



UPR Submission

Summary on Human Rights Situation of Migrant Workers in Thailand

Prepared by the Human Rights and Development Foundation (HRDF)

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I. Introduction

1. The Human Rights and Development Foundation (HRDF)¹ is gravely concerned about the Royal Thai Government's (RTG) approach to managing migration and migrant workers. The lack of a well thought out and long term policy on migration, coupled with the ongoing failure to include migration in the 5-yearly National Economic and Social Development Plans, continues to leads to various forms of systematic and widespread gross human rights violations, particularly trafficking, against migrants. This situation is particularly grave as there are perhaps over 2 million low skilled migrants from Cambodia, Laos and Myanmar currently toiling in Thailand.

II. Human Rights Situation on the Ground²

2. Labour shortages in Thailand have pulled migrant workers from neighboring countries of Cambodia, Laos and Myanmar into Thailand. It is estimated that there are 2-3 million migrant workers in Thailand. Estimates suggest more than 80% of migrants in Thailand are from Myanmar. Migrants often do work that Thai workers do not want to do and significantly contribute to the economy. Migrant work is dirty, dangerous and difficult. Despite large numbers of migrant workers in Thailand, the RTG has failed to provide long-term policies to effectively manage migration. Current policies and practices fail to respond to reality on the ground.

3. For more than 20 years now, migrant workers from Cambodia, Laos and Myanmar have crossed into Thailand without any documents and through illegal channels with brokers, who themselves are supported by government officials (particularly law enforcement officials). As no formal migration channels have generally been available and accessible to migrants, the RTG has occasionally granted amnesties to migrants who "illegally" entered the country to register to "legally" work, most markedly in 2001, 2004 and 2009. Registered migrant workers have been entitled to temporary residency and can apply for work permits, renewable annually, as a result of ad-hoc yearly cabinet resolutions. Generally renewal of registration is only applicable to those previously registered. Newcomers, pulled by continuous demands of the Thai economy, cannot access registration at all. Formal worker import systems are ineffective and untransparent, marred particularly with corruption and fail to respond to genuine labour demand.³ Irregular migration to seek employment in Thailand persists. Coupled with migrant worker smuggling and recruitment through vast informal brokerage networks, 2 million migrant workers continue to be at high risk of falling into victims to human trafficking and the worst forms of forced/child labour in Thailand.

III. Lack of Access to Information and the Right to have Interpretation Services.

4. Migrant workers rarely can access information. Most government documents are not available in migrant languages, or if they are, they are poorly translated. When migrant workers seek to file complaints to exercise their rights with state agencies or when accessing

¹ The Human Rights and Development Foundation (HRDF) is a non-profit non-governmental organisation established and registered with the National Cultural Committee in 2000. HRDF works towards protection and promotion of human rights and access to justice, especially for the access to justice and human rights protection of migrant workers in Thailand. HRDF

² For more information please see Human Rights Watch Report: From the Tiger to the Crocodile Abuse of Migrant Workers in Thailand Summary, <http://www.hrw.org/en/node/88580/section/1>

³ MOU import statistics recorded for bilateral import of migrant workers from Cambodia, Laos and Myanmar in December 2010, since 2002, remain at 26,525 persons for all three nationalities (see <http://wp.doe.go.th/node/199>)

services at hospitals, interpreters or officials who can communicate easily with them are often not available.

5. Recommendations: The RTG should enact a policy to systematically make information in migrant workers' languages available and accessible, particularly information on health, human and labour rights. Interpretation services should be provided at no cost when migrants lodge complaints to exercise their rights or when they are accused of offences.

IV. Exploitation and Inaccessibility to Justice

6. Migrant workers are targets of systematic exploitation, extortion and abuse of power from employers and state officials. Migrants are frequently unlawfully arrested, detained and deported regardless of their legal status. Migrant workers can be easily arrested because employers frequently confiscate their documents and even inform police to arrest employees when they want to terminate employment without pay. Migrants are frequently arrested, charged with illegal entry and deported without genuine inspection of their documents (see appendix 1 for case studies).

7. The Immigration Bureau has issued a regulation that only employers or their authorized agents are able to bail workers when they are arrested.⁴ Even though workers may be registered and possess valid identification and work permits, employers must accompany workers upon their release. This increases risks of trafficking and ensures migrant worker's right to liberty is under control of their employers. Loopholes for exploitation and forced labor are created.

8. When migrant workers access judicial processes, they were often forced to confess to crimes they did not committed. Lawyers and interpreters are not provided. The court often dismisses witnesses and evidence provided by migrants, citing that they provide weak evidences.

9. Recommendations

a. RTG must ensure strict measures to investigate officials' misconduct and arbitrary abuse of power regarding migrant workers. RTG must enforce measures to punish violators and provide remedies migrants who are victims of abuse of power.

b. RTG should revoke the practice of the Immigration Bureau that only permits employers to accompany migrants upon release from custody. This practice prohibits many registered workers from being released from detention.

c. When migrant workers enter the judicial process, especially when they are accused of crimes, interpreters and lawyers should be provided. The accused should be informed of charges and ground of the arrest in a language they can understand

d. RTG should strictly enforce a policy to prevent migrant identification documents from being confiscated

V. Labour and Human Trafficking

10. Human trafficking in the form of exploitative forced labour and embezzlement are areas that Thai officials cannot accurately distinguish. As a result, many cases of exploitative human trafficking among migrants are currently considered as non-payment of wages and those victims of trafficking are not recognized as victims and hence treated as illegal migrants who enter into Thailand illegally. Such workers are not granted immunity under immigration and employment laws and are penalised and deported without opportunity to claim for redress and file complaints under Thailand's Anti-Human Trafficking Law

⁴ Immigration Bureau Guidelines from Internal Note No. 0029.841/2620 issued by Immigration Bureau Commander (Subject: Guideline on Releasing the Alien Workers Who Have Temporary Residency in Thailand as in Special Case, 1st June 2009)

11. Thailand has signed the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Subsequently, Thailand enacted the *Prevention and Suppression of Human Trafficking Act 2008*, effective since 6 June 2008, in line with the above Convention and Protocol. This law permits legal actions against criminal organisations and uses anti money laundering methods to prevent access to money gained by human trafficking (Section 4, 10 and 14). Legal action against employers or entrepreneurs downstream that benefit from human trafficking is vital in combating trafficking. In practice however, very small numbers of employers are prosecuted and anti-money laundering measures against human traffickers are not imposed. As a result, prevention and suppression of human trafficking is not genuinely effective.

