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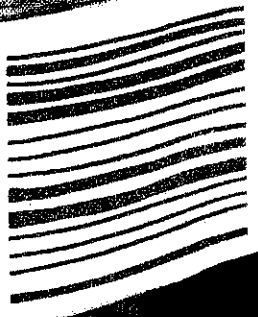




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Bound for America



THEY ARE NURSES. THEY ARE TEACHERS. THEY PICK YOUR APPLES. HOW IMMIGRATION LAW HAS SET LEGAL FOREIGN WORKERS UP FOR A NEW KIND OF INDENTURED SERVITUDE— AND THIS TIME, THERE'S NO PAYING OFF YOUR CONTRACT.

BY JOHN BOWE

IN THE SPRING OF 2004, Nikhom Intajak, a 35-year-old rice farmer in Thailand's Lampang province, met a labor recruiter who made him an attractive offer: a contract to do farm labor in the United States. He'd work for three years and earn the minimum wage of \$7 to \$10 an hour, depending on where he was deployed; best of all, he'd be a legal temporary worker, protected by American laws.

Intajak, who weighs 139 pounds and stands 5 feet 4 inches tall in a baseball cap, had worked overseas before, spending a total of about seven years in chemicals, electronics, and luggage plants in Taiwan. The money he'd sent home helped build a new house and pay school fees for two daughters. For each of his stints abroad, Intajak had paid a recruiting fee somewhat higher than the Thai legal maximum (currently about \$2,000), and so he wasn't surprised when the new recruiter, Pochanee Sinchai, asked for one as well. He was, however, taken aback by the size of her demand: The job in America would cost him \$11,700 up front.

Intajak's home, a hamlet called Banh Santicome, is poor, but not destitute. The climate is suitable for

growing rice and produce, and earning opportunities range from farming garlic to foraging for mushrooms, bamboo, and wood. A formal job, if one can be found, might pay \$2,000 a year. Three years of work in America at \$7 an hour would come out to about \$50,000. If one-fifth of that went to Sinchai, Intajak figured, then so be it. He asked his mother to put up her new house as collateral to borrow the money from a bank at

15 percent interest. Then he traveled to the Bangkok office of the recruiting firm that hired Sinchai, AACO International Recruitment, where he signed a number of documents, including several written in English, and also some blank pieces of paper.

Intajak (who asked me not to use his real name for fear of retribution) landed in Seattle on the Fourth of July. He was met by an employee of Global Horizons, the American company for which Sinchai and AACO had recruited him. According to Intajak, the man drove him and a vanload of new arrivals from Thailand to an isolated Yakima Valley apple grower named Green Acre Farms, where he confiscated their passports. Global Horizons agents stayed in the barracks and came to

work in the orchards, Intajak says, to make sure the Thais didn't run away.

Intajak worked there for about three months. The pay, \$8.53 per hour, was reasonable enough, he told me, but the work was so unsteady that he earned far less than he had been promised. Some days there might be eight hours of work, other days four—or none. After witnessing 30 or so coworkers get sent home after only a few months' work, Intajak began to realize that the contract he had signed back in Bangkok guaranteed nothing like three years of steady employment. Rather, he was eligible to work as many hours as Global saw fit to give him, for *up to* three years—as long as Global chose to renew his visa. If it didn't, if the work ran out, or if he did anything to displease his bosses, he'd have no way to pay off the \$11,700 he'd borrowed. Ever.

LAST YEAR, some 60,000 workers arrived in the US under the federal H-2A guest-worker program, which allows agribusinesses to bring in foreign labor for jobs they say are hard to fill at minimum wage. Similar temp-worker programs in industries like seafood processing, tree planting, and hotel maintenance brought in an additional 59,000 workers, and 60,000 more came in through temporary programs for professionals in fields deemed to have labor shortages—teachers, nurses, computer programmers.

These men and women are bound to the companies that requested them. They remain on American soil at the pleasure of their employers, who can send them home at any time. As Mary Bauer, an expert on temporary-worker programs at the Southern Poverty Law Center, has written: "These workers are not treated like 'guests'... Unlike US citizens, guestworkers do not enjoy the most fundamental protection of a competitive labor market—the ability to change jobs if they are mistreated."

