

Guidelines for Establishing an Organization to Assist Transnational Migrant Worker

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Abstract

The objectives of this research are: to examine the advantages and disadvantages of establishing the Migrant Workers Service Organization in the form of Public Organization and a state enterprise; 2. to investigate the problems and necessity of establishing the Migrant Workers Service Organization; and 3. to demonstrate the feasibility of establishing the Migrant Workers Service Organization. Documentary research method was used to analyze the information.

The results revealed that a Migrant Workers Service Organization should be established as a Public Organization which can be done by enacting as a royal decree under the public organization act, CE.1999 or enacting as the parliament act. The new Public Organization should have the status under the Ministry of Labors. The difficulties and necessity to establish such organizations include the problem with benefits, the loss of state revenue, legal issues, coordination problem, human trafficking, human rights, information system, and security issues. Researchers suggested the guidelines for establishing a migrant worker assistance organization is to specify the details of 1) the objectives of establishing the organization; 2) the organization structure; 3) the authority and missions of the organization to support and solve migrant worker issues; 4) the management system; 5) organization budget source; 6) workforce recruitment and human resource management; and 7) management and evaluation. Migrant worker assistance organizations will solve the labor-management issue, and human rights in the process, and help to plan the future migrant worker management.

Keywords: migrant worker, labor management

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Problem Statement

In the past several decades, migrant worker has played an important role in country's economy. It is regarded as one part in the service sector that is a large source of labor in Thai economy (ILO,2020). Nowadays, the process of legal migrant workers employment making a complicated and takes so long time. Some interest groups take advantages from that weak point. These circumstances will bring about the exploitation of labor and human trafficking problems.

Aside from migrant exploitation, the policy of migrant workers in Thailand is constantly changing during the COVID-19 pandemic. Many migrant workers fled from their countries to Thailand by illegal transport providers in the time of Thailand's lockdown policy. The deputy national police chief (Bangkok Post, 2021) stated that 43,577 illegal migrant workers; consisting of 42,443 illegal immigration cases, 293 smugglers and 841 helpers, were arrested in Thailand between December 29, 2020 to December 15, 2021. This situation must be control by state measures.

Another well-known problem with a migrant worker management is that there is no central unit for the operations. This issue prevents the implementation of the 20-year national strategy because there is no governmental structure supporting the strategy. The lack of integration of migrant workers management in government sector has made the process complex, cumbersome, time-consuming and unattainable goals. Moreover, a conflict of law and regulations among government agencies brings about execution confusion. The absence of state agency providing knowledge and information about migrant workers management for government officers and supporting instruction about the legal process and rights for migrant workers

remains a problem at this time.

For this study, it was of interest to investigate migrant workers management problems and recommend comprehensive solutions for this issue.

Objectives of the study

1. To examine the advantages and disadvantages of establishing the Migrant Workers Service Organization in the form of Public Organization and a state enterprise.
2. To investigate the problems and necessity of establishing the Migrant Workers Service Organization.
3. To demonstrate the feasibility of establishing the Migrant Workers Service Organization.

Hypothesis

The Migrant Workers Service Organization should be established as Public Organization.

Scope of study

This paper focuses on finding out a suitable form of establishing the Migrant Workers Assistance Organization. Advantages and disadvantages in different forms of organization, Public Organization and state enterprise, are examined. Recent studies and researches will be used as reference in finding out the feasibility of establishing the Migrant Workers Service Organization in Thailand.

The data were collected from March to May 2022.

Expected benefits

1. The key contribution of this paper is the solution for legal employment problems of migrant worker in Thailand.
2. Understanding the issues of migrant worker policy and the management of migrant workers in Thailand.
3. Having a body of knowledge to support a legal employment of migrant worker in the same standards.

Research method

This paper is a documentary research, using qualitative methods for causal explanation. Researchers collect information from government agencies which related to the policy making of migrant workers' employment.

