

# Thailand

## The Plight of Burmese Migrant Workers

*“It’s better here in Thailand. You don’t have to work for other people for free”*, Shan farmer who had been required to perform forced labour for the Myanmar army and was now earning 70 baht<sup>1</sup> a day picking corn in Thailand

### I. INTRODUCTION

Hundreds of thousands of Burmese migrant workers are employed in various sectors of Thai industry, including fisheries, manufacturing, domestic and construction work, hotels and restaurants, and agriculture. As Thailand has become more prosperous, fewer Thai people are willing to work in jobs which are commonly known as “dirty, dangerous, and demeaning”, and Burmese nationals have arrived in Thailand in increasing numbers to fill the labour shortage. The Royal Thai Government has recognized this need by establishing a series of registration processes which, although flawed from both the policy and implementation point of view,<sup>2</sup> have been a good faith attempt to establish a legal framework and regularize the flow of migrants across porous borders with Myanmar, Laos, and Cambodia.

The material below seeks to examine some of the key issues and problems faced by Burmese migrant workers and their families, the Royal Thai Government (RTG) and the employers. These include flaws in the registration implementation process; the RTG’s obligations under international law; and the general lack of labour rights for migrant workers in Thailand, including adequate pay, living and working conditions; freedom from arbitrary arrest and deportation; and adequate health care. The report also describes those industry sectors employing migrant labour, including factories, fisheries, agriculture, and domestic and day labour. The material is based on testimonies from migrant workers, official documents and media reports. Details which could identify those individuals interviewed by Amnesty International are deleted in order to protect sources.

Burmese migrant workers make up approximately 80% of migrant workers in Thailand; Lao and Cambodian workers are the other two largest groups of migrant workers there.<sup>3</sup> In addition there are over 143,000 Burmese refugees in Thai camps near the border, mostly from the Kayin and Kayah ethnic minorities, who are not permitted by the Thai authorities to work. Tens of thousands of Shan refugees are also in Thailand, but they are not allowed by the government to live in refugee camps. Most of the Shan refugees are migrant workers, many

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<sup>1</sup> 40 Thai baht equals approximately one US dollar.

<sup>2</sup> In 1994 the Thai authorities began to register migrant workers but only in some border areas; in 1996 the authorities began to register migrant workers in other areas of Thailand.

<sup>3</sup> This estimate comprises both unregistered and registered migrant workers from Myanmar in Thailand. However it is almost impossible to estimate the number of unregistered migrant workers because they do not make themselves known to the Thai authorities.

of whom would be at risk of serious human rights violations were they to be returned to Myanmar.<sup>4</sup>

Burmese migrants in Thailand generally come from several ethnic minority states in eastern Myanmar, including the Kayin, Kayah, Mon, and Shan states; and from Bago and Tanintharyi (Tenasserim) Divisions. Some of them were living in areas of internal armed conflict, where ethnic minority-based armed opposition groups have been fighting against the central Myanmar Government, sometimes for decades. Although such conflicts have greatly decreased in the last 16 years, there remain pockets of resistance in Southeastern Shan State, and in small areas of Kayin, Kayah and Mon States and in Tanintharyi Division. Migrants from these regions have often been victims of or witnesses to the Myanmar Army's counter-insurgency activities, including forced labour and forced relocation. Others from conflict-free areas have left their homes in Myanmar because there are no jobs or other economic opportunities. A detailed discussion of the root causes for migration from Myanmar will be the subject of a forthcoming report.

During May and June 2004, Amnesty International interviewed 115 Burmese nationals in seven locations in Thailand who were either working or looking for work. They were members of the Mon, Kayin, Kayah, Shan, Rawang, Tavoyan and *Bama*<sup>5</sup> ethnic groups, and were Buddhist, Muslim, or Christian. They were employed mostly in the fishing, manufacturing, agricultural, construction, and domestic service industries.

None of the migrants interviewed by Amnesty International had been trafficked across the Myanmar–Thai border, but many voluntarily paid large sums to “agents” who smuggled them through checkpoints, often by bribing immigration officials. However thousands of other Burmese nationals have been trafficked to Thailand to work in brothels, private homes or sweat shops.<sup>6</sup> The vast majority of Burmese nationals do not possess passports, which cost thousands of dollars to obtain. Returning to Myanmar unofficially by avoiding immigration

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<sup>4</sup> Migrant workers are not only persons who have moved voluntarily in search of economic opportunities, but also comprise asylum-seekers and refugees who are engaged in remunerated activities in their host countries. See *Amnesty International, International Labour Organization: Amnesty International's concerns relevant to the 92<sup>nd</sup> International Labour Conference, 1 – 17 June 2004* (AI Index IOR 42/008/2004).

<sup>5</sup> *Bama* is the Myanmar language word for Burmese; in June 1989 the Myanmar government changed the name of the country from Burma to Myanmar and also changed all place names to the *Bama* language.

<sup>6</sup> Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, (the Trafficking Protocol), supplementary to the UN Convention against Transnational Organized Crime defines trafficking as “a) Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.

checkpoints is illegal under Article 13 (1) of the Immigration (Emergency Provisions) Act of 1947, which provides for one year imprisonment and a fine for doing so.<sup>7</sup> Most Burmese migrants possess an identity (ID) card, which generally grants them some form of citizenship,<sup>8</sup> but which does not necessarily permit them to leave or return to Myanmar legally. Moreover a Myanmar ID card is not accepted by the Thai authorities as a sufficient level of proof for work registration purposes.

Shan, Kayin, and *Bama* migrant workers interviewed by Amnesty International were generally able to cross the border on their own, without paying a fee to an “agent”. However members of the Mon ethnic minority in particular paid large fees in Thai baht to smugglers who took them over the Thai-Myanmar border. The vast majority of all the interviewed migrants did not cross the border officially. However many who came to Mae Sot, Tak Province, paid a fee for a day pass to cross the bridge on the Moei river which marks the boundary between Myanmar and Thailand. This group generally remained in Mae Sot beyond one day, and were then considered to be “illegal immigrants” by the Thai authorities, and therefore at risk of arrest by the Thai police. After their arrest they generally spent one night in the local police lockup, before being deported either officially across the bridge or unofficially on a boat across the Moei River. However those interviewed by Amnesty International were able to pay a small bribe on the Myanmar side of the river in order to return immediately to Mae Sot. Burmese with a valid fear of persecution if they were to be returned to Myanmar were generally not given the opportunity to make themselves known to Thai immigration authorities nor to the United Nations High Commissioner for Refugees (UNHCR) before deportation.

