailing health conditions of the people affected by poor environmental conditions due to emissions of chemicals from petrochemical plants and other heavy industries in the areas. NHRCT and the Eastern People Network agreed to make three demands:

1. The need for a health impact assessment (HIA)
2. An independent organization to approve EIA and HIA
3. Public hearing of all stakeholders.

In order to follow Section 67, clause 2 of the 2007 Constitution, the Cabinet endorsed revision of the 1982 Environmental Act. But, according to the 2007 Constitution, an independent organization to

evaluate EIA and HIA needs to be established. The people protested against the Cabinet decision,

Many alternatives were proposed but not accepted by the people. Prasan Maruekkhakitak reported that operations of the 76 projects still continued. But, the Minister of Industry claimed that the ministry had no authority to stop operation of the plants if the operation did not revoke the 1992 Industrial Act.

November 2009

A Four-Party Panel was established with Anand Punyarachun, a former Prime Minister, as chair. Activities include:

1. Classification of 8 groups of industries from most hazardous to least.
2. Drafting of organic law according to Section 67 of the 2007 Constitution.
3. Proposing a structure and composition of independent organization to evaluate HIA and EIA. Suggestion to set up temporary organization before final promulgation of the law was made.
4. Investigating health conditions of people living in industrial estate zones. Statistics indicate much higher incidents of pollution-related diseases and cancer.
5. etc.

December 2009

The Cabinet approved 405 million baht for emergency recovery and rehabilitation plan for Maptaphut.

The Supreme Administrative Court ordered temporary termination of all plants except 11 projects, 7 non-hazardous and 4 transportation projects. Another 19 projects were submitted for appeal.

The Four-Party Panel members agreed to speed up the process to solve the dead-lock quickly. They met 3 times a week and negotiated with stakeholders to reach solutions.

January 2010

The Cabinet approved to set up an interim independent organization to evaluate EIA and HIA reports.

EIA studies of 65 projects has been implemented with new HIA reports to be completed within 6 months.

ASEAN Integration and Implications for Human Rights Promotion and Protection

1. This case study demonstrates clearly that Thailand and other ASEAN countries are facing the dilemma of having to sacrifice health and environmental security for economic development.

Local people are now realizing that they have their rights. People have learned to organize themselves to protect their rights. Health security is being demanded through the application of Health Impact Assessment regulation. Environmental protection plans and activities are expected to be derived from the Environmental Impact Assessment requirement.

2. Multi-national corporations must realize that their corporate social responsibility is being tested. It is not acceptable for the firms to make threat that the firms will be moved to other countries which do not have strict requirements for environmental and health protection for the people. With ASEAN integration, all ASEAN member countries will gradually recognize the need to protect the environment and health of the people.

THE INSECURITY OF IMMIGRANTS

Two immigration cases are discussed in this section. They demonstrate the complexity and sensitivity of the relationship between the immigrants, the host countries as well as the transition countries. There is no single solution to deal with immigration issue. Each government will have to deal with the different groups separately.

1. Lao Hmong in Huay Nam Khao Temporary Shelter, Phetchabun Province

Since September 2004, this group of Laotian Hmong had been residing in Ban Huay Nam Khao settlement. The number of people was around 4,000 persons and increased to around 8,000 persons in 2009. They came from:

1. Luang Phrabang, Chiangkwang, Chaiburi, Vientiane, Udomsai, and Saisombun, in Laos PDR.
2. Thamkrabog Temple in Saraburi, Thailand, where drug addicts were treated. The US took most of the Hmong residing at the temple to settle in the US. Those who did not go were moved to Huay Nam Khao settlement.
3. Ban Vinai Camp, Loei Province where Hmongs who were anti-Lao Government during the cold war had been relocated. This group has been considered political displaced persons.

Thus, there were both political and economic displaced persons. Economic migrants came to Thailand hoping to be settled in the US similar to their political predecessors. Many paid agents to organize the trip to Thailand to be eventually settled in the US. Human trafficking has been known to take place.

Events During 2008

23 May 2008:

Fire burned 500 homes and ‘arson’ was suspected. There were 8000 villagers of 1,119 families from 6 areas (Chiangkwang, Vientiane, Borikumxi, Luang Prabang, Xang Nua, Chaiburi). They were from 18 surnames. A few months later 3,000 persons were repatriated.

20-30 June 2008:

20 June: 4000 Laotian Hmongs gathered and blocked the road.

21 June: Troop of scouts dissolved the rally at night.

22 June: Chief Commander of the Ad-hoc joint forces between civil servant, police and military units of Khao Khor sent 111 families (823 persons) of Laotian Hmongs back to Laos PDR. While the 823 persons who were reported to ‘volunteer’ to go back, were still afraid of their safety.

30 June: Repatriated Laotian Hmongs requested visits from foreign organizations.

2 July 2008

Embassy, media, and UNHCR representatives visited Laotian Hmongs at Petchaboon. Many Laotian Hmongs requested to go to third country.

16-17 December 2008

A group of Laotian Hmongs escaped from camp and reported to foreign news agencies. They insisted that they are Wang Bee Song, son of Wang Pao’s soldier who was jailed in Laos PDR. They did not want to go back to Laos PDR for safety reasons. There were many women and children and they could not migrate to nearby provinces easily.

Activities during 2009

19 February 2009

General Bua Sieng visited Huay Nam Khao with Hmong leaders with the cooperation of the Thai Army. Pier Saelee and others insisted that Laotian Hmongs have been killed in Laos PDR.