These were designed in such a way to approve hypothesis. The steps are as follows:

Step 1: Examining relevant document such as policies of government agencies related to the employment of migrant workers.

Step 2: Identifying advantages and disadvantages of the various organizational forms that are suitable for assisting migrant workers.

Step 3: Investigating the problems and necessity of establishing the Migrant Workers Service Organization.

Step 4: Use the information gathered from Steps 1 - 3 to formulate a model and suggest guidelines for establishing Migrant Worker Service Organization.

Data analysis

In this paper, the researchers analyze the data by comparison and contrast. Various informations are synthesized to be the guidelines

for establishing a Migrant Worker Service Organization.

Literature review

The literature review shows that establishing an organization for public services in Thailand can take into many forms - a government agency, a Public Organization, a foundation, an association, a partnership, State Enterprises, etc. The forms of organization are different depending on the nature of the organization's mission and operations.

In this study, documentary and literature about two forms of organization: a Public Organization and State Enterprises, were reviewed as the advantages and disadvantages of each form will be considered and synthesized to be the guidelines for establishing Migrant Worker Service Organization. Details are presented as followed.

(A) Public Organization

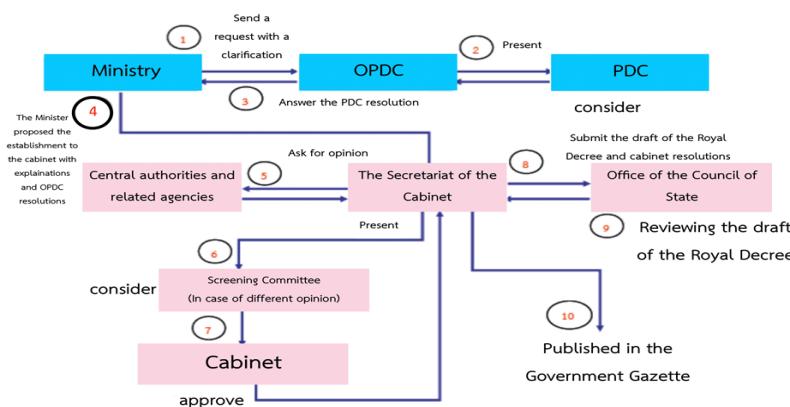
A Public Organization is a government agency that has different forms, objectives, structure and management methods from government agencies or State Enterprises. This is a form of organization that Thailand has established based on the concept of France. Public Organizations in Thailand can be divided into two forms:

1. Public Organization established under the Public Organization Act B.E. 2542 and No. 2 B.E. 2559 (2016) by enacting a Royal Decree.
2. Public Organization established under a specific act which has the status of an agency under the supervision of the Ministry.

According to the Cabinet Resolution on April 3, 2007 was resolved that the establishment of Public Organization in general cases shall proceed with the establishment of Public Organization by enacting a Royal Decree. Unless a Public Organization is required to use

the unilateral power of the state (Unilateral Act) that affects the rights and liberties of a person, establishment of a fund which excludes the law on budgetary procedures or the treasury law, establishment of a state higher education institution which must be conferred, the degree certificate can therefore be enacted as a specific act.

Procedures to obtain a permit for the establishment of a Public Organization



Source : OPDC Circular (2006)

Advantages of Public Organization Structure

1. There is a flexible and efficient management without having adhering to the rules and regulations of the government. The management system has independence and flexibility in decision making in all aspects; rules and regulations, human resource management, budgeting. As a result, the internal management model was designed to be suitable and flexible with the mission of each unit. The organization in the form of a public organization helps to respond to people's

needs and government policies for social and public services.