12. Recommendation: Thailand should educate state and non-state actors on human trafficking in the form of exploitation of forced labor or forced services which should be differentiated from non-payment of wages to ensure effective protection and prevention of human trafficking crimes through redress and rehabilitation to victims.

VI. Denial of Access to Work Accident Compensation

13. The *Workmen's Compensation Act 1994* and the *Labour Protection Act 1997* aim to protect all workers in Thailand, without discrimination on the basis of nationality. Thailand is also a party to *ILO Convention 19 on Equality of Treatment on Accident Compensation* and the *International Convention on the Elimination of All Forms of Discrimination*. The circular RS 0711/W751 states however that migrants who are entitled to work accident compensation must provide a passport or alien identification certificate and a work permit. Over 1 million migrant workers are legally registered in Thailand but do not have such documents to meet the requirement and are hence discriminatorily denied access to the Workmen's Compensation Fund. (see appendix 2 for ILO decision and recommendation to RTG)

14. Migrant workers are entitled to migrant worker health insurance. However, this health insurance excludes coverage from occupation related injury and illness. Migrant workers, who already work in the most dangerous workplaces in Thailand, rely on their employers to pay medical costs if they face an accident. As a result, many go untreated and abused (see appendix 3 for case study).

15. Recommendations: the RTG should revoke circular RS0711/W751 in accordance with the recommendation by the ILO's Committee of Expert in their Report of the Committee of Experts on the Application of Conventions and Recommendations to the International Labour Conference's 99th Session, 2010.⁵

VII. Denial of Driving Licenses

16. The freedom of movement is a fundamental human right but registered migrants cannot travel outside of their province of registration. Migrant workers living in Thailand cannot avoid commuting also but over one million registered migrants are not permitted to obtain driving licenses, despite a 2009 Department of Land Transportation policy that allows them to register as vehicle owners. Denial of access to driving licenses to migrant workers is unjust discrimination. The measure does not respond to the reality of the lives of most migrants who use motorcycles on a regular basis. Denial of driving licenses is counterproductive to road safety promotion. Police officials also use this loophole to extort migrant workers and national security concerns claimed to be the reason behind this policy are unfounded or overstated (see appendix 4)

⁵ See also ILO's recommendation to RTG at http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_123424.pdf

17. Recommendations:

- a. RTG should allow registered migrant workers to obtain driving licenses.**
- b. RTG must prevent, investigate and punish systematic exploitation and extortion by police officials who unlawfully victimise migrants riding motorbikes**

VIII. Migrant Worker Management, Nationality Verification (NV) and Rights Violation

18. Over one million migrant workers granted temporary residency status could renew their work permits annually as a result of yearly cabinet resolutions. In 2002 and 2003 the RTG signed Memorandum of Understandings (MOU) with all neighbouring countries on Labour Employment for legal labour import. The process under the MOU's has been slow, particularly for migrants from Myanmar. During the past six years, only around 750 Myanmar migrants have been legally recruited.⁶ Over one million other migrants who remained as registered workers in Thailand must instead enter the Nationality Verification (NV) process in order to renew their work permits and change their status to legal workers. Complicated, unregulated NV processes however have dramatically increased opportunities for unregulated brokers to exploit migrant workers, particularly those from Myanmar. NV costs are extortionate. The situation in Myanmar and lack of genuine public awareness raising by the RTG has deterred migrant workers to enter NV also.

19. RTG imposed a crackdown on migrant workers who did not enter NV by a 28th February 2010 deadline and remained unregistered in order to deport them from Thailand and apparently replace them with newly imported legal workers. In 2010, the Prime Minister issued 4 different orders to create a taskforce (Special Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground)⁷ (see appendix 5). The RTG only allowed for two kinds of migrant workers to be in Thailand since February 2010, that is: (1) Migrant workers who "illegally" entered Thailand but registered and will soon complete NV to become "legal"; and 2) Imported migrants who will be recruited from neighbouring countries legally.

20. The above policy was not carefully thought out and resulted in large-scale arrest, extortion and deportation of workers. Exploitation by criminal groups pushed deported migrant workers into human trafficking and broker circles at borders⁸ (see appendix no. 6) It is almost impossible for migrants to obtain employment in Thailand without brokers to recruit and process their applications. Once migrant workers decide to cross borders to work, their lives remain under brokers' control. The policy to arrest and deport migrant workers without tackling official abuse of power of law enforcement officials related to migration brokers is a waste of resources, has fuelled corruption and exploitation by officials and put migrant workers at increased risk of human trafficking and the worst forms of forced and child labour

21. Legal personality management, including but not limited to civil registration management and NV for migrants, has failed to respond to the actual situation of migration in Thailand. Civil registration management is confusing and migrants have become mixed up in the management of other existing stateless ethnic groups at the borders. This has led to loopholes being created for systematic corruption and exploitation. There are migrant