Some of those interviewed had registered for a work permit with the Thai authorities in previous years, and others expressed a desire to register during the July 2004 registration. However many of the latter group stated that they could not afford the fee of 3,800 baht in order to do so. This fee, which covers a medical check-up and a registration card, is generally paid up front by the employer and then deducted from migrants’ pay until the debt is fully repaid. A 10 May 2005 Cabinet Resolution established a new registration process, taking place from 1 – 30 June 2005. All migrants from Myanmar, Laos, and Cambodia who wish to work and live in Thailand until June 2006 must register with the government.

Those migrants interviewed by Amnesty International had left their homes in Myanmar for a variety of reasons, including the inability to find a job; confiscation of their houses and land by the military; and fear that if they remained they would be subjected to human rights violations, including forced labour. A young Mon man described why he was in Thailand: “*I like Thailand better. If I could be a citizen I would. In Burma it is 24 hours fear, every night I dreamed Misery Number 1, Misery Number 2.*”

Many of the young people who were interviewed had come to work in Thailand in order to send money back to their families. However some of them could not save enough to send any

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<sup>7</sup> At least three prisoners of conscience in Myanmar have been sentenced under this provision for returning “illegally” to Myanmar.

<sup>8</sup> Myanmar law provides for three categories of citizenship.

money home, but were working in Thailand in order not to be a burden to their parents. Those who had fled from militarized areas in Myanmar were much more likely to have experience of human rights violations at the hands of the Myanmar military. For example a 37-year-old Mon woman had left her home in Pa Nga village, Pa Nga village tract, Thanbuyzat township, Mon State because the Myanmar military destroyed all of her 1,000 mature rubber trees in order to construct a barracks. She was currently working in a coconut oil factory in Thailand for 175 baht per day. In tears, she told Amnesty International:

*“The military cut all my rubber plants. I felt so sad to see this. They said they would give compensation, but they didn’t...I really want to tell you, to spread the news...Not only my land, many acres were confiscated, some people are worse off than I am...”*

A 29-year-old Shan-Karen woman from Shwepitha satellite town, Yangon, had been supporting her five brothers and sisters working in a garment factory in Yangon. She went to Thailand to work because she was in debt, although she was making less money there than in Myanmar. She said, *“I don’t want to go back [to Myanmar] with empty hands...I have a lot of sleepless nights...my friends and I are disappointed that there is no happy time for us.”* A 35-year-old Shan farmer from La Mon village, Wan La village tract, Kunhing township,<sup>9</sup> Shan State, came to Thailand and was working in a bamboo shoot factory. He left his home because he could not support his family, and because his brother was shot dead and sister raped and then killed by Burmese troops. Troops also took him for forced labour duties building a road.

In some areas most of the young people left their villages in order to work in Thailand. One Mon man from Hpa’an township, Kayin State, told Amnesty International about the situation in his village: *“Education is very important but the government hasn’t funded it. Our middle school is funded by villagers earning money in Thailand. Many people have been in Thailand for the last 15 years, and many more are leaving now. Prices are going up, the population is growing, people are having a hard time feeding themselves and have decided to leave.”*

### **The Tsunami**

The 26 December 2004 tsunami in South and Southeast Asia affected Satun, Trang, Krabi, Phang Nga, Phuket, and Ranong provinces in Thailand, killing an unknown number of Burmese migrant workers, who had been employed in the hospitality, agricultural, construction, and fishery industries there. The Tsunami Action Group (TAG, comprised of Thai and local migrant support groups) and the Law Society of Thailand have estimated that between 700 and 2,500 Burmese migrant workers went missing. Many of them had not registered with the Thai Government and so have not appeared in any official list of those killed. A total of almost 5,400 people in Thailand were reported by the Thai authorities to have been killed, including Thai nationals and tourists; however this number does not appear to include Burmese migrant workers. There appears to have been no concerted effort to track

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<sup>9</sup> Kunhing township is a counter-insurgency area where the Shan armed opposition group the Shan State Army-South operates.

missing Burmese migrant workers by the Thai authorities, although it has been reported that there are 2,000 unidentified bodies of foreign workers there.<sup>10</sup>

The resulting devastation of the tsunami exposed several major problems facing Burmese migrants in Thailand and other longstanding issues and concerns. According to local labour advocates, one of the major issues it revealed was the lack of support and resources at the provincial level in the implementation of the July 2004 registration policy, which entailed issuing temporary ID cards, health cards, and work permits. Nevertheless, some 73,000 migrant workers were reportedly registered for work in the tsunami-affected provinces beginning in July 2004 and had received temporary work permits for one year. However, according to reliable sources, this registration was only possible if “agents”, or “brokers” who had brought the migrants into Thailand in the first place, provided assistance by dealing directly with the local authorities, for which they charged approximately 5,000 to each migrant. After the tsunami hit the region, hundreds of these migrants lost their documents in the flood.<sup>11</sup> Subsequently there has been some attempt by the Thai authorities, with the assistance of non-governmental organizations working with Burmese migrants, to re-issue the documents for registered migrants in the tsunami-affected provinces.

Thousands of Burmese migrants in tsunami-affected areas went into hiding in the aftermath of the tsunami for fear of arrest and harassment by the Thai security forces. Indeed, reports have emerged of arrests of some Burmese migrant workers and intimidation of those who attempted to locate their missing families or to seek assistance. Migrants were also generally unable or unwilling to access the Thai public health system after the tsunami hit. On 14 February 2005 information from the Director of the Employment Department, the Thai Ministry of Labour, indicated that after the tsunami the government helped Burmese migrant workers to return to Myanmar. At least 2,000 migrants had returned to Myanmar in the early part of 2005. Burmese aid workers believe that the true number of Burmese migrants who died, were injured, are missing, or have returned to Myanmar will probably never be known. This is because so many of them had not previously registered, while others who had done so did not make themselves known to the Thai authorities after the tsunami.

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<sup>10</sup> *The Nation*, 6 May 2005.

<sup>11</sup> The tsunami also adversely affected the livelihoods of Thai nationals in the fishing industry, many of whose boats and fishing nets were destroyed. Assistance from the government has reached these areas, but a network of Thai non-governmental organizations has stated that this relief is not sufficient to restore Thai fisher folks' livelihoods, and so have been providing additional assistance. Moreover Thais working in the tourist industry, including hotel and restaurant employees, also lost their jobs when their places of employment were destroyed. Tourism is one of the largest industries in the tsunami-affected area, where hundreds of thousand of tourists visit the beaches and islands in the region every year. Finally thousands of Thais – whatever their jobs – living in these six provinces have had their homes destroyed or badly damaged by the tsunami.