2. Facilitating the coordination between stakeholders. The process is faster than other government agencies. The organization in the form of a public organization uses a new service system for its unique missions. This principle encourages quick and unity collaboration.
3. A Public Organization is able to attract the knowledgeable workers. The salary of a Public Organization officer is not the same as a civil servants in government agency. It is generally better than in government agency. Therefore, it is an incentive for people with knowledge and abilities to join with the organization.
4. Subsidies from the private sector or other organizations including from abroad or international organizations or property donated to a public organization is not liable for execution.
5. Establishment and dissolution when necessary can be done more easily than a government agency under the Public Organization Act, B.E. 2542. In contrast with government agencies, the establishment or dissolution of government agencies is difficult because it has to go through legal and other administrative processes.

Disadvantages of Public Organization Structure

1. Public Organization is not a business whose main objective is to make profit. This situation prevent Public Organizations from earning commercial profits and had to rely mainly on state budget subsidies and other state support. This issue may

increase the burden on the state.

2. There is an obstacle in requesting subsidies or budget from government.
3. Public Organization is a special form of government agency. When officers transfer from government agencies or other government sector to Public Organization, they might feel unsettled.

(B) State Enterprises

State Enterprises is a type of government agency established by law. Its business objectives related to utilities or economic activities in the production of goods or services that are important or necessary for people's livelihood (Witchukorn Nakthorn, 2007). The characteristics of the State Enterprises are as follow.

1. State Enterprises are the government organization or business entity owned by the government.
2. State Enterprises are the government organization in which the state's ownership is more than fifty percent through partnership.
3. State Enterprises are the organization established under the law and having the powers and duties as specified by that law.
4. State Enterprises are the organization with business missions only. They do not carry out missions to help or promote any non-business
5. State Enterprises are the state organization that has a private administration model that is not subject to administrative rules and regulations like a government agency.
6. State Enterprises are the organization that has certain privileges

as necessary, such as the privilege of exemption from taxation, the privilege of not being subject to the liability of execution, the privilege of Monopoly on the sole operation, etc. All privileges are for the purpose of carrying out missions related to public services.

Advantages of State Enterprises Structure

1. Human resource management is independent, not subject to bureaucratic rules and calculates returns based on performance, just like the private sector. This makes it possible to recruit competent personnel to compete with the private sector.
2. The operating budget is stable because it is supported by part of the state and can seek more resources from other sources.

Disadvantages of State Enterprise Structure

1. Administration is often regulated by procedures. This cause the work to be delayed in time.
2. Operations are in accordance with government policies. The clear direction of operation therefore depends mainly on the government's policy.

After comparing the advantages and limitations of the two organization forms, it was found that the establishment of a Public Organization can be carried out more suitable for the migrant workers employment problems than the establishment of a state enterprise. This is because it is more flexible in administration and management, budgeting and carrying out specific objectives set forth. Its business can

adjust the state's operations to be in line with the changing conditions of the country's economy, society and politics. Being a bureaucracy, like the Ministry of Labor, may not be able to keep up with changes and be unable to make decisions on certain important matters.

Problems and necessity in establishing Migrant Workers Service Organization

From the review of relevant documents, it was found that problems in the establishment of organizations to help migrant workers and the necessity to build this organization can be divided into 8 groups as follows:

1. Problem with benefits

The law requires agents for recruiting migrant workers. This is huge sources of benefits that bring about both lawful and unlawful agents. It is hard to set a centralized organization that can be accepted among agents. Moreover, this situation is a channel for human trafficking. There are also a number of networks smuggling migrant workers. This is because migrant workers lack of knowledge of authority and procedure.

2. Loss of state revenues

Migrant workers must pay fees to the state to work legally in the Kingdom. However, most migrant workers fled to the kingdom illegally and didn't fill migrant workers registration form. They refused to pay fees for the state. This is the cause of losing a lot of state revenue. Establishing the centralized organization can solve this problem.

3. Legal issues

Currently, there are several relevant laws; the Royal Decree,

the Ministerial Regulation, the Ministry's announcement and the new Migrant Workers Law, B.E. 2562, which provides more protection for migrant workers. These laws prevent employers from doing the right procedure because it increases the cost of hiring.