Many, like Intajak, arrive with crushing debt from recruiting fees. I reviewed the cases of dozens of Thai workers employed by Global Horizons who had paid between \$11,000 and \$21,000 in recruiting fees, money they had borrowed from banks or relatives, often with family or communal property as collateral. In theory, they were free to leave their job anytime. In practice, they were modern-day indentured servants.

Global Horizons, which brought in

more than 1,000 Thais in 2004 and 2005 but was banned from recruiting guest workers in 2006, is now being investigated by the Department of Justice for human trafficking, according to Susan French, a long-term prosecutor in the DOJ's civil rights division. If a charge is brought, it could be the largest human trafficking case in US history.

Yet Global is neither an isolated case, nor—except in terms of size—is it especially egregious. Every year, several companies are prosecuted for keeping H-2A workers

As the "perfect immigrants," one scholar notes, guest workers serve to please employers whose problem has been "not so much a shortage of labor as it was a shortage of tractable labor."

in near-slavery conditions, and it is safe to assume that those cases are the tip of the iceberg, given federal and state authorities' minimal capacity to oversee the programs. To monitor the job sites of all 137 million US workers, the Department of Labor's Wage and Hour Division has 953 staffers—a number that has fallen by 14 percent since 1973, while the number of workers under their purview has increased by half. Exactly two of them speak Thai.

Despite the obvious flaws of H-2A, the program assuages concerns of all interested parties. Pro-immigrant liberals can feel good about bringing foreign workers into the "light of legality." Ag employers sick of regulations and politicized, uneven enforcement are freed from dealing with recruiting, housing, and supervision of workers. Anti-immigration activists find relief in the fact that, in theory, these temporary workers will all be sent home when their job is done. Which is why bringing in more temporary foreign workers is the one thing almost everyone in the immigration debate can agree on. In 2007, a proposal known as the Agricultural Job Opportunities, Benefits, and Security Act (AgJOBS) garnered the support of everyone from the late Sen. Ted Kennedy

to President Bush and the US Chamber of Commerce, and it became the cornerstone of the immigration reform bill that almost passed the Senate. It would have increased the number of H-2A jobs more than eight-fold, from 60,000 to half a million. With the Obama administration under pressure to take a run at immigration reform by next year, it is widely expected that AgJOBS—or something like it—will be at the core of whatever legislation finally emerges.

THREE MONTHS after Intajak arrived in America, in October 2004, Global Horizons sent him to Hawaii to work for the Maui Pineapple Co. Here, the pay was better than in Yakima—\$9.50 an hour—but the conditions were worse. One Global Horizons agent, Intajak and other workers told me, was in the habit of carrying a knife, a gun, or a baseball bat, and of threatening workers with "deportation" if they didn't behave or meet their quotas. Just four days in, Intajak says, he watched the man beat a coworker.

The Maui Pineapple Co.'s land is nestled among gorgeous foothills, shrouded in mist and covered with volcanic soil the color of dark coffee. The now-defunct company was part of Maui Land & Pineapple Co., whose majority owner is Steve Case, cofounder of AOL; another primary shareholder is eBay founder Pierre Omidyar, a generous benefactor of anti-slavery organizations. The terrain is so lovely that *Martha Stewart Living* featured the Maui Pineapple Co. and a smattering of pineapple recipes in its January 2007 issue.

I visited Maui in January 2008, meeting with Intajak and taking a tour of the plantation. He took me to a one-room barracks where says he stayed with 17 other workers. He pointed to a muddy spot near the parking lot, saying this was where he and others slept on the ground to make sure they were chosen to get work when the van came at 4:30 a.m. Here, he indicated, pointing to a chain-link fence, was where they snuck out to run to a store for Ramen noodles because their food rations were too small, or too disgusting. Finally, he pointed to the bush whose leaves they'd boil when they couldn't afford Ramen noodles. "*Khom!*" he said. "Very bitter." (A Maui Land & Pineapple spokesman says Maui Pineapple Co. was not aware of the workers' allegations at the time, but terminated its contract with Global after learning of them in 2006.)

Intajak was asking a lot of questions and his supervisor began threatening to send him home. On September 12, 2005, Intajak took stock of his predicament. After 14 months of work, his visa had two days remaining. He had no idea whether Global planned to renew it, and he still owed \$6,000 on his recruiting fee. Being sent home would mean losing his home and his land, which had belonged to his family for generations. It would mean homelessness for his wife, daughters, grandmother, and aunt. He could see only one way out.

