

Statement of the Burma Lawyers' Council On Burmese Migrant Workers

In the prevailing crisis—political, economic, social and welfare—Burma's military government, the SPDC regime, is incapable of creating employment opportunities for its citizens. Consequently hundreds of thousands have flooded out of Burma into neighbouring countries, working at whatever they can find to earn a bare subsistence. We shall here examine from a legal perspective, in terms of the protection of their rights, the situation of those who entered Thailand particularly and have been working there for a number of years.

Thai employers can profit from the cheap labour of a plentiful supply of Burmese workers. So the Thai authorities allow workers from Burma to purchase registration cards that entitle them to work for one particular employer on condition they never leave one small locality such as some designated part of a town. They are thus provided with a quasi-legal status that confers a degree of protection from being apprehended by the Thai police as illegal immigrants.

Whenever a worker's registration card expires, or becomes invalid for whatever reason, or he goes beyond the very restricted boundaries within which he is permitted to circulate, the Thai authorities treat him purely and simply as an illegal immigrant. He (or she) is likely to be subjected to unjust, improper and degrading treatment and has no chance whatsoever of seeking redress. The victims are left with a feeling of gross injustice and damaged national pride. Worst of all, the impunity enjoyed by the abusers, who include employees of the state, means that they feel entirely free to threaten migrant workers in the direst ways. These menaces are not empty threats: workers are commonly severely beaten and sometimes killed.

The situation of Burmese workers whose registration has become invalid is exacerbated by the failure of the Burmese military junta to take measures that would afford legal protection to such people.

The military regime allows wealthier Burmese holding a valid passport to exit the country via Rangoon airport for the purpose of working abroad.

However, for the vast majority who leave by crossing the country's borders, regulations have not been put in place that would allow them to do so, and eventually to return, with due legality. By turning a blind eye at a situation which exists by virtue of people's need to travel abroad to find work, the regime encourages law-breaking. Instead of seeking to legalize the necessary search for subsistence of some of the more deprived members of the population, the authorities periodically, with malicious intent, prosecute migrants under the Burma Immigration (Emergency Provisions) Act 1947, both for their emigration and for their subsequent return. The migrants are thus punished twice for essentially the same thing, in defiance of the principles of natural justice.

What constitutes a 'migrant worker' is defined in the United Nations' *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families*, and it applies to people from Burma working in neighbouring countries. Although Burma is not a party to the Convention, the SPDC is under an obligation to respect the rights of its migrant workers and to protect them. Amongst them are female and child workers and those suffering from HIV/AIDS. Despite the many agreements concluded between the SPDC and the Thai government for the promotion of business and cross-border trade, there has been no agreement that offers legal protection to Burmese migrant workers in Thailand.

The SPDC military junta, which gained power over the country by illegal means, is ignorant of fundamental principles of the rule of law, and this has had an adverse effect on peace and stability in both Thai and Burmese society. To alleviate the injustices suffered by Burmese migrant workers, the Burma Lawyers' Council calls upon the SPDC to :

- a. Draw up and sign a Memorandum of Understanding with neighbouring countries, whereby official recognition is given to the work-permits and visas issued to Burmese workers by governments of the neighbouring countries, and facilities are created where migrant workers can seek legal protection.
- b. Minimize the corrupt practices rife within the Burmese administration, including the Immigration Department, and ensure that passports, travel documents and certificates for all citizens of Burma wishing to work outside the country, are available within seven days of application.
- c. Request the Government of Thailand to recognize certificates to be issued by the Government of Burma to migrants seeking work in the former country as conferring—for a certain period—the right to be present on Thai soil; so that a person holding such certificate

shall be deemed to be there legally, and shall not be apprehended by Thai police and immigration officials on the grounds of illegal entry during the period of a certificate's validity—to be determined by the governments party to the agreement. Such an arrangement can help to safeguard the security of migrants.

- d. Suggest to the Thai government that it form an administrative body to cater to the protection of migrant workers and their rights (similar in idea to the 'Tourist Police' for tourists), and that migrant workers are officially permitted to form workers' associations in conformity with the standards of ILO (which is not currently the case), with the same object in view.
- e. Persuade the Thai government to grant the right of 'mobility of employment' so that a work-permit no longer ties the worker to one factory or one employer: a situation that is more likely to lead to exploitation and abuse.
- f. Encourage Thai employers of Burmese migrant workers to improve working conditions, and exercise responsibility in regard to the health and safety of their employees.

Burma Lawyers' Council

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For more information,

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