4. Integration Problems

There are many agencies involved in the management of migrant workers. These entities are independent in their operations and they do not oversee the coordination. As a result, employers and migrant workers have to travel to contact each agency themselves, causing a lot of hassle and wasted time. The centralized organization will facilitate the legal employment.

5. Human trafficking problems

The smuggling of illegal migrant workers make them get paid in a low-wage, living under the tyranny and having low quality of life. Sometimes migrant workers take a fatal journeys. As a result, lives lost during migration.

6. Human Rights Issues

Foreign workers who come to work in the country are classified as second-class citizens. The more secretly they sneak in, the more of fleeing, intimidating, lacking rights and freedom.

7. Information systems

Nowadays, Thailand lacks a central database that collects data sources from the upstream. For example, sources of residence, occupation, etc. These data can be used to determine the exact number of migrant workers. These databases are currently lacking interconnectedness between government agencies, making them unable to be used in a macro.

8. Security Issues

Some fleeing migrant workers may commit serious crimes. This is dangerous for the country because it is difficult to control. When foreign workers commit crimes, they may flee the country using natural border path. This is a threat to national security.

Findings

This aspect of this paper suggested that Migrant Workers Service Organization should be established in the form of Public Organization. The characteristics of Migrant Workers Service are as followed.

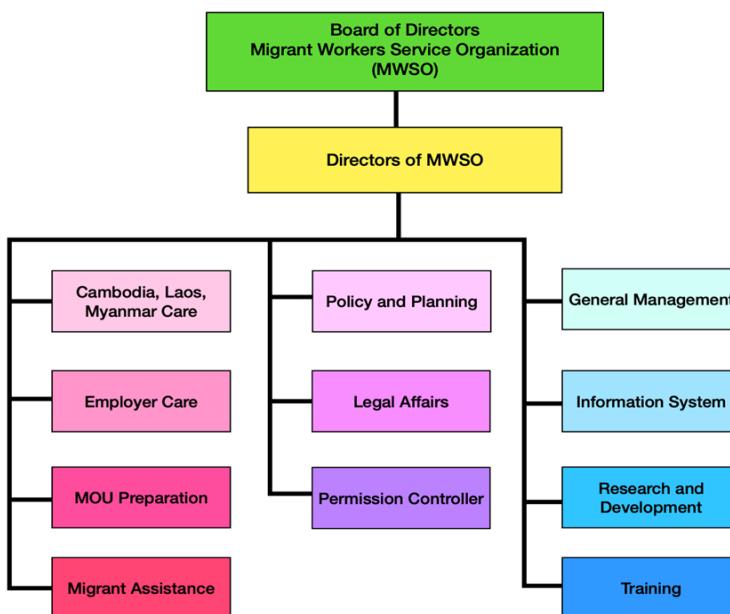
1) Organizational Objectives

1. To give service for submitting work permit of migrant workers in accordance with the law and control the licensee to operate consistent with the principles of humanity and fairness.
2. To be a center for coordinating with various agencies related to migrant workers employment such as the Ministry of Foreign Affairs, Ministry of Labor, Ministry of Health Ministry of Interior, Ministry of Agriculture and Immigration Bureau.
3. To help migrant workers from various matters by organizing a consulting system coordinating with relevant departments and provide recommendations and guidelines for solving problems for the government.
4. To prepare a database of migrant workers.
5. To provide suggestions for the preparation of modern laws.

2) *Organizational structure*

The Director of Migrant Workers Service Organization (MWSO) is a person appointed to manage MWSO's business. There are many departments that shown in an organization chart.

Organization Chart of Migrant Workers Service Organization
(MWSO)



Source: Synthesized by researchers

3) *Mission of the Migrant Workers Service Organization*

- Submitting service for the work permit in accordance with the law and control the licensee to operate consistent with the

principles of humanity and fairness.