Teaming up with a friend who'd also decided to run, Intajak threw his backpack out a window, then snuck out of the pineapple compound. Within moments, another friend called his cell phone to tell him the guards were coming after him.

Intajak ran into the cane fields for cover, snaking his way in shorts and flip-flops through the twisting, two-inch-thick, 12-foot-high stalks. "I was sweating like crazy, and it was muddy and slippery," he says. "I really had no idea what was going to happen, or if I'd make it, or what would happen if I got caught." Listening for cars, trying to stay close to the road, Intajak headed down the mountain, toward the ocean. After an hour in the cane, he found his friend, and together, they walked into Paia, a surfer town.

Disoriented in a world of dreadlocked, smoothie-sipping *falangs*, or white people, among stores called OmZone and Drums & Tings, Intajak and his friend made their way to a grocery where, by chance, their conversation was overheard by a Thai employee. She and her husband agreed to help the runaways. They put them up overnight and, for \$500 each, bought them one-way tickets to Los Angeles. Only after they boarded the plane to safety did Intajak and his friend notice that the tickets had cost \$175 apiece.

Several weeks after arriving in Los Angeles, Intajak made his way to the offices of the Thai Community Development Center, a nonprofit serving the area's

burgeoning Thai population. According to Chanchanit Martorell, the center's director, he was the first of many Thai workers who'd escaped Global Horizons' employ. The center was getting reports from worker advocates and legal-aid attorneys in Washington state, Utah, Pennsylvania, Colorado, and Hawaii. The staff posted a US map on the wall, using pushpins to keep track of Global's sprawling empire. As the number of pins began to run into the hundreds, they realized they'd never seen anything of this magnitude.

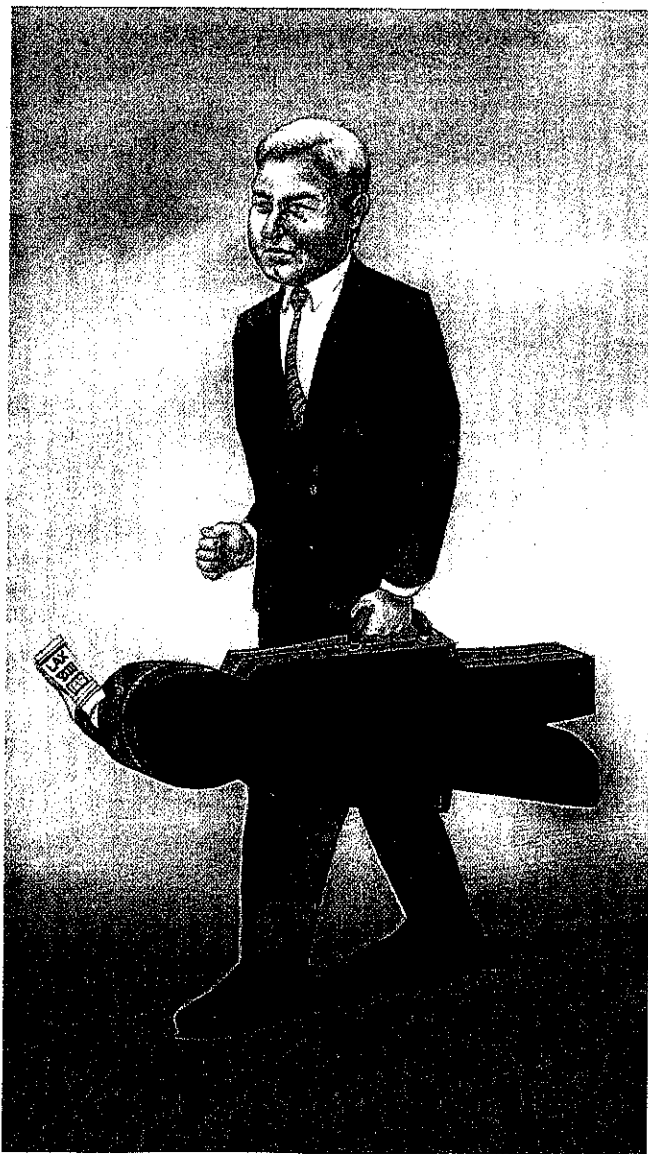
"In the past, we had always dealt with small operations that were highly localized and had a fairly limited reach," says Martorell. "Up until that point, our biggest case involved 72 workers living under one roof and working in the same factory. All of a sudden, we were looking at over 1,000

workers in over a dozen states, working for hundreds of different establishments. Trafficking on this scale could not have taken place in the typical underground fashion. It was almost as though trafficking had gone mainstream and everybody was doing it."