### **Thailand and International human rights and labour standards**

As a member of the United Nations, Thailand has the duty to uphold the principles of the Universal Declaration of Human Rights (UDHR). The UDHR enshrines internationally recognized human rights, and many of its provisions are considered to be reflective of customary international law binding on all states. Among the rights provided for in the UDHR are the rights to life, liberty, and security; the right to equality before the law without discrimination; freedom from torture and other cruel, inhuman or degrading treatment or punishment; freedom from arbitrary arrest, detention or exile and the right to a standard of living adequate for the health and well-being of her/himself and of her/his family.

Thailand is a state party to both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). Much of the abuses highlighted in this report are violations of the state's duty to protect economic, social, and cultural rights under the ICESCR. In particular Article 7 guarantees labour rights, including the right to receive "*fair wages and equal remuneration for work of equal value without distinction of any kind...2*"; the right to "*safe and healthy working conditions...*" and the right to "*[r]est, leisure, and reasonable limitation of working hours*" Article 2.2 undertakes to guarantee equality of rights between nationals and non-nationals, e.g. to both Thai nationals and non-nationals in Thailand. The guarantee of these rights is particularly pertinent to migrant workers in Thailand, who generally receive lower wages, work longer hours, and endure unhealthy and unsafe working conditions.

In addition, CERD<sup>12</sup> General Comment 30 on discrimination against non-citizens calls on States parties to "*Remove obstacles that prevent the enjoyment of economic, social and cultural rights by non-citizens, notably in the areas of education, housing, employment and health*", "*Ensure that public educational institutions are open to non-citizens and children of undocumented immigrants residing in the territory of a State party*" and "*Recognize that, while States parties may refuse to offer jobs to non-citizens without a work permit, all individuals are entitled to the enjoyment of labour and employment rights, including the freedom of assembly and association, once an employment relationship has been initiated until it is terminated.*"

The Royal Thai Government has not ratified several core International Labour Organization (ILO) Conventions, including Convention No 87, Concerning Freedom of Association and Protection of the Right to Organise, which protects the rights of workers to organize themselves; and Convention No 98, Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, which further protects trade union rights. Moreover, the Government has not ratified other core ILO conventions, Convention 111 on racial discrimination and sexual harassment; and Convention 138 regulating minimum age for work.<sup>13</sup> Thailand has also failed to ratify ILO Convention No. 97 on Migration for Employment (Revised) and No. 143 on Migrant Workers (Supplementary Provisions) (1975).

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<sup>12</sup> Thailand is a state party to both the International Covenant on Economic, Social and Cultural Rights Covenant (ICESCR) and the Covenant on the Elimination of Racial Discrimination ( ICERD).

<sup>13</sup> The ILO has designated eight Conventions as Core.

Amnesty International urges the Royal Thai Government to ratify all eight core ILO Conventions as a means of protecting both Thai and migrant workers.

On 1 July 2003 the United Nations (UN) International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families entered into force as an instrument of international law. This treaty imposes a series of obligations on States parties to promote among other things “*sound, equitable, humane and lawful conditions*” for all migrant workers, whether documented or undocumented. Under the terms of this Convention, migrant workers are entitled to protection of their basic freedoms including the right to life; the right to freedom from torture; the right to due process including freedom from arbitrary arrest and detention; the right to medical care that is urgently required and the right to equal treatment – in comparison to nationals in the country – in respect to remuneration and other conditions of work, membership in trade unions and access to social services. Amnesty International calls on the Royal Thai Government to become a State Party to this treaty as an important step in the protection of migrant workers there.

## II. THE REGISTRATION PROCESS

### Background

Over the last several years the Royal Thai Government adopted a series of measures to legalize the employment of migrant workers in some sectors of the Thai economy, including agriculture, fisheries, factory work, construction, and domestic service. However these efforts at the regularization of migrant labour have not addressed key problems which many if not most migrant workers face. They remain extremely vulnerable to exploitation, particularly to extortion and physical abuse, at the hands of smugglers, employers, or the local police. Amnesty International has raised concerns about these issues, most recently in a November 2003 report, *THAILAND: Grave Developments – Killings and Other Abuses*,<sup>14</sup> and in July 2002 in a report entitled *MYANMAR: Lack of Security in Counter-Insurgency Areas*,<sup>15</sup> both of which examined the problems migrant workers from Myanmar face in Thailand.

In August 2001 the Royal Thai Government established a registration system for migrant workers from neighbouring countries; some 560,000 workers subsequently registered. In late 2002 those who originally registered were eligible to re-register, but only 281,162<sup>16</sup> re-registered, although it is not known why so few chose to do so. In August 2003 the Thai Labour Minister reported that the cabinet resolved to permit more than 400,000 previously registered migrant workers to continue working in Thailand for one more year.<sup>17</sup> During September 2003 migrant workers who had previously registered could re-register, but those who had never gone through the process or who had lost their jobs were not eligible.

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<sup>14</sup> November 2003, AI Index ASA 39/008/2003, pages 22 - 28.

<sup>15</sup> July 2002, AI Index ASA 16/007/2002, pages 37- 43.

<sup>16</sup> *Bangkok Post*, 9 September 2002. This number also includes workers from Cambodia and Laos.

<sup>17</sup> *Bangkok Post*, 20 August 2003

Moreover only migrants working in certain sectors of the economy, including agriculture, factory work, and fisheries, were permitted to re-register.

There were several flaws in these registration processes, including the fact that if the migrant worker lost his/her job, they became “illegal immigrants” after a period of seven days, and faced arrest, a fine, and deportation. This was particularly arduous for many migrants, as by the very nature of their work, whether in agriculture, fisheries, garment factories, or the hospitality industry, meant that they would only be employed on a seasonal basis.

Only the employees themselves were permitted to register; however in practice many had brought their families with them. Families of migrant workers were at risk of being deported back to Myanmar as they had no legal status in Thailand. Most of them do not attempt to seek health care or education for fear of deportation or rejection. Moreover children of migrant workers are not eligible for government health care or education in Thailand. A 36-year-old *Bama* woman from Mon State explained what her children were doing: “My husband is fishing on a boat – he’s always out at sea – he is paid 4,000 baht per month...My sons – 15 and 16 – are working with my husband on the boat. I am sad to see my kids working at such a hard job. They are paid 2,000 to 2,500 baht per month. My daughters are five and 12 years old and stay with me. They don’t attend school.” In general only the families of those migrants being assisted by welfare organizations attempt access the Thai public health and educational systems.

Registered workers are theoretically exempt from arrest and deportation by the Thai authorities, but those found without a registration card on their person remain vulnerable to arrest. In practice employers often retain the workers’ registration cards and only provide them with a copy, which does not prevent them from being arrested. Many workers have stated that employers kept the work permit cards so that the workers could not quit their jobs. Moreover police in areas of large concentrations of migrants from Myanmar often arrest both registered and unregistered workers, demanding bribes before releasing them.