September 2009

A riot took place when a man and a woman selling lottery tickets were arrested. It was reported that some of the Hmongs grabbed the sticks from the fence and started fighting against the Thai soldiers, while the Thai soldiers used their real weapons.

General Procedure for Repatriation

Classification of displaced persons into political and economic status was made. Political displaced persons were given the status **Persons of Concerned (POC)** to be settled in third countries. Economic displaced persons were to be repatriated back to Laos PDR.

In 2009, 158 persons were granted **Persons of Concerned** status. They were living in Nongkhai to be settled in USA, Canada, Australia, and the Netherlands.

Laos PDR and Thailand established a Joint Border Committee (JBC) to decide on policies to be implemented along the border. The two countries agreed to repatriate Laotian Hmongs back to Laos PDR. The deadline was set at the end of 2009. It was agreed that after 2009, Laos PDR would not take any persons back.

Between May 2007 and September 2009, 17 groups of 3059 persons were repatriated. It was agreed, based on the decision of the JBC, to send the rest back to Laos PDR before the end of 2009. Both governments claimed that this bilateral agreement needed to be observed over what UNHCR and other western countries called international law or international standard.

On 29 December 2009, approximately 4000 Laotian Hmongs were repatriated to Pak Son, a settlement near Vientiane and the 158 POC were sent to Vientiane to prepare for third countries. They were expected to leave within 30 days. But until now, no progress has been reported to the public.

ASEAN Integration and Implications for Human Rights Promotion and Protection

1. The debate on relationship between bilateral JBC agreements *vis-à-vis* international law (*non-refoulement* principle) needs to be resolved. For the JBC agreement to be credible, the two countries need to carry out the followings:

- The Thai and Lao PDR governments will have to prove that their bilateral agreement is transparent with no violation of human rights of the people.
- The Laos PDR government will have to prove to the public that they will adopt reintegration policy and welcome all returnees. All past activities will be forgiven and reintegration of the Lao society is indeed the policy of the Laos PDR government.

2. The process for third countries to take political displaced persons to their destination needs to be clarified. There seems to be some misunderstandings between the different agencies in transition country (Thailand), the responsible UN agencies, and the embassies of the third countries. At the moment, since all 158 persons have been transferred to Laos PDR, immigration to third countries will have to be dealt with the Laos PDR government.

3. The roles of UNHCR and MFA in the verification process were not clear. Definite qualification requirements and procedure should be identified and made transparent. Both Laos PDR and Thai governments need to finish up the repatriation and reintegration processes with no human rights violations.

4. Human trafficking agencies have been partly responsible for the complexity of the situation. Many Laotian Hmongs sold their belongings at home to come to Thailand with the promise and hope to travel to third countries. Their savings have been used up and resettling back home may not be easy.

5. In the case of repatriation of Laotian Hmong, both Thailand and Laos PDR governments have provided returnees with small funds to help resettle. This process should also be made transparent.

2. Rohingya

In January 2009, BBC reported that the Thai Navy violated human rights in pushing away Rohingya traveling in boats in the Andaman Sea along the west coast of Thailand. As a result 78 youth and men were detained at Ranong Detention Center.

A few months later, two persons died while in detention (17 and 15 years old) due to crowdedness and health reasons. The Convention on the Rights of the Child (CRC) and the Inter-covenant of Civil and Political Rights (ICCPR) needed to be implemented.

After the death of the two youths, the other 76 Rohingyas were sent to the Immigration Detention Center in Bangkok. Conditions in Ranong and Bangkok Immigration Centers are poor. Requests for the improvement of the centers are being made in terms of financial support from the government and health care support from the Ministry of Public Health.

The Bangladeshi and Myanmar Embassies have been contacted to verify citizenship of the detainees. In addition to the 76 arrested from the sea, other people have been incorporated into the group, totaling 84 persons. They are 28 Bangladeshi, 8 Burmese Muslims, and 48 Arakan Muslims.

The Bangladeshi government is willing to take back 28 individuals. Of the 56 people left, there has been no response from the Myanmar embassy. Future Rohingya returnees are asked to identify the ports where they want to be sent back. The issue regarding policy of the Myanmar government on minority groups and their safety if deportation take place remains to be examined closely.

ASEAN Integration and Implications on Human Rights and Human Security

1. The Rohingya left their home towns for economic reasons to find work in Thailand, Malaysia, Indonesia, and Brunei as well as other countries further away.
2. Countries of origin include both Bangladesh and Myanmar. Neither of the countries may be willing to take back the travelers.
3. The Rohingya travelers do not want to go back home. They made decision to leave home to find work.
4. ASEAN community needs to design mechanism to deal with immigration issues: combining immigration law with labor law. The case has been submitted to explore appropriate solution in the next ASEAN Summit.

Conclusion

This paper examines human security issues in terms of development and human rights through two case studies, representing the two prongs of the human security concept—people in the development process and people on the move. The paper also discusses implications of the two cases on ASEAN integration process.

In case of Maptaphut, right to development of both investors and people living around the industrial estates is the debate. Health

security of the people has been affected by the development projects and solutions are being sought. The second case of immigrants concerns “people on the move” for political and economic reasons. Push and pull factors for migrations have been identified. While the Laotian Hmongs case is considered bilateral issue, the Rohingya case has been tabled for discussion at the ASEAN level.

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