Martorell uses the term "trafficking" deliberately. Some years ago, she worked on a case involving Thai welders brought in on temporary visas to help rebuild San Francisco's Bay Bridge. Prosecutors, she recalls, were leery of bringing the workers to the stand: Unlike with female sex-trafficking victims, they feared, juries would find it hard to associate able-bodied male construction workers with trafficking. (In the Global case, the DOJ has actually helped a number of the workers obtain special visas designed to protect victims of trafficking who could aid an investigation.)

Since his escape more than four years ago, Intajak has lived underground in Los Angeles, working without papers six and a half days a week as a cook in a Thai restaurant. (He has also filed for a trafficking visa.) He makes \$100 a day. Although he's free from Global's direct control, he says his family is still being threatened by Sinchai, the recruiter back in Lampang province. Intajak says Sinchai has told him that one of the pieces of paper he signed promised a "guarantee fee" of nearly \$5,000 if he ever "ran away" from Global's employ—and that's on top of the thousands he's already repaid. Sinchai has filed court proceedings and taken title to a portion of his property, and she is pushing to assume the rest of it. Intajak's wife and children live under the threat of losing everything. It's been more than five years since Intajak has seen them.

THE PRESIDENT and founder of Global Horizons is a 44-year-old Israeli named Mordechai "Motty" Orian. I interviewed him in Global's office, a vibrant 3,000-square-foot chunk of an office tower in West Los Angeles, rising above Santa Monica Boulevard. The floors



are blond wood, and the *esprit d'office* is urbane and upbeat.

Orian entered the manpower business in Israel in 1989, during his compulsory national military service. Jobs that could no longer be trusted to Palestinians needed to be filled, and Orian was tasked by his commanders with finding replacements. He experimented with Eastern Europeans, then branched out, discovering along the way that each population had its own workforce peculiarities: Romanians were clumsy with tiles, marble, and mosaic, but great with plastering, concrete, and brickwork. Chinese did wonderful things with marble but had zero interest in farmwork, even if they'd been farmers at home. Thais he found to be sensitive to others' religious preferences and, moreover, highly suitable cooks and farmworkers.

After leaving the military, Orian took his manpower operation private, expanding in 1992 into the US and European markets. Y2K was a huge boon, creating a seller's market in computer programmers. Nurses were good for a while, but not so much after 9/11, when visa requirements became more stringent.

For H-2A farmworker contracts, Global charged growers a percentage over and above each worker's wages—somewhere between 45 to 80 percent, Orian told me. In return, the company handled transportation, housing, food, payroll, workers' comp, and health care. Besides these conveniences, a key reason farmers would pay a premium for bringing in H-2A workers may have to do with control. Orian recalled a North Carolina client who complained, "If I bring 200 Mexicans from Mexico, I know 100 will run away. Then I apply for another 200 so I can have another 100 stay with me." Orian laughed. "Mexicans run away. Right away! After one week! Because somebody down the road was offering them 50 cents more!" Imported Thais, isolated by debt, distance, and an absence of cultural or community links, were simply more stable.

When I asked Orian about the debt his workers took on, he offered a variety of responses. One was that the workers were lying about the size of the fees they'd paid. Another was to scoff at the idea that anyone could be stupid enough to sign blank pieces of paper. A third was to blame the system. "The problem," he said, "is that the workers go through sub-sub-sub-subagents."

Each subagent makes extravagant promises and extracts their cut. But what can you do? "Middlemen are always going to seek an incentive," Orian said. "And Third World governments are always going to be corrupt."

Orian stressed that in the messy, imprecise, red-tape-filled business of labor contracting, he had tried everything to keep his operation as clean as possible. Still, by 2004, he found himself in hot water with agencies in several states over housing and tax violations. In 2006, after finding that Global "knowingly gave false information" to applicants, the Department of Labor banned Orian from bringing in more foreign workers.

