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Publication Date

2020-03-04

Peer reviewed

State capacity and opportunistic governance: the causes and consequences of regulatory brokerage in Thailand's guestwork formalization process

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Abstract: How and why does brokerage become pivotal to guestwork governance? While research on intermediaries in temporary migrant labor programs has proliferated in the last decade, there is limited analysis of the conditions that create regulatory roles for brokers and that shape their policy and social impacts in host states. By analyzing the causes and consequences of documentation brokerage in Thailand's guestwork formalization process, I link sociological work on brokerage with relational conceptions of state power. Drawing from 17 months of ethnographic fieldwork in Thailand, I argue that gaps in the state's regulatory infrastructure amid heightened coercive policy enforcement create profitable opportunities for brokers to intermediate between migrants, employers, and state offices to facilitate policy implementation. The informality and opportunism of such brokerage, however, can also generate activities that undermine official policy, with varying consequences for state control. Comparing brokerage between an interior and border site, I show that brokers in each location improve the state's capacity to formalize migrant labor, but the added social/regulatory dimension of the border in the second site creates brokerage opportunities that push the boundaries of official policy. In both sites, documentation brokerage imposes adverse economic effects on migrants.

Keywords: brokerage, governance, labor migration, state power, borders

The integral role of intermediaries in guestwork programs – government-controlled temporary migrant labor schemes – highlights brokerage as an element of state power. A ubiquitous social mechanism that distributes resources and information between otherwise disconnected parties (Stovel and Shaw 2012), brokerage is a part of the infrastructures that make labor migration possible (Shrestha and Yeoh 2018; Xiang and Lindquist 2014). While literature on brokerage in guestwork programs has proliferated in the last decade, detailing its varied roles in recruitment and travel from sending countries (Hernández-León 2020; Martin 2017; Xiang 2012) as well as in governance systems of migrant receiving states (Surak 2018), there is still limited analysis of

the sources of regulatory brokerage and its outcomes. Studies show that intermediaries can enhance host state control capacities with efficient management and heightened surveillance, all while shifting accountability for migrant wellbeing away from the state (Anderson and Franck 2017; Kemp and Rajjman 2014; Tseng and Wang 2011). Yet, what conditions create brokerage opportunities and shape subsequent policy and social impacts?

In this article, I analyze the causes and consequences of brokerage in Thailand's labor migration system, illuminating informal documentation brokerage as a regulatory institution in guestwork schemes and as a component of state control capacity more broadly. Following a trend of guestwork formalization across Asia (Lindquist et al. 2012), the Thai government is in the process of replacing longstanding systems of semi-legal migrant labor, sanctioned on an ad hoc basis, with more official programs to manage the over four million migrant workers that make up 10% of the country's labor force (IOM 2019). Integral to the advancement of this goal have been informal documentation brokers, who intermediate between migrant workers, employers, and state offices to incorporate workers into the state's formalizing system. Specifically, these intermediaries have facilitated the documentation of "regular" migrant labor with access to benefits and social protections in the interior and of cross-border labor with restricted rights and protections in peripheral zones. In this context, I ask: how and why does brokerage become pivotal to guestwork governance? More specifically, what conditions create opportunities for informal brokers to participate in such governance and with what consequences for state policies and migrant worker lives?

Drawing from 17 months of ethnographic fieldwork in Thailand between 2015 and 2019, a period of intensified guestwork formalization, I argue that “infrastructural holes”¹ – gaps in the state’s regulatory infrastructure – amid heightened coercive policy enforcement create opportunities for brokers to profit by intermediating between migrants, employers, and the state to document workers. These conditions, however, also allow the inherently opportunistic brokers to operate in ways that can both support and potentially undermine official policies. I first present a background of the Thai state’s guestwork aims and implementation capacities, showing that while it can enact and coercively enforce laws, limitations in controlling international borders and administering documentation procedures hinder implementation. I then show how brokers fill infrastructural holes with varying consequences, analyzing two types of documentation brokerage corresponding to two sites: (1) provincial documentation brokerage to regularize – legalize the work, residence, and social protection status of – seafood labor in Samut Sakhon and (2) cross-border documentation brokerage to formalize a system to spatially contain migrant workers with limited rights in the Tak border zone. I show that while brokerage in each case improves the state’s capacity to formalize migrant labor, the social and regulatory dynamics of the border in the second site creates opportunities to profit by pushing the boundaries of official policy, with varied implications for state control. Regardless of outcomes for the state, in both cases, documentation proves an expensive economic burden on migrant workers.

This article links sociological work on brokerage with relational conceptions of state power. Beyond Thailand, the findings advance a growing understanding of how migration

¹ This term is inspired by sociological literature on brokerage and “structural holes” in organizations (Burt 1992), adapted to an analysis of state infrastructural power (Mann 1986).

industries relate to the state in guestwork governance (Goh et al. 2017; Surak 2018) by elucidating documentation brokerage as a regulatory institution of receiving states. More broadly, the study shows how informal intermediaries can help and/or hinder state efforts to “embrace” foreign populations within its regulatory grasp (Torpey 1998) and suggests conditions that may lead to brokerage and opportunistic governance activities in other locations and policy realms. Such informal governance arrangements may grow from and affect contexts with limited infrastructural state power (Mann 1986:59) to effectively implement policies, further illustrating the varied governance processes and shifting boundaries of the state (Morgan and Orloff 2017).

BROKERAGE, STATE POWER, AND GUESTWORK GOVERNANCE

Brokerage is pervasive throughout all societies. Reflecting Simmel’s (1950) foundational insight that a “third element” located between established social positions creates new opportunities and possible outcomes among the triad, brokerage is one of the most common (among few) mechanisms by which otherwise disconnected actors engage in economic, political, and social interactions (Stovel and Shaw 2012:14). Enabling these interactions, brokers “trade on gaps in social structure” and facilitate the flow of valued resources (e.g., goods, opportunities, and knowledge) across them (Stovel et al. 2011:21327). By filling “structural holes” between unconnected parties, those in intermediary positions can reap advantages (Burt 1992). Often located at the interstices of formal and informal practices (Faist 2014), brokerage involves micro-level relations with macro-level implications, affecting, for example, the nature and outcomes of economic exchanges (Brady et al. 2015; Fernandez-Mateo 2007; Rossman 2014), organizational life (Burt 1992; Kellogg 2014), immigration and transnationalism (Gutierrez 2020; Katz 2014), community resource access (Small 2006), and national economic development (Samford 2017).