### **The current registration**

On 16 June 2004, the Royal Thai Government and the State Peace and Development Council (SPDC, Myanmar’s military government) signed a Memorandum of Understanding concerning Burmese migrant workers in Thailand<sup>18</sup> In a written response to Amnesty International in July 2004, the Thai Government provided an English language version of this agreement. Under Article IX of the Memorandum, terms and conditions of employment should not exceed two years, to be extended up to four years, after which time the migrant worker must return to Myanmar. Article XVIII states that “*Workers of both Parties*

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<sup>18</sup> The full title of the document is: *Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers*. The Thai Government also has Memoranda of Understanding with the Lao and Cambodian governments about migrant workers.

[Myanmar and Thailand] *are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.*"

Under both the terms of the MOU with the Myanmar Government and another official Thai Government document, entitled Report No. 0307/2275, migrant workers are entitled by law to the same labour rights as Thai nationals, provided they have registered their labour with the government.<sup>19</sup> Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia must pay 1,900 baht for a medical examination and "health insurance" [(Part 2. i.)]. According to Part 2. ii., migrants should pay in addition a 100 baht application fee and 1,800 baht work permit fee valid for one year. Under Part 3 family members must register and will receive "*temporary leave to remain in the Kingdom of Thailand for one year*". Part 4 stipulates that "Alien workers" are permitted to work in only two types of jobs, as labourers or household servants. However the document does not explicitly define "labourer". In a departure from previous registration processes, Part 5 states that alien workers can change employers and still legally remain in Thailand for one year. Part 6 states: "*Once an alien worker is registered, the Government confers the same rights in the control of labour as are granted to Thai workers.*"

Amnesty International welcomes the provisions by the Thai government which allows the families of migrant workers to remain in Thailand and permits migrant workers to change employers legally. Moreover the organization welcomes the provision for migrant workers to receive the same labour rights as Thai workers. However, as noted below, in practice migrant workers are routinely not paid the legal minimum wage, nor are they permitted to organize or enter into collective bargaining, both rights which Thai workers are in principle entitled to.

After a two week delay, registration of migrant workers from Laos, Cambodia, and Myanmar began on 1 July 2004 for one month; this deadline was later extended to 15 November 2004. Many Burmese migrants reportedly expressed confusion about the complexities of the registration process and the rights to which they would be entitled to under this new scheme. Several non-governmental organizations assisted them in this process, including by providing translation and interpretation services.

Many of the migrants whom Amnesty International interviewed in May and June 2004, before the registration had started, said that they did not have enough money to register. The story a 56-year-old Shan woman relayed is typical: "*I heard about the registration – I would like to do this but I have no money, barely enough to eat. I can't decide whether to stay here or not – my daughter and I can't work properly because we have health problems – we have to depend on our husbands. Even if we want to return [to Myanmar] we have no money. But staying on – we can't see any future.*"

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<sup>19</sup> Amnesty International has obtained Report No. 0307/2275 from the Thai Ministry of Labour to the United Nations. The information above is based on an unofficial translation which the organization commissioned from an independent translator.

The overall pattern revealed in interviews with migrants is that those who were in more established steady work had already registered in previous years or were planning to do so under the new scheme. All of them said that the employer deducted from their wages a specific amount each pay period, so the workers in effect paid for their own registration. Those who were either employed in more casual labour or who had recently arrived in Thailand and had not yet found work said that they had not registered because they could not afford it. Under the current registration scheme, it is believed that it is the migrants themselves who are responsible for paying their fee, which places an enormous burden on them, as they are in most cases already making significantly less than the legal minimum wage. Thai non governmental organizations who provide assistance to Burmese migrant workers have stated that if they were earning the minimum wage, paying such a fee would not be a hardship.

According to the 16 February 2005 figures from the employment department of the Labour Ministry, almost 1.3 million migrants registered for a temporary ID card with the Ministry of the Interior, which includes their families. Over 600,000 of the almost 900,000 of registered migrants were from Myanmar. In addition thousands of unregistered Burmese migrants are believed to be working “illegally” in Thailand. Work permits issued during the 2004 registration process are temporary and will expire on 30 June 2006.<sup>20</sup> A 10 May 2005 Cabinet Resolution established a new registration process, taking place from 1 – 30 June 2005. All migrants from Myanmar, Laos, and Cambodia who register for a work permit during June 2005 will be able to re-register for a further year. Dependents who have a temporary ID card and are directly related to migrant workers with a work permit will also be allowed to stay for one more year.

### **III. LACK OF RECOGNITION OF LABOUR RIGHTS OF MIGRANT WORKERS**

#### **Rights in the workplace**

Trade union and labour rights are limited for Thai workers as well as for migrant workers. Less than four percent of the Thai work force is registered in labour unions and only 11% of industrial workers are union members. The low overall trade union membership is believed to arise partly because of the high proportion of Thai workers in informal employment and in agriculture, combined with a general unfamiliarity with the concept of industrial relations. The minimum wage for each province is set by provincial committees and is generally not sufficient to provide an adequate standard of living for a worker and family.<sup>21</sup> The legal minimum wage ranged from 133 baht to 169 baht per day.

Migrants usually work in the following sectors of the Thai economy: agriculture; general factory work, particularly in the garment and fishery sectors; the construction industry; and

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<sup>20</sup> According to TNA, Bangkok, May 10 2005, the validity of the work permits was extended from 30 June 2005 to 30 June 2006.

<sup>21</sup> Tim De Meyer, an International Labour Organization (ILO) specialist, as quoted in *The Bangkok Post*, 7 June 2004.

domestic service. Much of this work is sporadic; agricultural workers only work at certain times of the year and garment factory workers only work when the factory receives orders. The method of payment varies; depending on industry sector and the individual employer, some migrants are paid according to piecework rates, and some are paid on a daily or monthly basis. Domestic servants are generally paid by the month and receive free room and board at their employer's house. Factory workers are generally paid monthly and often live in insalubrious conditions in the factory compound. Their employers normally deduct any food and lodging from their pay checks. Agricultural workers often stay in field huts which the owners allow them to occupy. Those working on larger farms, such as large fruit orchards, live in cramped compounds at the site.