⁶ Department of Employment, Ministry of Labour at <http://wp.doe.go.th/node/199>

⁷ See for instance Prime Minister Order No. 125/2553, 2nd June 2010 (Re: Special Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground)

⁸ Please see Report from Aljazeera English and Australian Broadcasting Corporation (ABC)

- **Al-Jazeera** (17th July 2010) **Migrants Caught in Vicious Cycle (Thailand/Myanmar)** <http://english.aljazeera.net/video/asia-pacific/2010/07/201071723514942402.html>
- **Al-Jazeera** (1st November 2010) Traffickers exploit Myanmar's poor <http://english.aljazeera.net/video/asia-pacific/2010/11/2010111425202302.html>
- **ABC** (July 22nd 2010) **Burma to Investigate Border Rape, Murder Allegations** <http://www.youtube.com/watch?v=Ak48JQ5vOPI>

workers who have resided in Thailand for a long time and now do not have any connections with their home countries and hence did not enter NV. However, the RTG has no policy to address these groups. At present migrant workers facing such difficulties have elected to register for Persons without Civil Registration Status cards⁹ and hope that they can remain in Thailand until the card expires in ten years time. These workers are now falling victim to fraud and systematic exploitation because of the failures in migrant workers management and NV. Migrant workers are now electing to drop their migrant registration and apply for the Persons without Civil Registration Status cards. However, they pay 8,000-15,000 THB for a card issued by corrupt officials.

22. Recommendations

a. RTG should open a new migrant registration process to allow an estimated 1 to 1.4. million unregistered migrants working in Thailand to register and enter the NV process

b. RTG should regulate services by brokers assisting migrants and employers with NV given existing processes are untransparent, corrupt and costly

c. RTG should develop effective and sustainable migrant worker management policies, with consideration on a balance between sustainable national development and respect for human rights of migrants. Such policy should be developed by means of consultation with concerned stake holders and result in long term strategies.

IX. General Recommendations

23. As Chair of the UN Human Rights Council, Thailand has obligations under its voluntary pledges to promote and protect human rights as well as to support the human rights mechanism under the UNHRC to effectively promote human rights, particularly in relation to migrant workers. HDRF hence proposes the following general recommendations also:

a. Thailand should extend its invitation to the UN Special Rapporteur on the Human Rights of Migrants to urgently conduct a mission to Thailand

b. Thailand should revise and revoke any domestic laws relating to migrant rights protection that are in conflict with international treaties that Thailand is a party to

c. Thailand has signed the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime since 2002 and has subsequently prepared the relevant law. Agencies and officials to implement the law must be trained to understand and to follow obligations in the Protocol in preparation to ratify the Protocol.

d. Thailand should push for state agencies with mandates to prevent and suppress human trafficking to take action against entities or individuals in connection with human trafficking. Thailand should employ anti-money laundering measures to cut financial support to human trafficking criminal networks domestically and internationally

⁹ See Bureau of Registration Administration under Department of Provincial Administration, Ministry of Interior, Order No. MorTor.0309.1 Vor/51 (Subject: Survey for Registration and Issue Identification for Those Who Have Been Recorded into Civil Registration, 24th April 2008)

Bangkok Post (21st October 2010)

<http://www.bangkokpost.com/opinion/opinion/202435/migrants-win-back-passports>

Migrants win back passports

The days of fear and submission are over for Eh Mon and some other 900 migrant workers from Burma. An ethnic Shan woman held on tightly to her passport and work permit as she left a factory in Khon Kaen for another plant in Samut Sakhon province.

"I don't know what the work situation is like over there. But with the legal documents I now have, at least I can go places freely without fear of being arrested and deported," said the 38-year-old mother whose dream is to earn enough money to support her three children in the war-torn Shan state.

Eh Mon is among the migrant workers who staged a week-long work stoppage at Dechapanich Fishing Net Factory in Khon Kaen last month, to demand the minimum wage and the return of their passports and work permits, which had been confiscated by their employers.

All of them are the first batch of legal migrant workers who have passed the complicated nationality verification process to obtain passports and two-year work permits. The fees cost them an arm and a leg in exchange for legal protection. Their expectations were high. But they found themselves stuck in the same work conditions. Pay below minimum wage. Debt bondage. Confiscation of legal documents. And a life plagued by fear of police extortion and deportation.

The last straw came when they discovered that many of their passports were carrying someone else's photos. The anger was fuelled by fear of imprisonment should they be arrested for forging legal documents. "That was why we wanted to keep our documents ourselves," she said.

Theirs was the longest strike ever in the country by migrant workers. The defiance of the usually submissive workforce took the employers and the labour authorities by surprise.

Meanwhile, all eyes in the labour sector anxiously watched how the strike would end. If the Dechapanich workers were defeated, so would the government's efforts to solve the problem of underground migrant labour through nationality verification and the issuance of passports and work permits, fail.

Of the estimated 3-4 million migrant workers here, only some 130,000 of them have completed the complex and costly process. But without legal rights and work security, it will be hard to convince the majority of migrant workers to become legal.

But if the workers won, the employers would certainly not take it lying down.

At first, the Dechapanich employers seemed to have the upper hand. Immigration authorities revoked the workers' visas and were ready to deport them back to Burma - a lesson for those who dared ask for justice.

But with legal intervention from human rights activists and lawyers, Immigration finally agreed to reactivate their visas. The employer grudgingly agreed to return their passports and to start paying the minimum wage.

The victory was short-lived. A series of intimidation tactics and mysterious gunfire awaited the workers when they returned to work. Officials turned a blind eye. The workers decided to resign in droves, confident of their two-year visa and future work opportunities, only to be slapped immediately with the threat of deportation.