Guestwork governance is a fruitful area for studying brokerage as a component of state power, potentially complementing literature on party politics, clientelism, and delegated governance amid deficient state institutions (Auyero 1999; Müller 2013). Useful for developing such an analysis is the concept of “infrastructural power”, or the “institutional capacity...to penetrate [a state’s] territories and logistically implement decisions” (Mann 1986:59). Distinct from despotic power that state elites exercise without civil society approval, infrastructural power highlights the relational nature of state capacity: in addition to coursing through state agencies, it is grounded in the organizational intersections between state and nonstate actors and institutions (Soifer and vom Hau 2008). Such power is essential to governing labor migration, as states wield it to identify people and control their mobility (Torpey 1998), manage their entry, employment, and exit (Castles 1986; Ellerman 2009; Surak 2018), and convert undocumented populations into state-sanctioned labor (Calavita 1992; Castles 2006). Guestwork governance involving intermediaries fulfilling regulatory functions of the state, as in Thailand, is particularly illustrative of the relational aspect of infrastructural power.

As part of a migration industry made up of for-profit actors and institutions facilitating various aspects of mobility, adaptation, and control (Hernández-León 2013), individual brokers and/or agencies play pivotal roles in guestwork programs. From migrant origins, such “migration entrepreneurs” handle recruitment, visa and employment paperwork, and travel logistics, connecting workers to job vacancies in destination countries (Hernández-León 2020; Martin 2017; Xiang 2012). While most of the literature has focused on this process, brokers also play a regulatory role on the receiving end, where state agencies delegate implementation tasks to individuals and businesses intermediating between migrants, employers, and the state (Anderson and Franck 2017; Surak 2018; Tseng and Wang 2011). The growing literature on intermediary

functions in guestwork programs, however, pays little attention to brokerage sources, especially in receiving countries. Recent studies usefully illuminate its everyday emergence in social-cultural contexts of Asian sending countries (Shrestha and Yeoh 2018), yet they neglect the political, legal, and infrastructural conditions that allow/necessitate brokerage.

A common outcome identified in the literature is that state delegation to non-state actors enhances migration control capacity. Intermediaries provide a means of “governance from a distance” that increases management efficiency while shifting responsibility for migrant wellbeing away from the state (Kemp and Raijman 2014; Tseng and Wang 2011). Such delegation can also enable closer control over people’s lives that neither the state nor private actors could individually exercise (Anderson and Franck 2017). This research, however, does not analyze the compositions of state power that enable brokerage to make such impacts. Studies of migration industries and the state often suggest government abilities to manage intermediary roles, reflecting certain levels of preexisting infrastructural capacity, as with East Asian “developmental states” known for highly effective bureaucracies. Japan, South Korea, and Taiwan, for example, have dedicated state agencies that manage intermediary participation through licensing requirements, outsourcing contracts, or the orchestration of markets for migration management (Surak 2018; Tseng and Wang 2011). While informal brokerage may co-exist with these formal arrangements, such states have demonstrated an infrastructural capacity to effectively manage intermediary activities. With its primary focus on official delegation from state to intermediaries, however, this literature does not explain how informal brokerage emerges from and subsequently impacts contexts of limited infrastructural state power.

Shifting focus to the global South, where most international migration takes place (UNDESA 2013) yet where states exhibit mixed capacities to control it, can expand our

understanding of brokerage in guestwork governance. While African, Latin American, and Southeast Asian governments may have more latitude to impose migration control policies given the relative lack of constraining liberal democratic processes (Adamson and Tsourapas 2019; Natter 2018), they often do so within export-oriented development contexts influenced by political economies of global production and regional integration (Arnold and Pickles 2011). At the same time, infrastructural power in these regions varies widely between and within countries (Herbst 2000; Mann 2008; Slater 2010), impacting how and with what efficacy states implement policies. Relatedly, petty bureaucratic corruption – abuse of office by low-level bureaucrats for personal gain, in the form of small payments for completing duties or extralegal benefits (Mashali 2012:776-777; Zaloznaya 2015:348) – is pervasive in “developing countries” (Hunt and Laszlo 2012; Riley 1999), shaping the critical interface between brokers and the state. All of these features of state power in places like Thailand can potentially color policy implementation and give rise to previously unexamined brokerage types, functions, and consequences.

I thus analyze the conditions that give rise to and affect outcomes of informal documentation brokerage in Thailand, a global South migrant receiving country, to advance our understanding of brokerage as a regulatory institution in guestwork governance. I conceive of such brokerage as a form of *regulatory* brokerage as opposed to the labor brokerage of most studies. Rather than connecting migrants to employer vacancies, these brokers fill administrative gaps arising from a mismatch between the pronounced need to process worker documents and the limited ability of the state to do so. To understand the sources of such brokerage, I assess the state’s regulatory imperatives and capacities relating to guestwork. I then detail informal documentation brokerage and its consequences for policy and migrant lives in two sites, showing how the state benefits from but barely controls opportunistic intermediation practices of brokers.

DATA AND METHODS

I employ the “extended case method” (Burawoy 1998), an ethnographic approach to analyzing social situations and relations as they are shaped by, and in turn shape, broader social institutions and forces. Specifically, I use Thailand as a strategic case to identify the conditions that encourage brokerage in guestwork governance processes and shape its policy and social impacts. Following the method, I examine anomalies from the field to extend existing theory.

The recent government push to formalize guestwork in Thailand offers an opportunity to analyze state migration control capacities and the role of brokerage in such endeavors. Reflecting this push, my field sites correspond to the role of brokers in the differential formalization of migrant labor in subnational spaces (described below). My first site, Samut Sakhon, is a space of global seafood production that has experienced pronounced state and international pressure to regularize its migrant labor force. Most workers here, who come from Cambodia and Myanmar, obtained work documents through recent regularization campaigns, and newcomers enter through a formal guestwork channel. Informal documentation brokers have been essential to the province’s regularization efforts. My second site, the Tak border zone, hosts garment and agriculture workers from adjacent Myanmar and is a space of increasing regional connection. As the country’s flagship border special economic zone (SEZ), industry and government actors envision it as a hub for regional production and trade, with a supply of migrant labor to attract investors. Migrant workers here fall on a spectrum from illegal to legal status, and amid the broader formalization process, cross-border documentation brokers play a crucial role in systematizing their precarity and spatial containment under a new border pass policy.