Burmese migrant workers told Amnesty International about violations of their rights at work, resulting from a lack of recognition by the Thai government of their basic labour rights, including mandatory long working hours without overtime payment; being paid far less than the already inadequate Thai minimum wage; lack of safe working and living conditions; and inability to collectively organize themselves. A 24-year-old *Bama* man from Hlegu township, Yangon Division, described his working conditions at a wool factory where he had been employed for two years: *"I worked from 8am to 9pm, sometimes until midnight, with no overtime pay...30 of us men lived in a hall, about 30 feet by 10 feet, sleeping side by side.."* He earned 3,000 baht per month. A 35-year-old *Bama* man from Yangon Division described his working and living conditions: *"I sew piecework, my salary varies from 2,000 to 3,000 per month... [my wife and I] share a small room for two couples, no privacy. The toilet and the sanitation is so bad and the water is unclean...There isn't enough water to bathe."*

The Ministry of Labour sets minimum wage rates for each of Thailand's provinces; however the vast majority of those interviewed did not receive this rate even if they had registered to work with the authorities. They were often punished by their employers if they attempted to organize for better working conditions and rate of pay. Punishments have ranged from beatings by local gangs hired by the employer; to mass arrests and deportation to Myanmar by local authorities.<sup>22</sup>

A 21-year-old Shan man told Amnesty International that he left his home in Laikha township when he was 11, after Burmese troops had driven him and his fellow villagers out of their village, in order to forcibly relocate them. He was subsequently separated from his family and then fled to Thailand. Initially he worked in a bakery, making only 300 baht per month; then he got a job in an ice factory where he was paid 2,000 baht per month and provided with a place to live. At the time of the interview, he was working selling plastic bags, making 120 baht per day instead of 143 baht which is the legal minimum wage in Chiang Mai Province, northern Thailand. He described the treatment he received from his current employer: *"He doesn't treat me well – I am verbally abused and sometimes physically. He threatened to fire me but I must be patient because jobs are hard to find...sometimes he shoves me around –he doesn't let us have a meal until the job is finished."*

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<sup>22</sup> For a full discussion see *THAILAND: Grave Developments – Killings and Other Abuses*, AI Index ASA 39/008/2003, pages 22 – 28.

One 23 year old Mon unemployed goldsmith told Amnesty International how he was treated in Thailand:

*“...Thai police are a big threat to Burmese workers. Sometimes they abuse their power and harass us even if we have a pass [work permit]. The Burmese sometimes don’t realize their rights so they are mistreated by police. Generally Thai people regard us as garbage. They don’t see Burmese as helping the economy. We are taking jobs which the Thai won’t do. They regard us as troublemakers, never as good friends...I didn’t want to come to Thailand – because I love my country and land – but because of economic mismanagement and poverty and lack of education, especially for rural people – what they want is a better life. But they are being subjected to abuses here.”*

### **Arrests, detention and deportation**

Migrant workers are subjected to “shakedowns”<sup>23</sup> and arrests by Thai police if they do not have their labour registration cards with them, and sometimes even if they are in possession of their cards. Migrants are vulnerable to arrest by the police if they are not registered, or, if registered, not in possession of their registration documents. Once the focus of police attention, migrants run the risk of being threatened with arrest in order to extract a bribe. Some Burmese migrants reported that they did not travel far from their homes with more than 200 baht so the police would not take all their money. A Mon automobile mechanic told Amnesty International that his 12-year-old daughter was stopped locally by the police in May 2004 and when she was unable to produce a registration card, the police threatened to arrest her unless her father paid 1,000 baht as a bribe. This police behaviour is typical of migrant areas, although migrants were often able to bargain with the police to get a reduction in the bribe.

If arrested, Burmese migrant workers are usually held in unhealthy conditions in police lock-ups or Immigration Detention Centres. A 20-year-old *Bama*-Mon man from Belugyun Island, Mon State, described his experience of arrest and detention in June 2004 at the hands of the Thai police: *“I was arrested on the way from Phuket...three of us came together – the Thai police took 10,000 baht and did body searches and took everything – one of my friends was kicked for not cooperating...We spent two days in a police lockup and then 10 days in Ranong Immigration Detention Centre...it was extremely crowded...I saw some people who couldn’t move because they had been there for so long...they couldn’t walk properly.”*

After arrest and detention for 24 hours or more, migrant workers are transported to the border in extremely overcrowded trucks. For example on 20 February 2004 a group of 106 Burmese migrants and family members crammed into a truck insured for only 26 people was on the way from Thong Pha Phom to Sangklaburi, Kanchanaburi Province when the truck skidded and crashed on a steep and winding road, killing eight people, and seriously injuring 18 others. Three children were among the 106 Burmese, including an eight month old baby. The Law Society of Thailand is pursuing the case in the courts, but it is not known if any compensation has yet been paid to the victims or the families.

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<sup>23</sup> Local police routinely stop Burmese migrant workers and extort money from them, threatening them with arrest and deportation if they do not hand over their cash.

Some migrants attempt to escape if the police raid their place of employment. Acting on reports that Burmese migrants had allegedly killed the son of a local Thai police officer, a combined force of Immigration and Border Patrol police raided the Vita pineapple factory in Kanchanaburi on 20 January 2004. Burmese migrant workers in the factory jumped into a river to evade capture. Some were caught and reportedly beaten by the police, but at least 11 of those who jumped into the river drowned in the attempt. It is not known if any compensation was paid to the victims or their relatives in either the Sangklaburi case or the Vita Pineapple case.

### **Health and education**

Burmese migrant workers generally do not choose to use the Thai public health system, whereby people can receive medical care for 30 baht per visit.<sup>24</sup> Several workers interviewed by Amnesty International said that they did not attempt to use such a scheme because they did not believe that they would receive proper medical care, or because they had experienced discrimination by Thai public health workers. Instead they went to private clinics and paid a much higher fee to receive health care. One 37-year old Kayah woman described her husband's health problems: *"My husband is working in construction as a foreman and is registered...he has a kidney problem – from heavy work – last year he suffered a lot – he went to a private hospital – 30 baht program but it is not as good. He was suffering and screaming. He went to another private hospital and finally to a Chinese herbal medical doctor so he recovered a bit but he is still sometimes suffering. It costs a lot of money."*

Amnesty International is further concerned that both Thai and migrant female workers are frequently dismissed from their jobs if they become pregnant. The organization urges Thai employers not to dismiss pregnant workers and to ensure that female workers do not face discrimination in the workplace. Female migrant workers often do not receive reproductive health care and so are particularly vulnerable to unplanned pregnancies and sexually transmitted diseases.

