



5 July 2017

Subject: Urgent recommendations of the Migrant Working Group (MWG) on the management of migrant workers

Dear Mr. Prime Minister,
CC: Minister of Labour

Since 2014, the Thai government has set as a priority the implementation of the management of migrant workers, particularly among undocumented workers and to get them registered with the authorities. According to the Ministry of Labour, as of May 2017, 1,178,679 undocumented workers, holders of pink cards, have been registered, thereby entitling them to the right to temporarily stay and work in Thailand until 31 March 2018.. Meanwhile, 93,089 undocumented workers, holders of pink cards, in fisheries and seafood processing sectors have been registered and now have the right to temporarily stay and work in Thailand until 30 November 2017. All the undocumented workers who have been issued with pink cards have been required to undergo nationality verification process in their sending countries since the Thai government has no policy to extend such reprieve to enable undocumented migrant workers to continue living and working here any longer.

After organizing public forums on nationality verification process, MWG has found that 200,000 or about 25% of 793,576 migrant workers from Myanmar who had previously been registered and issued with temporary cards have now completed the nationality verification process in their sending country and been issued with Certificates of Identity (CI) whereas no information is available as to the status of nationality verification among the workers from Cambodia (406,670) and Lao (71,521). Therefore, there should still be around one million workers who have been granted the right to temporarily stay and work in Thailand pending nationality verification process.

On 23 June 2017, the Royal Ordinance on Foreign Workers Management B.E. 2559 (2016) has become effective. The new law imposes harsh penalties on both the employers and the employees which have concern both as far as labour crackdowns are concerned, even among migrant workers who have previously been registered, but have not completed the nationality verification process. According to our own sources among members of the MWG, as of 4 July 2017, 200,000 migrant workers from Myanmar have returned to their country, either through the Immigration checkpoints or natural passes. Meanwhile, 4,921 workers from Cambodia have returned to their country through the Aranyaprathet checkpoint. No information is available as to how many more have made it back through other border checkpoints and natural passes. Such directionless exodus as a result of the new law has rendered direct ramification on the effort of the government to legalize the undocumented migrant workers in order to prevent the expansion of human rights violation and human trafficking among them.

In light of the problems stemming from the enforcement of such law, MWG have the following urgent recommendations as follow;

Administrative measures to legalize groups of migrant workers

Documented workers with work permits different from the work it has been designated for

1. One Stop Service Centers (OSS) should be established to help change the condition on the work permits making detail of the permits compatible with the real jobs of the migrant workers (in terms of their employers, venues, types of business). Coordination must be made among all agencies concerned with labour registration including the Immigration Bureau, Department of Employment, Ministry of Public Health and Ministry of Interior
2. Details in the permits as to employers, and occupations should be corrected and the over process should be minimized.
3. Issue Notification to specify the duration in which a change of employer must be notified to within 15-30 days. If the existing employer fails to notify the authority of the change within the time limit, the new employer shall have the right to register the change at the OSS (to address the issue of fake employers who is hired to pretend to be an employer).

Documented workers whose documents have expired

1. If the worker's visas and/or work permits have expired, but if his passport has not expired, the worker should be issued with a two-year visas and should be allowed to apply for a work permit through a normal process.

- a. The visas should be issued according to the remaining term of the passport, but not more than two years (based on the term of the passport, after its renewal, the visas should be issued based on the remaining term, but not more than two years) per the cabinet resolution on 25 October 2016.
- b. After the two-year term of employment expires, the worker shall be required to reenter the country through the MoU process.

2. Pink cards have expired (no renewal), the workers should be allowed to stay temporarily in the country

- a. The workers should be encouraged to undergo nationality verification process to obtain CI or to apply for passports at their embassies for those having been issued with Myanmar ID cards).
- b. The MOL should link up their database to allow workers who want to apply for CI to be able to obtain their visas and work permits which should last until March 2018.

3. Those who have failed to report themselves in the last ninety days (but have been issued with passports and work permits), they shall be exempted from penalties, but must be required to report themselves and to be subject to a fine at a universal rate.

4. Passports have expired: They shall be allowed to apply for a new passport with their embassy and negotiation should be made to have the issuance of new passports expedited.

Undocumented workers

1. *If the workers have decided to return to their countries to undergo the MOU process.*

- a. Negotiation should be made with the sending countries to facilitate the process and minimize the time and conditions for applying for the documents. Also the sending countries should be asked to set up OSS to facilitate the bringing of workers into the countries directly by the Thai employers.

- b. The Thai authorities have to make an effort to minimize the procedure and time used for bringing the workers into the country through the MOU system.
 - c. A public forum should be held to listen to opinions and recommendations as well as challenges from the employers as far as the MOU system is concerned.
 2. Those workers who have decided to return to their countries to apply for passports, but are not ready to undergo the MOU process and have not got a visas stamp.
 - a. OSS should be set up by the Thai authorities at the border and the workers should be encouraged to report themselves to the OSS. At the same time, the employers must bring with them employment documents and work contracts to prove the employment and wait there at the border. All the stamping of visas and the issuance of work permits can then be done right at the border.
 3. Those workers who have entered the country and got engaged in activities not permitted by the visas, i.e., those who have come here by tourist visas and as a result, they are not allowed to work. The Vietnam model should be applied. The workers with their employers should be encouraged to present themselves at the OSS to ask for a change of their visas types and to apply for work permits.
 4. Workers with no whatsoever documents
 - a. They have to return to their countries to apply for documents and apply for work permits through the MOU system or having a center established between the sending and the receiving countries to process CI application.

Additional measures in response to the situation

1. A condition should be set to require the workers to return within a specific period of time. This is to prevent exploitation of migrant workers.
2. Minimize the procedure for the application of work permits and all the process concerning the bringing into the country the workers through the MOU system.

MWG deems fit that in the next stage, the government should issue an amendment to the Royal Ordinance on Foreign Workers Management B.E. 2560 (2017) in order to review, repeal, or revoke certain provisions which shall never help to solve the problems stemming from the management of migrant workers. In addition, the government should ensure that public consultation be held to listen to opinions from all sectors prior to issuing any new Ordinance.

With respect in human rights and human dignity
Migrant Working Group

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