[Figure 1. Field sites map]

To collect data, I conducted 17 months of ethnographic fieldwork between 2015 and 2019, twelve of which I spent volunteering with migrant rights nongovernmental organizations (NGOs) in each site. During this time, I observed field visits and workshops in migrant communities, meetings among NGOs, state officials, and grassroots stakeholders, and interactions with state officials. I also observed public spaces frequented by migrants and activities in provincial immigration and employment offices. During this fieldwork, I had open-ended conversations with NGO staff, migrant workers, employers, government officers, and others. In addition, I conducted in-depth interviews to learn about the interests, capacities, and experiences of 95 migrant workers and migrant community leaders from Myanmar in one-on-one or small group (up to 15 people) settings, 12 high-level provincial (9) and central (3) government officers, 12 industry actors (employers, managers, association representatives) and six brokers and recruitment agents. I employed “sequential interviewing” (Small 2009), treating interviews as cases and altering guides based on a growing understanding of the phenomena. I used my advanced Thai language skills in casual conversations and while listening to interactions among Thai speakers. A Thai-English translator and Burmese-English translator assisted with in-depth interviews with Thai respondents and Burmese speaking migrant workers, respectively.

I use an “incorporated comparison” logic to analyze sites not as separate, distinct units of comparison but rather as connected to each other historically and in mutually conditioning ways (McMichael 2000). Following this approach, I analyze brokerage and guestwork governance in two sites as related yet different subnational expressions of an overarching state endeavor to formalize labor migration amid broader development processes.

GUESTWORK AIMS AND CAPACITIES OF THE THAI STATE

In this section, I provide a background of the Thai state's ongoing guestwork formalization efforts, identifying the general conditions that create intermediation opportunities, which I specify further in the following sections. For decades, the government has used cabinet resolutions as an ad hoc policymaking tool to introduce migrant worker registration opportunities, all while upholding its restrictive immigration framework (Chantavanich 2007; Huguet 2008). After a decade of sporadic migrant worker registrations (essentially deportation deferrals) only encouraged continuous undocumented migration (Hall 2011), in 2002/2003 the government signed Memoranda of Understanding with sending countries of Cambodia, Laos, and Myanmar, establishing bilateral guidelines for migrants to work in Thailand (the "MOU process"). The MOUs included a stopgap "nationality verification" (NV) process to regularize the status of those already working in the country, which de facto became the primary means of gaining legal work status. As the MOU process stumbled (more below), the military government, which took power in a 2014 coup d'état, ramped up guestwork formalization efforts, threatening immediate deportation of undocumented workers and then, facing a massive loss of labor, announcing another registration window (IOM 2019:28).

While policymaking is relatively unhampered domestically, the recent guestwork formalization efforts are largely shaped by concurrent global normative and development pressures on the state to afford different sets of rights and entitlements to workers in different places. Beginning in 2014, amid international media reports exposing rampant human trafficking and forced labor in Thailand locations of the global seafood supply chain, the United States Department of State and the European Union issued strong criticisms and threats of aid and trade restrictions if the government did not address these rights violations (Kusakabe et al. 2018). While the high-profile censures singled out the seafood industry in places like Samut Sakhon,

they prompted broader actions to replace “irregular” migrant labor with that which is formally recruited and afforded basic entitlements. Amid reforms to anti-trafficking and commercial fishing laws, in 2017, the government enacted the Royal Decree on the Management of Alien Workers Employment, which synthesizes existing migrant worker policies and reinforces the MOU as the country’s main guestwork system by imposing steep fines and possible jail time for undocumented workers and their employers (Kusakabe 2018:25-29). It also announced a final opportunity for undocumented workers to register for the regularization process before a March 2018 deadline, and incoming workers would have to use the MOU process.

At the same time, the state sought to maintain supplies of precarious migrant labor in border areas to attract investors to Thailand’s border special economic zones (SEZs). Established in 2015, the government seeks to use the SEZs to boost border area development and to assert production and logistical roles in advancing Southeast Asian production and trade infrastructures (NESDB 2018). Among the investment incentives offered in the ten zones, promotional materials feature “foreign workers...[permitted] to work in the Kingdom on a temporary basis” as a main draw (ibid 2018). The state objective of keeping precarious migrant workers in border districts also aligns with garment industry interests to spatially contain such workers in the border area to continue to attract orders from global brands/buyers. Organized under the Tak chapter of the Federation of Thai Industries, garment factories have for years requested that the government intervene to prevent migrant workers from leaving the border area for other Thailand locations. Reflecting these border-specific pressures, the 2017 decree and updated MOUs signed in 2016/2017 with Cambodia and Myanmar include “border pass” articles applicable to the SEZs, giving employers and migrants in these locations the choice between the MOU process or border pass. With the MOU, workers enter on two-year contracts (renewable

once) and are guaranteed (in principle) minimum wage, protection under Thai labor laws, and access to health and social security benefits. Those with border passes work on successive 90-day permits and 30-day visas only valid in three border districts, and without access to social security.

[Figure 2. Thailand guestwork formalization timeline]

While it can enact new laws easily, the Thai state has mixed infrastructural capacities to implement them. Complementing the state's policymaking abilities is its capacity for "coercive social regulation" (Ellerman 2009), particularly deportation. Mass deportation campaigns have followed registration deadlines from the 1990s to the present (IOM 2019:29; Martin 2004:23-26) and are a hallmark of the country's migration legal framework. A key obstacle to formalization, however, has been the state's perpetual ineffectiveness in stopping unauthorized migration at its borders, feeding the continual reliance on the NV process (regularization of undocumented) at the expense of the MOU process (formal labor importation). As migrant work outside of the law fills labor demands in several industries, a sudden loss of deported workers has at times led the government to backtrack on policy implementation and open regularization windows in order to maintain labor supplies (IOM 2019:28-29). The ability of migrants to come illegally and subsequently regularize their status has also hindered the MOU process, as workers have avoided it since its inception because of the long wait times from application to work (3-6 months) and high costs compared to network-based channels (ILO 2015; IOM 2019:32).