The labour officials insisted that the workers' visas ended when their work ended, that they could not simply change employers as they pleased and that migrant workers did not have the same legal rights as other expatriates.

After being reminded by labour rights lawyers that the vague laws left the door open to lawsuits against state negligence, the labour officials later reluctantly softened their stance and gave the workers seven days to find a new job, or face deportation.

With widespread shortage of cheap migrant labour following a nationwide crackdown, other factories welcomed the former Dechapanich workers with open arms.

But if Eh Mon and co-workers face the same labour abuse again, they will have to struggle with vague labour laws and legal interpretations plagued by ethnic prejudice, all over again.

Eh Mon is not worried, not for now. At least her fight shows the employers it is illegal to hold workers hostage through passport confiscation, she said. "Thai workers also suffer labour exploitation, not us alone. We just have to keep fighting for what is right."

Bangkok Post (16th September 2010)

<http://www.bangkokpost.com/opinion/opinion/196483/migrant-workers-retaliate>

Migrant workers retaliate

The week-long strike by nearly 1,000 legal migrant workers in Khon Kaen is one of the reasons why most of the 2-3 million migrants in Thailand still prefer to stay underground.

Why should they have to go through a very complex process of red tape on both the Burmese and Thai side of the border and pay hefty passport and visa fees simply to end up like the migrants in Khon Kaen, whose legal status cannot protect them from job insecurity and labour exploitation?

Why, indeed.

The law says legal migrant workers have the same labour rights as Thai nationals. In reality, the minimum wage is still beyond the reach of most migrants.

But that is not why the workers at the Dechapanich Fishing Net factory decided enough was enough.

It all began when six of their co-workers were fired after taking more than three days of sick leave. No matter how heartless the sacking was, the migrants there would have quietly swallowed it had they been allowed to find a new employer.

Apart from the fact that theirs is a two-year visa, the law also allows migrant workers to appeal to the labour authorities to explain their side of the story when fired, to prevent maltreatment. But their legal rights were ignored, by both the employers and the authorities.

As in other factories, the Dechapanich workers' passports and other legal documents were confiscated by the employer. This is illegal. Yet it is standard practice openly condoned by officialdom. When the sacked migrants got their passports back, they found to their horror that their visas had been cancelled. In addition, the photos on their overseas workers' identity cards issued by the Burmese authorities, were not theirs.

Who tampered with their passports and their overseas workers' identity cards? That question spread like wildfire in the factory. Fearing that the same thing could easily happen to them too, all the other migrant workers demanded their passports and papers back. The work stoppage occurred after the employer turned a cold shoulder to their demand.

According to labour activist Suriya Monlek from MAP Foundation, a non-profit rights organisation, passport confiscation is not the migrants' only problem at Dechapanich Fishing Net Co. They are also victims of debt bondage and labour exploitation, a common problem for migrants across the country.

Apart from being paid 140 baht a day instead of the minimum wage of 157 baht, each worker at Dechapanich was told they owed the factory 10,800 baht which the company allegedly had paid in advance for their legal documents. To repay this debt, each worker had to work for free an extra hour and a half every day. Or they could pay a lump sum including interest, of 18,000 baht.

All this is illegal. All this is also happening with some 5,000 migrants in other fishing net-for-export factories in Khon Kaen, which raises the question of whether the authorities who tolerate this illegal practice are liable for negligence.

The work stoppage at Dechapanich, believed to be the biggest and longest for the migrants so far, finally ended on Tuesday. The immigration officers have agreed to reactivate the visas for the 6 sick workers if they can find new jobs. The employer has agreed to return the passports and other legal documents to the workers and to respect the minimum wage law.

Despite fear of future retaliation from the employer, the Dechapanich strike is historic. The message to migrants across the country is that migrants' legal rights are for real. They can no longer be bullied and exploited at whim.

The employer as well as the immigration and labour officials also have learned that they must obey the law.

It remains unresolved, however, why the photos of migrants' overseas identity cards were changed. It shows, however, that the complex and expensive nationality verification process for the migrants' passports and visas is seriously flawed, or plagued with corruption. Or both. The road ahead for better rights protection for migrant workers will be long and tough. But one thing is certain. The time of migrants' total submission to exploitation is over.

Bangkok Post (14th September 2009) http://www.bangkokpost.com/advance-search/?papers_sec_id=1

Ministry moves to end Burmese worker row

KHON KAEN : The Labour Ministry is trying to put an end to a week-long strike by hundreds of Burmese workers at a fish net factory in Muang district.

The strike was prompted by Decha Panich Fishing Net Co's decision to fire six Burmese workers, cancel their visas and hold on to their personal documents, including their passports.

The workers were reportedly fired for taking more than three days of leave in one month.

The company has agreed tentatively to allow protesters to return to work if they call off their rally, Labour Minister Chalermchai Sri-on said yesterday.

A Burmese diplomat and Supat Kukhun, deputy chief of the Employment Department, would meet to find a solution to the problem, he said.

More than 500 Burmese workers have been rallying outside the company in Muang district since last Tuesday to pressure their employer to return the personal documents of the six workers and consider reinstating them.

The employer said the workers' passports were being kept to ensure they repaid debts incurred when they were hired by the company and documents were issued to allow them to work, said Amporn Nitisiri, chief of the Department of Labour Protection and Welfare.

The company was concerned they would take the documents to work elsewhere. She said there was no law preventing employers from keeping employees' passports.

The striking workers also claimed the company was paying them less than the minimum wage required by Thai law, unlike their Thai colleagues, and that they were also not entitled to overtime.

Ms Amporn said an initial investigation found the workers were paid properly.



สมาพันธ์แรงงานรัฐวิสาหกิจสัมพันธ์ (สรวส.)