Several times during our conversations, Orian launched into cogent diatribes detailing the shortcomings of American immigration policy. The system was broken. America had become the world's largest prison camp. No one wants to do farmwork in *any* country. "You know how much I pay when I came to this country?" he said. "You know how much I spend on immigration until now? For my own paperwork? Over \$25,000. From visa fee, embassy fee, government fee, lawyers—25,000 goddamn dollars." When I suggested that this hardly compared to loss of family land and home, he scoffed. "Come on. Come on!" Everyone knew that poor workers will say anything to stay and work in the US. Where was the proof that these Thai workers were really losing their homes? "When it comes to money," he shrugged, "people will do crazy stuff. You cannot stop it and come to blame me."

When I mentioned that most people with whom I'd discussed the case felt that his workers had been not just exploited, but trafficked, he dismissed the idea with a jerk of the head. "Let me tell you something," he said. "Every day, I take my kids to school. Sometimes, I get into a traffic jam. That's the only trafficking I do."

DELTA EGG FARMS is two hours south of Salt Lake City, 14 miles from the town of Delta (population 3,200). It's surrounded by scrub desert and improbable agriculture: a stockyard here, a peach plantation there. The egg farm is a behemoth of industrial agriculture—the processing facility is next to a series of 600-foot-long "layer houses" housing 1.5 million chickens. Another Delta egg facility—another few hundred thousand chickens—lay half a mile to the right. At sunset, the alien isolation of the

landscape seemed both bleak and beautiful. The Intermountain power plant, about a mile behind the egg plant, shot indigo steam into the pale evening light. If I had just arrived here from Thailand, I might wonder if I'd landed on the moon.

In the town, Alfredo Laguna, an outreach coordinator with Utah Legal Services, showed me some two-bedroom homes where Global's Thais had stayed between shifts at the egg factory. A few blocks away stood a run-down hotel that looked like an immense horse stable. Empty now, it sometimes housed farmworkers too. "The Mexicans stayed on that side, and the Peruvians stayed on the other," Alfredo said. The Peruvians had paid about \$5,000 each for their jobs. The Mexicans, who knew? A bit farther down the road, there was a mushroom plant staffed by Laotians. Everyone in their own shadow.

Later, I met a Thai worker who'd been sent to Utah by Global. In his trafficking visa application, he stated, "We never really knew where we were." The worker, who had done two previous stints working outside Thailand, testified that "in Israel and Singapore, they would give us maps of where we were along with bus routes so that we could get around. Here we would just be dropped off in the middle of nowhere. We would have to wait until a supervisor would take us to Wal-Mart or something like that to check our accounts. We were forbidden from running errands on our own."

Another worker I met in Salt Lake City recalled his time at Green Acre Farms, where Intajak had worked. "I felt I had to be very careful about what I said and what I did," he said. "The group before us had been deported. We felt we had no control over our lives or our pay."

Over the last 200 years, writes Cindy Hahamovich, a history professor at the College of William and Mary who has researched farm labor and guest-worker programs, these schemes have represented "an uncomfortable marriage between those who desired and those who resented foreign workers." In a journal article comparing guest-worker programs in South Africa's diamond mines, Germany's World War II munitions factories, Japan's pre-WWII buildup, and America's rush to build the trans-Pacific railroad with Chinese laborers, she found that temporary labor schemes consistently represented "state-brokered

compromises designed to maintain high levels of migration while placating anti-immigrant movements. They offered employers foreign workers who could still be bound like indentured servants but who could also be disciplined by the threat of deportation. They placated trade unionists who feared foreign competition by promising to restrict guestworkers to the most onerous work and to expel them during economic downturns. And they assuaged nativists by isolating guest workers from the general population.” As “the perfect immigrants,” guest workers serve to please employers whose problem was “not so much a shortage of labor as it was a shortage of tractable labor.”

The experiences of Intajak and his coworkers are the increasingly common outcomes of these pressures. A 2007 report from the Southern Poverty Law Center notes that H-2A workers have so few rights that abuse of the system is not limited to a few “bad apple employers,” but systematic and predictable. Recruiting fees, legal or otherwise, offer “a powerful incentive” to import as many workers as possible, for as long as possible, even when there is little work. The report cites ongoing legal cases involving Peruvian, Dominican, and Bolivian workers who arrived in the US owing enormous debts from their recruiting fees; when work and pay in America were not as promised, they and their families were bankrupted.