Finally, local state administrative deficiencies have impeded successful implementation of regularization mandates. For one, regulations and procedures have frequently changed over the years, creating uncertainty among all stakeholders (Huguet 2008). In addition, the shifting procedures have been so complex, involving numerous steps and pieces of documentation, that

migrants, employers, and state offices (in sending and receiving countries) have been confused as to how to complete them, discouraging migrant and employer participation in the process (ibid). Poor coordination between government offices has also exacerbated its complexity and inconsistencies (Chantavanich 2007:10; Kultalhati and Hall 2016:15). Furthermore, the local bureaucracies tasked with implementation have been under-resourced, creating administrative inefficiencies (Kultalhati and Hall 2016:15). As I show in the next section, the mismatch between the massive demand for migrant worker documentation and the state's capacity to process it create infrastructural holes that necessitate brokerage for the regularization process to work. Yet, while the government has imposed licensing fees and regulations on Thailand-based labor recruitment agencies involved in the MOU process (IOM 2016), it has not exerted control over the informal brokerage that pervades regularization. Despite widespread knowledge of this brokerage, the central state has shown no attempt to regulate it, perhaps due to its effect of facilitating local implementation of an intended stopgap policy, to which I now turn.

PROVINCIAL DOCUMENTATION BROKERAGE AND LABOR REGULARIZATION

In late 2017 and early 2018 in Samut Sakhon, undocumented workers could register with provincial employment offices, obtain nationality verification documents from an origin country official based in the province, and apply for work permits and visas valid for the next two years. At the end of the March 2018 deadline (later extended to June), the government promised to deport those who failed to register and to uphold the MOU process as the only legitimate labor migration channel to Thailand's interior. In a context of heightened coercive regulation and administrative deficiencies, documentation brokers profited by filling infrastructural holes, augmenting the local state's capacity to bring workers into the formal system.

Coercion, administrative shortcomings, and the growth of documentation brokerage

Coercive regulation compels regularization, with much of the regulatory focus on employers. A Samut Sakhon immigration officer tells me in early 2018, “The Immigration Bureau has been wanting to stop human trafficking, but people are smuggled through the border to work... We can’t regulate the border, so we regulate employers instead.” Similarly, a high-level officer at the Ministry of Labor says, “...the focus is on employers – higher punishment if they have illegal workers. Requiring them to only hire registered migrants will force the migrants to adapt.” Street regulation also reinforces regularization. Several migrants tell me similar stories of police officers stopping them on the road or barging into their rooms to look for expired documents or other reasons to extort money. A seafood factory worker gives a typical account in late 2017:

If you have a passport, they ask for a work permit. They demand 500 baht per movie [illegally downloaded] they find in your phone. They always try to find something illegal to charge money for. They look for three numbers and accuse us of playing illegal lottery.

Workers also recount being taken to the police station, where they sit all day as officers demand up to 5,000 baht (about 160 USD), until evening, when officers finally settle for a lower fee. Even if these interactions do not result in formal arrest and deportation, the constant threat to their security and finances makes it untenable to live here without documents.

In this coercive context, employers require their workers to have current documentation, deducting from their wages to pay fees. A group of migrants working at a shrimp processing factory, for example, tell me their boss made them get Certificates of Identity (CIs) in 2017, as

their “temporary passports” were about to expire. Another worker tells me that his “pink card”² will expire in March 2018, so the factory is arranging for him and his coworkers to get a CI or MOU passport. According to migrants, brokers, and a representative of the Federation of Thai Industries, however, most employers lack the time and desire to learn requirements and gather application items for each worker. Most migrants do not speak Thai and cannot understand application forms and procedures, and many tell me they are intimidated by Thai officers, who harshly reprimand them for misunderstanding instructions. On their end, state offices lack the resources to manage the tens of thousands of individual cases that come to them.

The Samut Sakhon employment office is exemplary of the inefficiencies of the regularization process. On my first visit here in late 2017, I sit with Ek,³ a Thai lawyer with the Human Rights and Development Foundation, as he assists two migrants in getting permits to work in an affiliated migrant children’s school. I am struck by how crowded the place feels and how long we wait for each step. While waiting for over 30 minutes for a receipt, to my surprise, Ek remarks that we are lucky because today is not so crowded, and the lines are moving quickly. “I always see problems here,” he tells me. “...documents. Always, ‘one more, one more’.” They never resolve anything the first try, he continues, requiring him to make repeated visits. He complains that information is poorly coordinated within the office, pointing out that the clerk on the third floor told him to go downstairs to find simple procedural information she lacked. The office also faces resource limitations. An experienced broker tells me that while the office has

² The pink card, temporary passport, and CI are previously used identification documents. The latter two provide legal status and eligibility for social protections, while the former only signifies registration with the intent to regularize.

³ Individual names are pseudonyms.

about 40-50 staff, most of them were hired temporarily to process applications. Reflecting local state difficulties in implementing policies, in January 2018, the head of the employment office grumbles repeatedly that a pop-up One Stop Service Center to register migrant workers, which the central government ordered to open next month, will “create many problems for me,” especially the time and extra work his staff will spend attending to a new database.

[Figure 3. Schematic of Samut Sakhon intermediation]

These state inefficiencies create profit opportunities for brokers to intermediate between workers, employers, and local state offices throughout the regularization process, as roughly depicted in Figure 3. With their administrative know-how and varied social connections, brokers prepare documentation, liaise with and submit paperwork to government offices, and usher migrants through procedures, all without official recognition from the state. Varying in quality and sophistication, from those with shophouse offices to “ghost brokers” (*nainaa phi*) who might disappear before completing services, most brokers are Thai, though they may employ Burmese-speaking sub-brokers to communicate with workers. Several migrants tell me that brokers proliferated after the initial regularization process for Myanmar workers in 2009, and a broker outside of the immigration office tells me that his competition has grown since the 2014 coup because brokers now operate in almost every province, eliminating the need for migrants working in other locations to seek his services. With a constant need for migrant labor in Thailand, brokerage has become profitable. A young woman working outside of the employment office smiles as she tells me that she can make 10,000 untaxed baht (about 300 USD) in one day as a broker (in contrast to the minimum wage of 325 baht/day). A common saying, according to Ek, is “If you want to be rich, become a broker” (*taa yaak ruay, hai pen nai naa*).