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ILO: Thailand's Discrimination Against Migrant Workers Breaches International Law

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The International Labour Organisation (ILO) has strongly criticised the Royal Thai Government (RTG) for its treatment of migrant workers. Just a week after the United Nation's Special Rapporteur on the Human Rights of Migrants publically issued a statement of concern on RTG's migrant worker policies, Thailand's human rights reputation falls into question as it vies for membership of the UN's Human Rights Council.

In a report prepared for the 99th Session of the International Labour Conference in Geneva this month, the ILO's Committee of Experts on the Application of Conventions and Recommendations ruled that Thailand's denial of work accident compensation from the Social Security Office's (SSO) Workmen's Compensation Fund (WCF) to migrants from Burma breaches its obligations as a signatory to ILO Convention 19. The ILO's ruling supports a 2-year campaign by unions and human rights groups demanding revocation of this discriminatory policy.

Sawit Keawan, General Secretary of SERC, today said: *"Migrants in Thailand continue to suffer systematic discrimination as they work hand in hand with Thai workers to develop our economy. Instead of integrating foreign workers into our society, the Thai government consistently denies them their most fundamental rights. SERC again calls on the Ministry of Labour and all other government agencies to eliminate all discriminatory policies and laws to ensure migrant workers gain the basic rights to which all 'workers,' regardless of their nationality and immigration status, are entitled to."*

Keawan continues: *"We again call for the immediate revocation of SSO Circular RS0711/W751 that denies migrant access to the WCF. The government has publicly committed to end all forms of discrimination in Thailand and uphold the rights of migrant workers as part of its campaign for a seat at the UN Human Rights Council. Ending this out-dated and discriminatory restriction against injured migrants should be one of the first acts the government takes to fulfil this pledge."*

The ILO's report concludes: *"The Committee notes with deep concern the situation of some 2 million workers from Myanmar, many of whom are described by SERC as being in 'a social zone of lawlessness' where they are not protected by the laws of Thailand or Myanmar.... Taking into account the gravity of the situation, the Government should instruct the SSO to take positive and urgent measures lifting restrictive conditions and facilitating access of migrant workers to the WCF irrespective of their nationality."*

To date the Ministry of Labour has refused to revoke circular RS0711/W751, despite numerous appeals by Thailand's National Human Rights Commission. Thailand's courts refused to overturn the circular in another striking example of Thailand's inability to support worker access to justice. Three test cases seeking revocation of RS0711/W751 remain pending in the Supreme Court and Labour Court after the Supreme Administrative Court refused to consider the legality of the policy in 2009. ILO's report adds: *"Noting that the legality of the SSO circular is pending before the Supreme Court as well as the Central Labour Court, the Committee hopes that these jurisdictions will take into account the present comments."*

In the meantime, more than 2 million migrants from Burma, Cambodia and Laos are unable to access work accident compensation. Workers and their families face a life of uncertainty, pain and suffering should they incur an accident at work. Under increasing pressure, plans were recently announced to set up a private insurance scheme to compensate these victims,

separate from the WCF. Like most migrant policies in Thailand, this decision was taken without consultation with unions, workers or rights groups and it is still the policy based on discrimination.

http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_123424.pdf

International Labour Conference, 99th Session, 2010

Report of the Committee of Experts on the Application of Conventions and Recommendations

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Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19) (ratification: 1968)

In a communication dated 5 June 2009, the State Enterprise Workers' Relations Confederation (SERC) alleges that the Government of Thailand fails to grant to migrant workers who fall victims of industrial accidents, and to their dependents, the right to equal treatment with Thai nationals, in breach of domestic and international labour standards.

Since 2006, the SERC has supported research undertaken by the Human Rights and Development Foundation (HRDF) establishing that refusal to allow migrants access to work-related accident and disease compensation from the Workmen's Compensation Fund (WCF) constitutes systematic discrimination against approximately two million unskilled migrant workers from Myanmar, Cambodia and Lao People's Democratic Republic. The refusal of access to the WCF results from the inability of migrant workers to satisfy, in most cases, the conditions imposed on them by the circular of the Social Security Office (SSO) RS0711/W751 of 2001 relating to the provision of protection for migrant workers who incur work-related accidents or illnesses, which requires migrant workers to possess a passport or alien registration documents and obliges their employer to register and pay contributions to the WCF in respect of the worker concerned. Recognizing that many of these workers have entered Thailand illegally without official documents, the Government of Thailand has, since 1996, created systems for registering migrants from Myanmar to work legally once they are in Thailand and has issued work permits and identity cards with the mention "not possessing Thai nationality" to over 500,000 nationals of Myanmar (documents Thor. Ror. 38/1, issued by the Department of Provincial Administration, Ministry of Interior). The SSO, however, refuses to accept these documents to enable migrants to access the WCF as insufficient documentary evidence under the circular RS0711/W751, and prohibits employers of migrant workers holding Thai work permits and identity cards from paying contributions to the WCF. The SERC alleges that the circular RS0711/W751 and its implementation by the SSO violate the Workmen's Compensation Act of 1994 (WCA), which applies equally to national and migrant workers and obliges employers to pay contributions to the WCF irrespective of their nationality. The numerous attempts to challenge the legality of the SSO circular

before the labour and administrative tribunals have failed. The Labour Court of Appeal refused to revoke the SSO circular on the basis that it did not exceed the powers of the SSO. The Supreme Administrative Court also rejected the case on the basis that administrative tribunals are not competent to review labour policies falling within the jurisdiction of labour courts. Although the decision of the Labour Court of Appeal was itself appealed to the Supreme Court and to the Central Labour Court, the SERC states that any decision of these courts revoking the SSO circular will not be binding since in the Thai legal system the only tribunals having competence to revoke administrative acts of the Ministry of Labour are the administrative courts. Having exhausted all domestic legal remedies and fearing that the SSO circular instituting unequal treatment of migrant workers might become unreviewable by the national tribunals, the SERC has decided to seek protection of migrant workers in Thailand under Convention No. 19.