Several recent court cases document how easily guest-worker status devolves into forced labor. In one 2009 case, *US v. Sou*, three Hawaii growers were indicted for bringing in 44 Thai workers, pocketing a portion of their recruitment fees, then “maintaining their labor at the farm through threats of serious economic harm,” according to the Justice Department. In another case, *Asanok v. Million Express Manpower*, Thai and Indonesian workers alleged that they had been promised well-paying, steady farmwork in North Carolina, only to find themselves housed in a Katrina-damaged New Orleans hotel, demolishing the building by day and sleeping in what remained at night, going so hungry they sometimes trapped pigeons for dinner. The list could go on, with several cases filed each year for as long as the US has deployed guest-worker schemes.

Proponents of expanding guest-worker programs say there are ways to safeguard against these problems—giving workers legal

recourse, increasing enforcement, rewarding employers for treating guest workers well. Last year’s reauthorization of the Trafficking Victims Protection Act added a new penalty specifically aimed at labor recruiters found guilty of defrauding foreign workers. But no one has devised a way to deal with the workers’ indebtedness to whoever helps them find work in America—or suggested giving them, as European guest-worker programs do, the free-market right to change employers.

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Global Horizons’ Motty
Orian told me. “Right
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INTAJAK’S extended family lives in a pair of teak homes on a family plot perhaps a quarter-acre in size. A path from the houses leads past herb and vegetable gardens and a 10-foot-square concrete frog tank before opening onto a communal rice paddy. I traveled there with a researcher helping the advocates at the Thai Community Development Center document the hardship among the families affected by Global’s hiring practices. She had expected three or four families and was surprised to see a group of 45 to 50 men and women sitting on carpets thrown outside the house.

Each worker had a similar tale to tell: They had been sent home from the US 5, 7, 13, 14 months into their contract with Global. Most looked ashamed as they spoke of their financial calamities. One after another showed me documents: a signed contract with Global Horizons; a Thai passport bearing US entry and departure stamps; a series of bank withdrawals and loans—\$3,000, \$5000, \$11,000. Some had papers indicating direct payments and debts to Sinchai, the subrecruiter. Whoever they were paying, it was clear they had collectively spent hundreds of thousands of dollars for the privilege of performing a few months’ farmwork in America. Each of them said that since signing with Global, they and their families had been subjected

to relentless pressure from courts, judges, agents, and lawyers. When I asked one worker why they didn’t organize and demand justice, either by approaching local authorities or by hiring a lawyer, he held up his pinkie finger and shrugged, “We’re just small strings!” Referring to Sinchai, he complained, “She’s a big rope. She knows everyone in the government.” (Sinchai could not be reached for comment; the number on the business card she gave Intajak has been disconnected.)

Another worker was almost dapper in a cream polo shirt and crewneck sweater, and cracked jokes about his own haplessness even as he described Sinchai’s ongoing attempts to wrest his property from him. He had worked at Maui Pineapple and confirmed the conditions Intajak had told me about. From the first day he’d arrived in Maui, he said, “Everybody was saying, ‘We’re screwed.’” He recited a song he and his friends had made up to make light of their situation.

But just beneath the jokes and the struggle to save face, the desperation was palpable. Besides Sinchai, the workers had borrowed from aunts, uncles, and grandparents, who now expected repayment. In a town where I met seven sisters (all of them grandmothers) living in the same family compound, where 10 miles away was described as “far from here,” where family was the primary source of identification, families were breaking apart. I spoke to a woman who told me that her husband, like Intajak, was working underground as a cook in Los Angeles. She said that they had already paid \$12,300 to Sinchai, but the recruiter said they still owed \$11,600. Her husband was remitting about \$900 dollars a month—a lot of money in Thailand, but nowhere near enough to meet the 20 percent monthly interest demanded by Sinchai.

I visited this woman in her home, which was perched atop round log pillars 10 feet high. We sat on the floor with a dozen or so women in similar circumstances. It was her job to care for seven people, to work, to cook, to raise the kids, to keep things going. “This is our life now,” she said. “Our husbands work 13-hour days, and then they call us at midnight or 1 a.m. I’ve been so stressed by these debts that I can’t sleep at night.” In Thai, she sighed, “*Mot nua, mot dua*,” a saying meaning, “Out of flesh, out of body. There’s nothing left.” ■