Augmenting state regulatory capacity at the expense of migrants

Observations at the employment office from late 2017 to mid 2018 reveal how informal brokerage enhances the local state's capacity to bring migrant workers into the formal guestwork system. At concrete tables in the office courtyard, and in an adjacent coffee shop, brokers work all day, heads down filling out paperwork, making photocopies, and organizing files (mostly for work permit applications) that pile up in plastic trays. A few constantly move to and from the employment office, submitting forms to clerks and waiting along sequential steps in the process. In contrast to the ease with which brokers move through the space, a few employers wander around, peruse and photograph instructions on the walls, and ask questions to the clerks.

Brokers exude workplace familiarity, at times resembling collaboration, while operating within the state regulatory infrastructure. I watch one day as one stands at a counter chatting with a clerk, calling her *Pi* (a colloquial term meaning older sister/brother). After going outside, she returns to grab a stack of about ten work permits with forms slipped inside each booklet, conveniently set there for her. She swiftly grabs them and then deposits them at another desk. A few minutes later, another broker stands at a counter, laughing and talking with the clerk and stamping pages of a booklet in a repetitive, robotic manner. Another woman joins her to stamp another booklet. They continue smiling and laughing with the clerk and then return the stamp before one woman leaves to submit the finished documents at another desk. In another instance showing superior procedural knowledge, a broker stands on her tiptoes, leans over a counter, and points to a shelf as she asks for a form. The man behind the counter looks uncertain (possibly a temporary staff), and the broker directs him to a stack of forms (*an nii, nii, er* / "this one, this, yeah"), from which he hands her one before she abruptly walks outside to work at a nearby table.

Brokers also physically usher workers through regularization procedures, as evidenced at the aforementioned One Stop Service Center, one of several the government established in February 2018 to accommodate the nearly two million migrant workers not yet registered before the March 31 deadline (Thai PBS 2018). In late March, the operation outside of the Samut Sakhon hospital is packed with hundreds of migrants moving through stations run by health, immigration, employment, and other local offices. Migrants in groups as large as 50 people wear numbered tags as brokers lead them around the premises. At the entrance to the medical check area, I recognize several brokers from the employment office, sitting calmly, chatting, eating snacks. They hand their clients off to army officers, who bring them into a cordoned-off area. I watch outside through metal bars as migrants enter stations in sequence. In the area closest to me, they exit a restroom and shuffle along a line holding a cup of urine and testing strip. One by one, they pour their sample into a jug and submit the strips to a nurse, who records the results before a man stamps a mark on their forearms. Officers affix numbered tags to their shoulders, next to similar tags brokers use to keep track of them. Back at the entrance/exit, brokers receive their clients and head to another station.

The conditions that create brokerage opportunities in Samut Sakhon thus allow brokers to augment the state's infrastructural capacity. Coercive regulation perpetuates the need for migrant documentation, expanding the number of brokers filling administrative gaps in the regularization process. State offices rely on these brokers in an unofficial collaborative relationship that increases the efficiency of documentation procedures (see findings in table 1 below). The head of the employment office says that officers prefer dealing with brokers because they know procedures, and a broker tells me that officers always accommodate her requests, with temporary staff even asking her how to do things. Such a facilitatory effect indicates why the local state

allows such activities despite official central state prohibitions. Ek tells me that he once complained to a Department of Employment official in Bangkok about preferential treatment of brokers in Samut Sakhon, to which she responded that brokers cannot work inside employment offices. To his knowledge, she never followed up. A Department of Employment sign in the office courtyard also warns that brokers are prohibited from working on the premises. Yet, brokers tell me that authorities never bother them, and from my observations they are a fixture of everyday office operations. These indications and the fact that multiple reports identify brokerage as common suggests that the central state is aware of its prevalence, but there is no evidence of attempts to regulate it. As local officials tell me, methods of policy implementation, including how they deal with intermediaries, are largely decided by local offices, and there appears to be no central state interest in spending time and resources regulating an activity that improves implementation, especially for what is intended as a stopgap measure.

[Table 1. Causes and consequences of documentation brokerage in Thailand]

Importantly, this enhancement of state capacity comes at a high cost to migrant workers, who shared with me their histories of documentation, some dating back to 2009, and having to pay official and inflated fees with each policy change. For example, several report paying 4-5,000 baht (up to 160 USD) just to obtain a CI, which officially costs 300 baht. One worker paid 5,200 baht just to change his work permit to a new employer, a procedure that officially costs 900 baht. Other studies have documented exorbitant fees during regularizations (Kultalhati and Hall 2016), including 30,000 baht charged to Cambodian workers for a process with an official price tag of 4,400 baht (Bylander 2021). Furthermore, the need to pay these fees frequently in a fluid policy environment imposes long-term hits to migrant incomes. Speaking about a work permit, one migrant tells me that “[the broker says] it will take care of it for two years, but after a

year they need to do more, and they charge more.” Reflecting these repeated costs, one day I notice a widely shared Facebook post among Myanmar migrants, showing a photograph of various identification and work permit documents placed in food bowls next to a rice pot to depict the money spent on documentation instead of sustenance.

CROSS-BORDER DOCUMENTATION BROKERAGE AND THE SPATIAL CONTAINMENT OF PRECARIOUS LABOR

With the added dimension of a proximate and porous international border, findings from the Tak border zone show how brokerage can facilitate policy implementation while also pushing the boundaries of official policy. Employers and migrant workers here faced the same 2018 registration deadlines but with the additional option of the border pass, which migrants obtain from Myanmar immigration officials across the border in order to then use short-term work permits and visas limited to the zone. The border thus separates parts of the documentation process beyond the administrative reach of employers and local Thai state officials. In a context of increasing demand for the border pass, these conditions create new profit opportunities for cross-border documentation brokers, who enhance the local state’s capacity to formalize cheap, precarious, and relatively immobile labor for industry yet subvert aspects of the official policy by expanding its scope of eligibility.