In reply to these allegations, the Government states that the SSO of the Ministry of Labour realizes the suffering of migrant workers, many of whom are illegal migrants whose nationalities have not been verified. At present, the Department of Employment of the Ministry of Labour is verifying these workers' nationalities and is expected to complete this task by February 2010. Migrants will subsequently be covered by the social security system, i.e. both the Social Security Fund and the WCF. Consequently, the requirement established by the SSO circular to possess a valid passport will no longer be applied to migrant workers. As for the employers' obligation to pay contributions to the WCF in respect of migrant workers, the Government indicates that the WCA provides for equal treatment between Thai and foreign workers in this matter. Although migrant workers are not entitled to compensation from the WCF for work injuries, they receive compensation directly from their employers, the amount of which is equal to the compensation paid by the WCF.

The Committee notes with *deep concern* the situation of some 2 million workers from Myanmar, many of whom are described by the SERC as being in "a social zone of lawlessness" where they are not protected by the laws of Thailand or Myanmar. It notes, however, the stated commitment of the Thai Government to treat all workers fairly and equally without any discrimination based on nationality and to promote the human dignity of all migrant workers, documented or undocumented. The Committee considers that in a situation where equal treatment of migrant workers may be jeopardized on a mass scale leading to exploitation and suffering, the bona fide application of the Convention would require member States to deploy special and urgent efforts commensurate with the gravity of the situation, unilaterally as well as in cooperation with one another. With regard to the measures reported by the Thai Government, the Committee notes that, while it endeavors to treat all workers equally irrespective of their nationality, the SSO does not recognize the identity cards issued by the Thai authorities with the mention "not possessing Thai nationality" and the measures reported by the Government are directed exclusively at verifying nationalities of migrant workers. With regard to the situation in law, the Committee observes that, while the WCA grants foreign workers the right to equality of treatment, the SSO circular RS0711/W751 subjects the exercise of this right to fulfillment of certain conditions, which in the current situation effectively deprives migrant workers of protection by the WCF enjoyed by the Thai workers. With respect to the Government's statement that foreign workers who are thus deprived from compensation by the SSO, are entitled instead to an equal compensation from their employer, the Committee notes that the Government does not contest the fact that, in practice, as explained by the SERC, the SSO orders obliging the employer to pay compensation directly to the worker concerned are usually ignored, as migrant workers are unable to engage in costly and lengthy judicial proceedings necessary to enforce the SSO orders. With these considerations in mind, the Committee observes that the principle of equal treatment in social security would lose all meaning if access to social security benefits were made subject to such conditions, the fulfillment of which for migrant workers becomes either particularly difficult or depends on the actions of the employers or of the authorities of the receiving country. To prevent and remedy such situations, the international social security law has put in place a number of safeguards, which offer guidance to governments wishing to apply the principle of equality of treatment in good faith. In particular, eligibility for workers' compensation shall not be made conditional upon the payment of contributions by the employer in respect of the worker concerned. Governments shall assume the general responsibility for the proper administration of the

social security institutions, ensuring their close cooperation with other agencies, such as the Ministry of Interior, Department of Employment, Immigration Service, etc., with a view, inter alia, to facilitating social security coverage of migrants.

The Committee asks the Government to review the policy of the SSO concerning social security coverage and protection of migrant workers in case of occupational accidents and diseases in the light of the above guiding principles and safeguards established by international law for the promotion of equal treatment of foreign workers. Taking into account the gravity of the situation, the Committee asks the Government to instruct the SSO to take positive and urgent measures lifting restrictive conditions and facilitating access of migrant workers to the WCF irrespective of their nationality. With respect to the SSO circular RS0711/W751, the Government is asked to explain what procedures exist in the Thai legal system to supervise, review and revoke contested circulars issued by a government agency at the level of the ministry concerned, at the level of the Government or by an independent judiciary authority. Finally, noting that the legality of the SSO circular is currently pending before the Supreme Court as well as the Central Labour Court, the Committee hopes that these jurisdictions will take into account the present comments.

[The Government is asked to reply in detail to the present comments in 2010.]

Bangkok Post (3rd February 2011)

<http://www.bangkokpost.com/news/local/219616/chained-to-a-hospital-bed-with-no-escape>

Chained to a hospital bed with no escape

Trying to find work in Thailand can turn into a nightmare

Burmese illegal migrant Charlie Tiyu is waiting on treatment for pelvic fractures and for an intestinal operation at Bangkok's Police General Hospital before being deported, probably in the next few months.



Charlie Tiyu, a 25-year-old illegal Burmese worker being treated at Police General Hospital in Bangkok, is chained to his bed. The man was seriously injured at a construction site in Pathum Thani early last month.

He is chained to his hospital bed.

Mr Tiyu's case is only the tip of a huge iceberg. Thailand's humanitarian laws have not really served him well.

The 25-year-old said he had crossed the border at Mae Hong Son 10 years ago to work in Thailand and had been legally issued with a temporary work card for nearly five years.

A man called Kai in Pathum Thani's Lam Luk Ka district took him and other migrants to work at construction sites. About two months ago, he went to work for a new employer, Tara Rit-taeng of Nonthaburi, without informing authorities.

Mr Tiyu said his migrant worker's health insurance at Thanyaburi Hospital in Pathum Thani expired on Jan 20.