The Royal Thai Government is a state party to the Convention on the Elimination of Discrimination against Women (CEDAW) and is such is obliged not to dismiss female workers on account of marital status; for taking maternity leave; or for becoming pregnant (CEDAW Article 11, 2(a)). Although Thai labour law protects against dismissal of pregnant workers by employers, in December 2004 the Thai Labour Ministry announced that it would deport more than 9,300 pregnant migrant workers, in order to *"prevent the problem of stateless children from worsening"*.<sup>25</sup> According to reliable sources, in practice both Thai and migrant workers lose their jobs if they become pregnant. In Mae Sot Burmese migrant workers have been dismissed from their jobs and deported to Myanmar because they became

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<sup>24</sup> The 30 baht health care scheme is part of Prime Minister Thaksin's populist platform, and is believed to be popular with many Thai people. However, having said that, some Thai people have expressed concern about how the scheme is financed.

<sup>25</sup> 15 December 2004, Xinhua General News Service, a publication of the Government of the Peoples' Republic of China.

pregnant. For example in November 2004 a pregnant migrant worker with two children was deported from Mae Sot to Myawaddy, Myanmar.

### **Burmese migrant workers in garment factories**

Those migrants who worked in garment factories in particular told Amnesty International that they were forced to work extremely long hours, and were seldom paid overtime rates. Their working conditions were often poor, with inadequate ventilation and water in the factories. They also lived in very crowded conditions, whether in accommodation which the factory owner provided or in other living areas. Factory workers who attempted to organize into informal unions were punished with job dismissal or arrest and deportation from Thailand back to Myanmar. They were also almost never paid the minimum wage for the province where they were employed, and most were paid at piecework rates. The rate of piecework which a worker could reasonably hope to complete in general did not reach minimum wage levels. According to labour groups, as of June 2004, only one factory out of over 200 garment factories in Mae Sot paid the legal minimum wage rate to Burmese employees. However recent reports indicate that the factory has subsequently dismissed labour leaders and reverted to paying employees at piecework rate, which is well below the legal minimum wage for Tak Province.

Some Burmese migrant workers in garment factories in Mae Sot who protested about their lack of basic labour rights were arrested and deported to Myanmar as a punishment. This happened both to workers who were registered in Thailand and those who were not. In at least three cases employers appeared to have contacted the Thai immigration police, who then arrested and deported the migrants.<sup>26</sup>

In October 2002 60 Burmese migrant workers at Nut Knitting Factory, Mae Sot were dismissed from their jobs for protesting against receiving 77 baht per day rather than the minimum wage of 133 baht for Tak Province. Young Chi Oo Burmese Workers' Association and the Migrant Assistance Program (MAP) agreed to provide legal counselling to the migrants who wished to pursue their case. In April 2002 they were arrested and taken to the border by immigration police. Thirty-three of them subsequently took their grievances to Tak Province Labour Protection Department in order to demand unpaid wages. In February 2003 this office ruled that the 33 must be paid 4,643,906 baht in total, a ruling which the employer ignored. Under Article 151 of the Labour Protection Act of 1998, the employer had 30 days to appeal against the verdict, or be liable to up to one year imprisonment and/or a 20,000 baht fine. In April 2003 the Law Society of Thailand, representing the workers, took their case to the Nakhon Sawan Labour Court in order to obtain enforcement of the order from the Tak Province Labour Protection Department. In this precedent-setting case, 18 of the workers were awarded 1,170,000 baht in compensation from the Nakhon Sawan Labour Court in October 2004 in the first-ever court victory for Burmese migrant workers in Thailand.

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<sup>26</sup> For a full discussion see pages 26 – 28 of *THAILAND: Grave Developments – Killings and Other Abuses*, Amnesty International November 2003, and AI Index ASA 39/008/2003.

In December 2001 a group of Burmese migrant workers at Nasawat garment factory, Mae Sot, began protesting against the fact that they were only paid 50 baht per day rather than the legal minimum wage of 133 baht, and that they had not been paid for three months. The Young Chi Oo Workers Association and MAP agreed to provide the workers with legal advice. They began negotiating with the manager of the factory, and in November 2003 finally received agreement from him about payment and a number of complaints they had made. However he did not abide by the agreement and the workers left the factory compound where they had been living, taking refuge in a local Buddhist temple.

On 16 December 2003, all of them were arrested by a mixed group of immigration and local police; soldiers; and the Tak Employment Department and taken to the Mae Sot Immigration Detention Centre (IDC). All but 16 of them were deported to Myanmar, but most of them later returned to Thailand.<sup>27</sup> The workers subsequently filed a complaint at the Tak Labour Protection Office in January 2004 with the assistance of non-governmental organizations. In April of that year the Labour Office ordered the Nasawat factory owner to pay 15 million baht in back wages to 217 workers. To date, the employer has not yet paid the back wages. In the meantime in December 2004 the Special Investigations Unit of the Ministry of Justice, which is independent from the police, began an investigation, which is still ongoing. On 30 January 2005 a representative of the Nasawat Factory offered 20,000 baht to each of the 217 workers, which is only 4,340,000 baht in total, far short of the 16 million baht granted by the labour court. The workers have to date refused to accept the 20,000 baht each, as it is far less than the amount stipulated by the Labour Office.

Amnesty International calls on the Thai Government to ensure that migrant workers who are negotiating for their rights are not punished by means of harassment, arrest, or deportation. Moreover the organization urges the Thai government to require employers to honour court settlements and that court settlements are enforced.

### **Burmese migrants in other industry sectors**

Burmese migrants typically work in several other industry sectors, including agriculture, fisheries, day labour, and domestic work. They face common problems in their working lives, including payment of well under minimum wage; unsafe and unclean working and living conditions; vulnerability to harassment, arrest, and deportation at the hands of the Thai police; and lack of access to education and medical care comparable to that which Thai workers receive.

Tens of thousands of Burmese migrant workers are employed in Thai agriculture, including in fruit orchards, or in rice, onion, and chili fields. They often live in simple huts in their employer's fields, although those working in very large farms and orchards may live in dormitories on site. They are paid from 50 to 100 baht per day, and like the fishing industry,

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<sup>27</sup> Burmese migrant workers frequently return to Thailand after being deported across the border or dropped by immigration officials on the border.

the work is seasonal depending on the crop. In general migrant workers are not provided with any protection against pesticides which they must spray on crops or otherwise handle. As is the case with other Burmese migrants, they sometimes come alone or with their spouse, leaving their children behind. Others bring their children, who generally do not receive any form of education or proper public health care. Agricultural labourers often cannot afford to register officially. Registration is further complicated by the seasonal nature of their work.