Porosity, containment, and the emergence of cross-border documentation brokerage

Since the 1990s, the combination of the porous river-border with Myanmar and coercive spatial containment practices has sustained a supply of cheap (paid below minimum wage) and vulnerable (lacking legal status) migrant labor within the Tak border zone. While the Myanmar-

Thailand friendship bridge has an official checkpoint for MOU workers and tourists on day or week passes, hundreds of migrants enter daily through numerous unofficial and loosely regulated crossing points along the river. As several migrants tell me, Mae Sot (the main industrial district) is the easiest place for anyone from Myanmar to quickly find work in Thailand. Migrants here fall on a wide legality spectrum, with worker stints ranging from decades to daily cross-border trips. While control of the border is loose, local police and army officers regulate movement within the zone by surveying vehicles and checking passenger documents at roadside checkpoints located between districts and on the way out of Tak province. Like in Samut Sakhon, local police also regularly check migrant documentation throughout the zone, extorting those without them. For years, this combination of porosity and containment were hallmarks of an informal system that employed undocumented migrant workers cheaply and with minimal rights.

Guestwork formalization efforts have unfolded in tension with this system. When the nationality verification process started, many garment workers in Mae Sot obtained “temporary passports” that gave them the ability to move beyond the zone and into Thailand in search of better paying jobs. Facing a loss of labor, employers implored local authorities to prevent worker movement past the zone’s checkpoints, creating confusion and contestations over policy implementation (Campbell 2018:60-81). The border pass system is seemingly a resolution of these tensions, as it formalizes the containment of precarious migrant workers by providing employers a way to hire documented workers that, like their undocumented precursors, lack rights, benefits, and the ability to legally migrate onward. The pass is only valid in the SEZ districts, and the 90-day work permit precludes enrollment into the social security system, which is technically available to workers surpassing 90 days on a single contract. Furthermore, as the

director of a migrant workers association tells me, the system allows for “more control” by employers because workers cannot travel far, and since they must renew their permits often, they are less likely to make workplace complaints out of fear of dismissal. While they can access the same labor grievance mechanisms as MOU workers (through a provincial labor protection office), the reliance on being rehired every 90 days likely precludes such efforts. With the pass, however, they can work for multiple employers. Given these features, the border pass enables more hiring flexibility than in the interior, with factories legally employing workers on an even shorter-term basis and without obligations to invest in worker benefits and social protections.

As in Samut Sakhon, coercive regulation here encourages employers to maintain legal workforces. According to workers and some factory managers, authorities came to inspect several factories after the 2018 registration deadlines. The superintendent of Tak immigration tells me that he checked factories in August and September that year at the behest of the central bureau. A garment worker tells me in early 2019 that authorities came to her factory just before the new year, arresting and deporting 60 workers without documents. In this context, employers have furthered widespread use of the border pass. A garment worker tells me that when her and her coworkers’ temporary passports expired in early 2018, her boss contacted a broker to get them passes, work permits, and visas, deducting from their wages as he pleased. According to employment office data from September 2018, about 30,000 workers already had the pass, compared to 32,000 who had either a pink card, Certificate of Identity, or MOU passport (with a large, unknown number undocumented). An employment officer tells me at the time that with pink cards and CIs being phased out, use of the pass is growing. A worker from one of Mae Sot’s largest garment factories tells me in early 2019, “Before, many had the CI, but when the

government changed the policy to section 64 [article in the 2017 decree], our boss required us to get [it] and took fees from our wages. Even those who had a CI had to switch to a 64 pass.”

[Figure 4. Schematic of Tak Border Zone intermediation]

Opportunities for cross-border documentation brokerage thus arise from a heightened coercive environment and requirements to procure border passes on the Myanmar side of the border. This situation reflects the mix of informal and official cross-border labor processes that characterizes the border pass system. As an employment officer in Mae Sot says, his office has the same mandates as other provincial offices, but because of the 500-kilometer border that migrants cross daily, they have different implementation challenges. They must integrate into a formal system a largely undocumented migrant population, with people of shifting status and in constant back-and-forth, cross-border motion. In this context, the border itself creates additional infrastructural holes. While garment employers are expected to handle worker documentation, their lack of procedural knowledge and unwillingness or inability to complete documentation tasks on the Myanmar side prompts them to rely on brokers to handle border pass procurement. These brokers, who may be individuals from Myanmar living in the zone or joint operations between Thais and Myanmar nationals, enable the process by intermediating between migrants, employers, and local state offices on both sides of the border, as depicted in figure 4. Their activities, as I show below, can both facilitate and push the boundaries of official state policy.

Augmenting implementation capacity while pushing official policy boundaries

In the Tak border zone, guestwork formalization involves a harmonization of informal, network-driven labor migration with the new policy on cross-border labor. Cross-border practices are central to the emerging border pass system, as an employment officer’s account indicates:

Some [workers] come to Thailand on a visitor pass or informally cross the border and find a job, then they go back and get a border pass at the Myawaddy immigration office and come back here and apply for work approval...after they get [a 30-day visa from immigration], we give a 90-day work permit. Immigration allows visa renewals by crossing the border, for up to 90 days. After 90 days, they have to start over.

The owner of a small garment factory similarly tells me that his workers often refer friends or relatives for jobs, then he connects them with a broker to get the pass in Myawaddy. Once they have the pass and permit, the workers must cross the border every 30 days to renew their visas.

One of the main functions that cross-border documentation brokers perform is to mediate gaps between official border pass policy and the realities of labor migration in the zone.

According to the policy, border passes are for residents of specific border-adjacent areas, so only those from Myawaddy, Myanmar can obtain a pass for the Tak border zone. This stipulation reflects concerns of the Myanmar government, as the sending country partner in the bilateral MOU, over losing labor for their own development objectives as well as over the rights of its workers in Thailand.⁴ The majority of workers here, however, come from several locations throughout Myanmar, creating the need to acquire proof of Myawaddy residence to qualify for the pass. An officer of a migrant workers association explains the brokerage process as such:

⁴ At the time, Aung San Suu Kyi was the Myanmar State Counselor and Foreign Minister, holding significant (but ultimately fleeting) political power in a context of increased foreign investment and development optimism. With the prospect of more jobs still far off, Suu Kyi was vocal in pushing for the rights of Myanmar migrant workers in Thailand.