On Jan 9, he had a serious accident at a construction site at Charoen Pokphand's food processing plant in Pathum Thani's Lat Lum Kaeo district when a concrete wall fell on him. The foreman of contractor NSU Supply Co, Veerasak Khamsri, sent him to state-run Pathum Thani Hospital.

Mr Charlie's large intestine had burst from his stomach and his left hip was broken.

The hospital said he could be discharged on Jan 25 but would need another operation on his intestine within two months.

However, the hospital on Monday contacted police because he carried no identity card and could not pay his medical expenses of 70,000 to 80,000 baht.

He was sent to the Immigration Police Bureau in Soi Suan Phlu in Bangkok, then was sent to the Police General Hospital for more treatment before deportation.



Human Rights and Development Foundation (HRDF) lawyers contacted Pathum Thani Hospital last Friday and coordinated with the immigration police to help resolve the matter. However, Mr Tiyu's employers and the contractor remained silent.

The HRDF also voiced concerns about the violation of the immigration police's regulation that chains could not be used to restrain minors under 14 years, women, the elderly and injured people who could not flee.

Doctors and nurses at the Police General Hospital said yesterday Mr Tiyu's pelvic fractures and ruptured intestine had to be treated.

Dr Samart Muangsiri, who is responsible for his case, was not available for comment.

Pathum Thani Hospital's head of social welfare, Voraphat Saengkaew, told the Bangkok Post that miscommunication between the HRDF and the hospital staff might have resulted in the call for police to take responsibility.

"We're not bad guys. In fact, the hospital has been shouldering lots of burdens for patients without any legal status for many years," Ms Voraphat said.

"Of course, there are humanitarian policies, but in practice there are a lot of issues that we have to resolve by ourselves on a case-by-case and daily basis."

Ms Voraphat said she had tried to contact employers to settle bills but they did not show up. She also found no other records from Thanyaburi Hospital, where Mr Tiyu claimed he had health insurance.

"We've waited for the HRDF to come up with a timely response about whether they could find a shelter. But we have other pressing needs to deal with.

"Since no one was taking care of him, our staff called the police. It's probably miscommunication, nothing ill-intentioned."

This is the first year a healthcare subsidy for people without status has been allocated. Pathum Thani Hospital receives 170,000 baht a year for such purposes, but its medical bills for this group last year exceeded 8 million baht.

"We're handling some 200 people who have no status. Implementation of good policy is still an uphill task," Ms Voraphat said.

Surapong Kongchantuk, chairman of the Lawyers Society of Thailand subcommittee on human rights, thanked immigration officials for sending Mr Tiyu to hospital and not blindly deporting him.



For Immediate Release: 15th February 2011

Criminal Court Orders Immediate Release from Custody of Myanmar Migrant Work Accident Victim 'Chalee' - Authorities Fail to Justify Illegal Detention

For more information on this press release, please contact

- **Mr. Somchai Homlaor** (Secretary General, HRDF): **+66 818 995476** (*Thai/English*)
- **Mr. Vasant Panich** (Chairperson, LCT Human Rights Committee): **+66 898 250398** (*Thai only*)
- **Ms. Somboon Srikomdokcare** (Chairperson, WEPT): **+ 66 81 813 2898** (*Thai only*)
- **Mr. Andy Hall** (Advisor, HRDF): **+66 846 119209** (*Thai/English*)

At 2.30pm today (15th Feb. 2011), the Southern Bangkok Criminal Court ordered the immediate release from custody of Mr. Chalee Diyoo, a 33 year old registered Myanmar migrant work accident victim who has been illegally detained in the Police General Hospital in Bangkok. Chalee was arrested even though he sustained serious injuries after a work accident and is a legally registered migrant. Two days of hearings at the Court culminated today in Immigration Bureau witnesses failing to justify detention of Chalee. Witnesses admitted police and immigration officials had failed to conduct any investigation of Chalee's registration status whatsoever prior to or during and after his arrest and detention. The presiding judge then ordered both for Chalee's immediate release from custody and that the Immigration Bureau must pay him 3, 000 Baht (US\$100) in damages.

For the first four days of Chalee's detention in the Police General Hospital he was chained to his bed, despite his serious injuries. Chains were removed from Chalee only after the Human Rights and Development Foundation (HRDF) and rights networks protested directly to the Commander of the Royal Thai Police Headquarters.

Vasant Panich, Chair of Lawyer's Council of Thailand's Human Rights Committee and lead lawyer in Chalee's case, said today: *"Chalee's case highlights how law enforcement officials in Thailand continue to systematically abuse powers of arrest and detention, particular with migrant workers. Personal liberty is sacred, and both police and immigration officials must learn that before they arrest and detain anyone, Thai or non-Thai, their duty is to conduct proper investigations alongside all related government departments and officials."*

Chalee has a work permit valid until 28th Feb. 2011 but this did not prevent him from being arrested by Pathum Thani police pending deportation to Myanmar on 31st Jan. 2011. Police arrested Chalee after a government hospital in Pathum Thani Province called them because he couldn't pay his medical fees and could not produce identification documents he had lost following his accident. Chalee's employer fled without responding for his work accident and Thailand's migrant health insurance and Workmen's Compensation Fund (WCF) schemes failed to protect and remedy him.