Another large category of Burmese migrant workers is found in the fishing industry. Amnesty International interviewed several Burmese migrant workers employed on fishing boats or in fish-processing factories in two locations in Thailand. Those working on boats frequently stayed out to sea for weeks at a time, only returning to port for a few days. Others worked on shore peeling or sorting shrimp, making from 70 – 100 baht per day. Migrants employed in the fishing industry often only work seasonally. A 19-year-old Mon woman from Kyaikmaraw township, Mon State, described her job peeling shrimp: *“I have a job here peeling shrimp, I am paid a maximum of 100 baht per day, seven days per week...It is not a big factory, owned by a Thai. I am treated badly in terms of verbal abuse – they use harsh words to Burmese employees...I want to register but I don’t have any money...I stay with friends, all in one room. I work at a piecework rate.”*

Burmese migrant workers, usually male, also work as day labourers, usually in the construction business, or doing odd jobs at a private house. They are paid from 50 to 100 baht per day, but are not necessarily employed every day, making it difficult for them to earn a living. Migrants employed on a daily basis often cannot afford to register with the Thai Government, and also have no regular employer who could facilitate the process. A 22-year-old Karen man from Kayin State described the casual labour he was doing: *“I’m working here but not a very good job – I am guarding someone’s plantation. I get paid 80 to 90 baht per day. I’m living at a friend’s house – my parents are back in the village [in Myanmar]. I can’t send money back because I can’t save enough. I don’t know anything about Thai registration.”* Another young Karen man from Kayin State described his life in Thailand: *“I’m a day labourer here – I earn 70 to 80 baht per day...I don’t work every day. I do household jobs, building, cleaning, cutting firewood, gardening...I don’t know much about registration in Thailand. I would like to register, it would be safer for me. Yesterday I was walking through the jungle and I saw the police - they pointed a gun at me but I ran away.”*

Many female Burmese migrants live in private homes, cleaning and taking care of children for Thai or foreign nationals. They are usually paid a monthly rate, and receive room and board. Several of the female migrants whom Amnesty International interviewed began such work when they were still minors. One Mon woman began working in Bangkok at a Thai family’s house when she was 14 years old. She has been with the same employer for the last eight years, who she said treated her very well, as if she were a member of the family. She told Amnesty International: *“Those who finish basic education always go to work in Thailand. I didn’t realize how difficult it would be here...”* She had nine siblings, but was unable to send money home, although she said she was able to support herself and therefore considered herself less of a burden to her parents.

However, not all female domestic workers were treated as well; several told Amnesty International that they were forced to work extremely long hours and were not permitted to take any time off from their duties. Other female Burmese domestic workers have been subjected to beatings and other forms of physical abuse at the hands of their employers. In a particularly disturbing case 17 year old Karen female domestic worker from Myanmar was attacked by her Thai employer; after her rescue she was hospitalized. She had also not been paid the 4,000 baht month salary she had been promised. The International Labour Organization (ILO) publicly appealed to the Thai government to “...take urgent steps to better protect all foreign migrants – both documented and undocumented – from abusive employers, especially Thai employers of foreign domestic workers.”<sup>28</sup>

### **Summary of concerns**

Amnesty International is concerned about the overall lack of basic labour rights for migrant workers, including the rights to organize and to bargain collectively. Amnesty International calls on employers to pay all workers at least the legal minimum wage according to provincial law, and for the Thai Government to adequately enforce these minimum rates, including through prosecution where appropriate. The Thai Government should also increase the legal minimum wage rates for all provinces, to a level such that all workers are able to enjoy an adequate standard of living according to the International Covenant on Economic, Social and Cultural Rights, IESCR, Article 7(a)(i), to which it is a State Party. The organization also urges the Thai Government to ensure reasonable limitation of working hours with adequate opportunity for rest, in accordance with its obligations under ICESCR Article 7(d). All workplaces should be safe, healthy, and hygienic, which includes an adequate supply of safe and potable water and basic sanitation in accordance with ICESCR articles 7(b) and 12(2)(b).<sup>29</sup>

Amnesty International calls on the government to ensure that migrant workers are protected from harassment and extortion carried out by the Royal Thai police, and to ensure that the fundamental human rights of all migrant workers are respected during routine document checks by local police authorities. Migrants should not be subjected to arbitrary arrest or detention, and conditions of detention for all migrants must comply with UN Standard Minimum Rules for the Treatment of Prisoners, and should under no circumstances amount to cruel, inhuman or degrading treatment or punishment. The organization also urges the Immigration Police and other relevant government authorities to ensure that the decision to expel a migrant from Thai territory is examined and decided individually, and that each migrant has the effective opportunity to appeal the decision. During deportation, the authorities must ensure that the human rights of migrants are respected, such that they are able to return in safety and dignity, with full respect for their human rights. Burmese migrants who express a fear of persecution if they were to be returned to Myanmar should have the opportunity to make contact with UNHCR before being deported.

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<sup>28</sup> Xinhua General News Service May 4, 2005.

<sup>29</sup> See UN Committee on ESCR, General Comment No 14, *The right to health*, para 15.

#### IV. ABUSES AGAINST HUMAN RIGHTS DEFENDERS/LABOUR ACTIVISTS

Both Thai and Burmese human rights defenders who assist Burmese migrant workers in claiming their rights from their employers have been subjected to intimidation, harassment, and anonymous death threats. This is particularly true in the Mae Sot area, Tak Province, where there is a very high concentration of Burmese migrant workers in garment factories and agriculture. During 2003 there were six strikes in Mae Sot factories where human rights defenders helped to organize Burmese migrants.

In May and June 2004 Amnesty International interviewed several human rights defenders who said that they were able to maintain good relationships in the community as long as they only provided social, educational, and medical services to the migrants. If they attempted to educate workers or help them win their labour rights, they were frequently subjected to harassment, surveillance, and attacks. Moreover, local authorities warned them against organizing pro-democracy events, for example a ceremony marking Daw Aung San Suu Kyi's birthday.<sup>30</sup>

In December 2003 two leaders of the Young Chi Oo Workers Association in Mae Sot, Tak Province, experienced such abuse. The two had been advising Burmese workers at Nasawat Apparel garment factory, who were paid half the minimum wage of 133 baht for Tak Province, about how to claim the money owed to them.<sup>31</sup> Workers told the two that their photographs were circulating among factory owners and that local motorcycle gangs were searching for them in factories. They subsequently went into hiding.<sup>32</sup> The employer also told Burmese workers that they would be dismissed if they were involved in Young Chi Oo, and said that workers should not "rely" on Young Chi Oo.