[Brokers] deal with Burmese authorities. Since only those who live in Myawaddy are allowed to use the passes, workers use brokers to get a “family list” as proof of residence in Myawaddy. [Brokers] work with immigration authorities to do this, probably paying bribes. The border pass officially costs 2,550 baht, but factories charge their workers between 4,500 and 10,000 baht to get it through a broker.

Several migrants, Thai state officers, and NGO staff also tell me that border pass costs are high because of this need to pay officials in Myawaddy to change their Myanmar residence. Cross-border documentation brokers thus earn by bridging the gap between existing labor migration patterns (undocumented, from across Myanmar) and border pass policy stipulations (eligibility limited to border-adjacent residents).

As in Samut Sakhon, brokerage here facilitates policy implementation, but it also pushes the boundaries of official law with varying implications (see Table 1). First, it augments the state’s capacity to formalize the containment of precarious border labor, the latest version of a long endeavor to allow migration into the zone but discourage onward migration out of it. This formalization is aligned with the guiding objective of having a mostly “regular” migrant workforce with benefits and social protections that meet international standards (as in Samut Sakhon), as it limits the pool of cross-border workers with a more restricted set of rights. Without a global spotlight on the garments industry, the border pass scheme in the Tak border zone has so far not faced the type of high-profile international condemnation aimed at the seafood industry.

Yet, such brokerage also undermines official stipulations of the 2017 decree and MOU with Myanmar by expanding border pass eligibility to anyone from the country. This happens due to the state’s detachment from a pivotal point in the documentation process. Provincial

officials tell me their knowledge of brokerage activities in Myawaddy while exhibiting a lack of concern with what happens beyond their jurisdiction (e.g., bribes, petty corruption), exhibiting an informal deflection of official responsibility. And while brokerage undermines *official* policy at this point in the process, it helps further the Thai state's development aim of maintaining a large supply of cheap labor in the special economic zone, suggesting the utility of informal documentation brokerage in fitting policy to meet state objectives that may conflict with formal policy. Such a result, however, could lead to onward migration if migrants eventually find ways to breach zone, subverting state objectives of containment. Regardless of specific outcomes, by operating independently in a grey area between official laws and unofficial migration processes, brokerage may enhance the state's capacity to advance objectives but in an unwieldy way.

Here, the social significance of brokerage is like that in Samut Sakhon, as employers deduct documentation/brokerage fees from wages. One worker, for example, paid 4,000 baht for the pass and another 2,700 for the work permit. With additional fees for health checks, the purchase of health insurance, and visa/paperwork, she paid a total of 8,024 baht for what officially costs 6,350 baht. An internal report shared by a legal aid organization in Mae Sot also identifies wage deductions and burdensome documentation costs for workers.⁵ While such costs are lower than amounts paid for regularization documents in Samut Sakhon, the border pass comes with more repeated costs, such as 1,225 baht every 90 days for work permits, monthly visa fees, and the purchase of monthly health insurance. These costs are also incurred on migrants making much lower wages at the border. Thus, in both sites, documentation/brokerage

⁵ While employment officers, migrants, and their advocates frequently mention extra broker fees for the pass, more systematic research on exact costs is needed as the system progresses.

proves expensive for migrant workers, raising questions about the tradeoffs involved with legalizing one's status.

DISCUSSION AND CONCLUSION

In this article, I identified the sources and outcomes of informal documentation brokerage as a regulatory institution in Thailand's guestwork formalization process. I argued that infrastructural holes amid heightened coercive policy enforcement create opportunities for brokers to profit by intermediating between migrants, employers, and state offices in ways that can strengthen the state's ability to document workers but also push the boundaries of official policy. Operating in grey areas between official policy and informal migration processes, they play pivotal roles in determining governance outcomes. I first assessed the state's migration control capacities, showing that it can impose and coercively enforce guestwork policies, influenced by political economies of development and human rights, but shortcomings in international border control and local administration hinder policy implementation. I then showed how different forms of documentation brokerage grow from these conditions and illustrated how and why the conditions allowed brokers to influence policy implementation in different ways. While documentation brokerage augments the state's infrastructural power, the local regulatory deficiencies that encourage such brokerage also impede control of broker practices that are inherently opportunistic, rendering their capacity-enhancing effect unpredictable and difficult to harness. For migrant workers, documentation brokerage (and documentation itself) makes employment more expensive, eating at incomes, remittances, and savings.

In sum, in Samut Sakhon, a context of heightened coercive regulation and weak administrative capacity created opportunities for documentation brokers to profit by facilitating

regularization. These brokers collaborated informally with state offices to remake global seafood labor according to international standards. In the Tak border zone, longstanding cross-border mobility and employment practices combine with a new policy to formalize the precarity and spatial containment of border labor for the SEZ and local garment industry. Employers arrange cross-border documentation brokers to secure worker border passes from Myanmar officials, through a process outside of the administrative purview (and concern) of the Thai state. While these brokers augment the state's capacity to formalize migrant labor, they also undermine aspects of official policy by expanding its eligibility. This expansion helps the state by ensuring a larger supply of labor at the border, but it can potentially challenge other control objectives. In both sites, documentation brokerage imposes adverse economic effects on migrants.

Findings from Thailand link brokerage mechanisms to an analysis of state power. In the realm of migration control, this article contributes to growing discussions of how global South states manage international migration (Adamson and Tsourapas 2019; Natter 2018) and extends research on state collaborations with migration industries to govern guestwork (Anderson and Franck 2017; Surak 2018). Findings show that in addition to formally delegated governance, unofficial and unregulated brokerage arrangements can be integral to a labor migration system, even one in the process of formalization. In Thailand, such brokers, without licenses or contracts with the state, advance efforts to remake guestwork that would likely be unsuccessful without them. The study also builds on our understanding of how migration industries impact migration control capacities. Resembling an unofficial type of "governance from a distance" (Kemp and Raijman 2014; Tseng and Wang 2011), the Thai state benefits, without any resource investments, from the policy facilitation practices of brokers, to whom they can deflect blame if problems arise. Since brokers have no inherent loyalty to the state and are not bound by contracts or

influenced by state-created market incentives, however, there is nothing stopping them from seeking profit opportunities that could undermine official policies if the situation allows, as demonstrated at the border. Given the opportunistic nature of brokerage, this type of governance is unwieldy, unpredictable, and potentially counterproductive to state control.