2. Being a center for coordinating with various agencies involved with migrant workers employment.
3. Control migrant workers quantity and quality with international standards.
4. Consulting and helping migrant workers who have problems in various matters
5. Recommending the guidelines for solving problems for the government and improving modern legislation that compatible with the current situation.
6. Setting up a central database of migrant workers that links informations from various government agency.
7. Make recommendations to improve modern legislation Compatible with the current situation and control effective law enforcement

4) Management system

Organization for helping migrant workers must be under the supervision of the Minister of Labor but has greater independence in administration than a Public Organization established under the Public Organization Act, B.E. 2542. This is because the management powers belong to the Board of Directors.

5) Budgeting

The budget for the operation of a Migrant Workers Service Organization comes from 6 channels as stipulated in section 12 of the Public Organization Act, which are:

- (1) Money or property that has been transferred.

- (2) The money that the government pays as the initial capital.
- (3) Annual general subsidies allocated by the government as appropriate.
- (4) Subsidies from the private sector or other organizations, including those from foreign countries or international organizations and money or property donated to.
- (5) Fees, maintenance fees, compensation, service fees or income from operations.
- (6) Interests from money or income from assets of Public Organizations.

Therefore , the source of fund for the operation of the Migrant Workers Service Organization should come from the state budget allocated as an annual general subsidy. Another source of fund is fees. According to the Public Organization Act, B.E. 2542 (1999) and amendments. As stipulated in Section 13 of the Public Organization Act, B.E. 2542 (1999), “Under the objectives of a Public Organization, a Public Organization shall have the authority to collect fees, compensation fees or service fees for its operations as stipulated in the Royal Decree establishing.”

6) Recruitment

The officers of Migrant Workers Service Organization must have the qualifications as specified in the establishment law and do not have any prohibited characteristics as specified in the Public Organization Act, B.E. 2542 (1999) and amended (No. 2) B.E. 2559.

7) Supervision and Evaluation

Board of Directors has a power to control and supervise under

the rules and procedure for Good Governance. Board of Directors must be assessed under Section 24 and Section 24/1 of the Public Organization Act B.E. 2542 (1999) and Amendment No. 2 B.E.

Guidelines for establishment

Guideline for state revenue collection

Employing migrant workers should be legal from the beginning of the process. Legal Registration of migrant workers allows the state to collect fees. In the case of violations, there will be severe penalties such as repatriation, blacklisting, high rate fine, license revocation, etc. Migrant Workers Service Organization will be the center that generate numerous revenue for the government.

Guideline for corruption problems

Migrant Workers Service Organization must promote the establishment of a good governance system in process and internal control. Work processes should be transparent, accountable and disclosed to the public. In addition, there should be an auditing agency and a channel for complaints. When complaint arises, investigation must be undertaken immediately. If the licensee commits an offense, Migrant Workers Service Organization will revoke the license and enforce the law seriously. This organization will assist in investigating the wrongdoing and referring the case to the NACC for further investigation.

Guidelines for integration

A coordinating center has been established as the host agency for the integration of work between agencies. This center will

be responsible for setting the criteria for operating time, forwarding information to each department, assessing the performance and conducting research and development. The aims of monitor and supervise the work to be of the same standard

Guideline for human trafficking

Migrant Workers Service Organization will provide knowledges to employers and migrant workers in order to make them comply with the law. It also organizes training courses for both employers and migrant workers. Training courses may help them understanding the way of life, quality of life, human rights, and important cultural traditions of Thailand.

Guideline for designing information systems

Information systems for audit should have a central database that connects information between relevant agencies. All agencies can use the central database for immigration checks, identity checks, labor registration, health insurance and reporting for security. Data validation can be done through the linkage between the origin sources. Migrant Workers Service Organization will admin the information that is connected between different government agencies.

Summary

In summary, Migrant Workers Service Organization should established in the form of Public Organization. This organization can solve many problems; labor management, integration between government agencies, information system, revenue collection, corruption and human rights in a labor management process. The

Migrant Workers Service Organization will shed the light on migrant workers employment process under the principles of Good Governance.

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