The Tak Labour Office had awarded the Nasawat workers 15 million baht back pay in April 2004. In May of that year a Danish national who was volunteering at Young Chi Oo was attacked by a man with a knife around midnight in the Mae Sot market, requiring stitches in his abdomen. A few days before, two Burmese Young Chi Oo workers were beaten and stabbed on their way home from their office by a gang armed with iron pipes and a knife. Also in May 2004 a Young Chi Oo member and Burmese migrant worker were attacked by six men armed with knives and sticks; one of them suffered a head wound which required hospitalization.<sup>33</sup>

In another case of abuse against a labour activist, A Salam, a 19-year-old Muslim Thai national of Myanmar origin, was arrested on 14 December 2004 in Mae Sot, Tak Province. He is fluent in both the Burmese and Thai languages, and has been called upon by the local authorities to provide interpretation services. He has also volunteered to interpret for migrants whose cases were being facilitated by MAP, and has interpreted in major migrant cases and in cases of the murders of Burmese migrant workers in Mae Sot. According to

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<sup>30</sup> Daw Aung San Suu Kyi is the leader of the opposition National League for Democracy (NLD) in Myanmar and has been under house arrest since May 2003. 19 June 2005 is her 60<sup>th</sup> birthday.

<sup>31</sup> Please see above for a description of the Nasawat Garment Factory case.

<sup>32</sup> *The Irrawaddy* on line, a regional magazine, 7 January 2004.

<sup>33</sup> *The Irrawaddy*, 14 July 2004.

reports, a combined force of Mae Sot local police, Immigration and Department of Labour officials illegally searched without a warrant a migrant community centre run by MAP and Young Chi Oo; arrested A Salam; and confiscated confidential files.

A Salam is currently free on bail after paying 40,000 baht and spending one night in the local Mae Sot police station lockup. He has reportedly been charged with working illegally in Thailand and giving legal counsel without appropriate qualifications. On 16 December 2004 he received an anonymous telephone call threatening to abduct and kill him if he did not stop working with Burmese migrants. A Salam was born in Thailand in 1986 and reportedly holds a Burmese displaced person card issued to him by the Thai government and was awaiting receipt of his Thai ID card. His parents had migrated from Myanmar to Thailand in 1975. According to reliable sources, during this time he has been refused permission to travel outside of Tak Province to other parts of Thailand.

In the days following the December 2004 tsunami, several Burmese and Thai exile non-governmental organizations joined together to help migrants in the six southwestern provinces. They began to conduct surveys among the survivors; to locate missing people; to provide basic aid; and to liaise between the workers, the employers, and the Thai authorities. They also helped migrants who wished to return to Myanmar and those who wanted to register with the authorities so that they could work legally in Thailand.

However, these human rights defenders themselves faced human rights abuses. On 12 January 2005 six Thai and Burmese relief workers from the international aid agency World Vision were seized by villagers in Ban Thab Lamu, Phang Nga Province, for attempting to assist the Burmese migrant community there. The villagers had reportedly been organized to do this by the village headman. The relief workers were held in a cage in the hot sun for several hours before being transferred to the local police station, when they were finally released at midnight. One of them was severely beaten by the villagers and spent a few days in the hospital.

Amnesty International calls on the Royal Thai Government to take effective action and measures to ensure that state officials at every level of the state apparatus, including law enforcement officials, respect the legitimacy of the work of human rights defenders and allow them to carry out this work safely and without interference or harassment. The government should also publicly acknowledge the legitimacy of the work of human rights defenders. Finally, Amnesty International renews its calls to the government to publicly condemn each abuse in the strongest possible terms. The government must also initiate prompt, independent, impartial, and effective investigations into allegations of violations or abuses against human rights defenders; make the results of any investigations public; and bring the suspected perpetrators to justice in proceedings which meet international standards of fair trials.

## **V. CONCLUSION AND RECOMMENDATIONS**

Amnesty International welcomes the initiatives which the Royal Thai Government has taken to regularize migrant labour within its borders. However it remains concerned that labour

protection measures, such as payment of a minimum wage; protection from arbitrary arrest, detention, and deportation; and opportunities for migrants to seek asylum are not enforced by the government. Moreover, working and living conditions for migrant workers and members of their families fall far short of international standards. Employers, local police, and smugglers often exploit migrant workers, taking advantage of the fact that some workers are unregistered. Moreover it is extremely costly and difficult for migrants to register their labour, which is compounded by the fact that they must be employed before they attempt to do so. As explained above, many of them only work seasonally making it even more difficult for them to register with the government.

Amnesty International calls on the Royal Thai Government to:

1. Comply with its obligations under the International Covenant on Economic, Social and Cultural Rights, in particular article 7, under which it is obliged to ensure that no one, including migrant workers is denied their right to:

(i) Ensure that fair wages and equal remuneration for work of equal value without distinction of any kind are paid;

(ii) Ensure safe and healthy working conditions;

(iii) Ensure rest, leisure and reasonable limitation of working hours.

2. Comply with its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in ensuring that women who marry, become pregnant, or take maternity leave are not dismissed from their employment, under Article 11 (2) (a); nor deported.

3. Ratify all eight core International Labour Organization (ILO) Conventions as a means of protecting both Thai and migrant workers. These are: Convention No 87, Concerning Freedom of Association and Protection of the Right to Organise, which protects the rights of workers to organize themselves; and Convention No 98, Concerning the Application of the Principles of the Right to Organise and to Bargain Collectively, which further protects trade union rights. Ratify two other core ILO conventions, Convention 111 on racial discrimination and sexual harassment; and Convention 138 regulating minimum age for work. Ratify ILO Convention No. 97 on Migration for Employment (Revised) (1949) and No. 143 on Migrant Workers (Supplementary Provisions) (1975).

4. Ratify the United Nations (UN) International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families.

5. Take measures to ensure that arrests and deportations by the police and immigration officials are conducted with due respect of human rights and the rule of law. Ensure that all migrant workers and members of their families, whether registered or not, are not arbitrarily arrested and detained by local police.

6. Ensure that those migrant workers who peacefully demand labour rights are not punished for doing so, including by arresting and deporting them.

7. Ensure that those migrants who express fear of persecution if returned to Myanmar have full access to a fair and satisfactory procedure to determine their refugee status; ensure that no one is returned to a country where s/he is at risk of torture and other forms of ill-treatment and that all those seeking asylum have full access to the UN High Commissioner for Refugees (UNHCR).
8. Ensure that conditions in police lock-ups and immigration detention centres are consistent with the UN Standard Minimum Rules for the Treatment of Prisoners, including access to adequate food, water, and medical attention, and that independent monitors, including UNHCR, are provided access to all places of detention where migrants are held. Adequate detention conditions should be provided at all times including prior to and during any expulsion process, particularly with regard to transport.
9. Comply with its obligations under the Convention on the Rights of the Child, in particular to ensure that all migrant children, whether registered or unregistered, have effective access to their right to free and accessible primary education. Ensure also that all migrant children are registered at birth, and that all possible rights-respecting measures are taken to prevent situations of statelessness.