This article also raises potential contributions to knowledge on petty bureaucratic corruption as it relates to infrastructural power. Operating in a space between state control and migrant adaptation, documentation brokerage institutionalizes informal bribes paid to local officials (e.g., for missing documents, or for new residence documents), with brokers acting as “corruption entrepreneurs” that, rather than connecting actors for an exchange (Jancsics 2013:321), maintain a system of unofficial fees. While interviewees, including brokers, mention such bribes as common practice, more research is needed into how, and under what conventions, they occur. In addition, the coercive environment enables petty corruption by the local police, which in turn maintains the threat of deportation and thus reinforces brokered regularization. Coerced bribes appear to be part of a larger governance dynamic worth exploring. Finally, if conceived as an informal extension of the local state bureaucracy, as in this study, documentation brokerage itself may be viewed as a kind of petty corruption, wherein the local state allows and benefits (in efficiency and small bribes) from unregulated transactions that gouge vulnerable migrants. In all, data from Thailand support findings that petty corruption hurts the poor and marginalized of society (Riley 1999), who pay a large share of their income in bribes (Hunt and Laszlo 2012) that they often rely on to access public services (Justesen and Bjornskov 2014).

More broadly, the study expands our understanding of how brokerage impacts state power by moving beyond the realm of party politics to illustrate broker roles in bringing certain populations into the state’s regulatory grasp. Put simply, brokerage may be essential to state

efforts to “embrace” populations in order to control them (Torpey 1998). In this regard, findings suggest that states with the power to impose policies and the coercive capacity to enforce them, but with administrative deficiencies impeding effective implementation, may foster conditions ripe for informal regulatory brokerage. Broader literature on state capacity suggests that these conditions are more common in the global South. Similar brokerage arrangements – informal yet integral, opportunistic and unregulated – may thus arise in other policy realms dealing with access to and regulation of large populations, such as public health monitoring/intervention, asylum seeker registration, and driver’s licensing and renewal, among others. Further research can explore brokerage and state capacity in such areas to build our understanding of the “many hands of the state” and the varying ways that these hands blend with civil society, shifting and contesting state boundaries with implications for state power (Morgan and Orloff 2017). How brokers augment, subvert, and otherwise influence state incorporation of migrant workers into systems of control is a key and continually evolving piece of such an understanding.

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Appendix: figures and table

Figure 1. Field sites map



Figure 2. Thailand guestwork formalization timeline

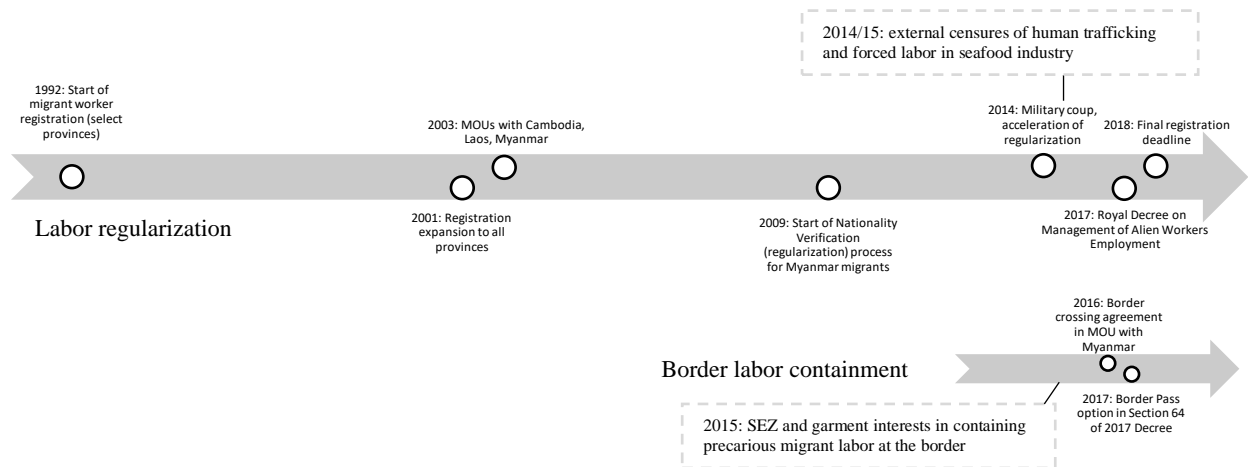


Table 1. Causes and consequences of documentation brokerage in Thailand

| | Regulatory conditions | Brokerage opportunities | Policy and social impacts |
|---|--|---|---|
| Samut Sakhon: provincial documentation brokerage | <p>Heightened coercive enforcement of policy</p> <p>Implementation deficiencies of local state – bureaucratic inefficiency, inability to address massive demand for documentation</p> | <p>Widespread employer requirements of worker regularization</p> <p>Infrastructural holes: language, knowledge, administrative gaps in documentation procedures</p> | <p>Growth of dedicated personnel (brokers) enhances state infrastructural capacity; broker + bureaucrat collaboration increases efficiency in remaking workers into “regular” labor, satisfying international standards.</p> <p>Documentation and inflated brokerage fees cost migrants.</p> |
| Tak Border Zone: cross- border documentation brokerage | <p>Porous and proximate international border</p> <p>Heightened coercive enforcement of policy</p> <p>Implementation deficiencies of local state – border control, detachment from border pass administration</p> | <p>Continuous undocumented labor migration</p> <p>Widespread employer requirements of worker border pass use</p> <p>Infrastructural holes: administrative gap between Thai state and border pass procedures; gap between policy stipulation and labor migration reality</p> | <p>Growth of dedicated personnel enhances state infrastructural capacity to formalize the spatial containment of precarious migrant labor for SEZ and garment industry</p> <p>Myanmar-side intermediation expands pass eligibility, pushing boundaries of official policy</p> <p>Frequent documentation and brokerage fees cost migrants.</p> |

Figure 3. Schematic of Samut Sakhon intermediation

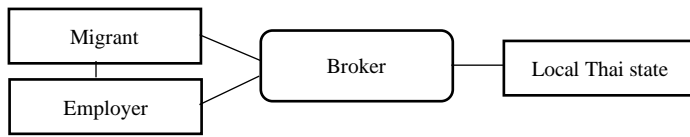


Figure 4. Schematic of Tak Border Zone intermediation