Somchai Homlaor, Secretary General of HRDF, said after today's court decision: *"Chalee's case has exposed systemic failures in Thailand's systems of migration management and in particular systems for ensuring protection, treatment and compensation of migrant work accident victims. Migrant work accident victims continue to be unprotected, falling outside work accident protection systems created by the Government for all workers in Thailand. The Government continues to refuse migrant access to the WCF despite protests by the ILO, United Nations Special Rapporteurs on Migrants and Discrimination and the Thai National Human Rights Commission."*

The Council of Work and Environment Related Patient's Network of Thailand (WEPT) has started a fund to pay the US\$2, 400 medical fees incurred by Chalee following his accident. WEPT President Somboon Srikamdok today said: *"The fund is required as the Ministry of Public Health's migrant health insurance, the Ministry of Labour's WCF and Chalee's employer have refused to cover these costs. We, also victims of work accidents, must therefore respond ourselves to assist Chalee in his time of need."*

Appendix 4



มูลนิธิเพื่อสิทธิมนุษยชนและการพัฒนา (มสพ.) **Human Rights and Development Foundation**

เลขที่ 111 ซอยสีทิพย์ ถนนวิจิตร ถนนสายสุขุมวิท กรุงเทพฯ 10320
111 Soi Sitthichon, Suthisarnwinichai Road, Samsennok, Huaykwang, Bangkok 10320
Tel: (+662) 277 6882/6887 Fax: (+662) 277 8882 (ext. 104) E-mail: migrantjustice@hrdfoundation.org

For Immediate Release: 20th July 2010

Shan Migrant Files Case Against Transport Ministry in Administrative Court Seeking Ruling on Right to Drive Motorbike

For further comments on this statement, please contact:

- **Mr. Somchai Homlaor** (HRDF's Secretary General): **+66 818 995476** (Thai/English)
- **Mr. Andy Hall** (Consultant to HRDF): **+66 846 119209** (English/Thai)
- **Mr. Sumitchai Hattasan** (Director of the Centre for the Protection and Revival of Local Community Rights): **+66 819 507575** (Thai only)
- **HRDF's Migrant Justice Programme**: **+66 850 359051** (Burmese only)

Almost a million registered migrant workers from Burma, Cambodia and Laos now have a right to formally purchase and register motor vehicles in Thailand. However, because of officials' discriminatory use and interpretation of laws and a lack of genuine respect for human rights, these migrants continue to be denied the right on national security grounds to drive these vehicles. Today a Shan migrant in Chiangmai Province has therefore filed a case against both the Department of Land Transport and Chiangmai Transport Office in Chiangmai's Administrative Court to seek a ruling on migrants' rights, in accordance with the *1979 Automobile Act*, to apply for driving licenses. Today's prosecution results from continued refusals by Chiangmai Transport Office since April 2009 to allow this worker to apply for a driving license.

Mr. Somchai Homlaor, HRDF's Secretary General, said of today's filing: *"The right of a migrant to drive a vehicle is a basic social right. All human beings working in Thailand, whatever their nationality, should have this right. Discriminatorily denying rights to drive vehicles to registered migrants only further inconveniences their lives, whilst increasing opportunities for systematic corruption by State officials. Safety on our roads is undermined, and national security is in no way enhanced by the denial of this right."*

Since 2007, the Human Rights and Development Foundation (HRDF) and Shan migrant groups in Chiangmai Province have lobbied the Royal Thai Government (RTG) to allow migrants to apply for driving licenses. HRDF and these migrant groups have continually attempted to explain to officials, both in Chiangmai and in Bangkok, of the necessity for migrants in Chiangmai to use motorbikes, as well as the problems migrants face given they cannot legally drive. Migrants continue to face fines, arrest and motorbike confiscation at the hands of Region 5 Police. Fines handed out to migrants by officers are higher than the 200 Baht faced by non-migrants, previously 1000 Baht per offence and now 500 Baht per offence. Migrants' lives are detrimentally affected by this discriminatory denial of the right to "legally" ride motorbikes.

There has been some progress in RTG's policy on minority group's usage of motorbikes because of this campaign, however. On 14th October 2009 the Department of Land Transport issued circular KK0408/W244 allowing migrants to register ownership of vehicles. On 22nd March 2010 the Department of Land Transport then issued circular KK0408/W108 allowing an additional 14 groups of stateless and minority groups to apply for driving

licenses. But despite these positive policy changes, migrants continue to be refused such motor vehicle license rights.

HRDF and migrant groups have urged the RTG to consider rights of migrants to vehicle licenses so as to reduce opportunities for corrupt officials to continue to profit from the necessity of migrants to use motorbikes in Chiangmai Province. Lobbying of police to reduce discriminatory fining practices has also been undertaken. Meetings have been arranged with related officials, including the most recent on 11th June 2010 in Chiangmai. However officials continue to insist this issue falls under the remit of Thailand's National Security Council as it concerns primarily Thailand's national security. The NSC has not yet issued an opinion favorable to migrants applying for vehicle licenses.

Ref. KK
0407.6/12664



Department of Land
Transport,
Phahonyothin Rd., Chatuchak

6th October, 2008

Re: Requesting Detailed Information on Rules and Conditions for Application and Issuing of Driving License

To: Chairman, Cross Cultural Foundation

Attachments:

1. Ministerial Regulations Providing for Rules, Methods and Conditions when Applying For and Issuing a Driving License and for Extension and Requesting Extension (2005)
2. Copy of Letter from Land Transport Department ref: KK0310/W, 2nd August 1994

According to the letter of the Cross Cultural Foundation (CrCF) which was copied and sent to the Land Transport Department, it was stated that CrCF is providing legal assistance to Nai Deng (no surname) of Burmese national, Nai Dto Saitong of Shan ethnic from Burma and Nai Chai Baw of Burmese national who all submitted applications forms requesting a temporary license to drive a motorbike to the Registrar of Chiangmai Provincial Transport Office. However, the Chiangmai Provincial Transport Office refused to accept these documents because these individuals held identification cards for a person without Thai nationality and were thus considered as being individuals to whom it was not suitable to issue a driving license. CrCF have therefore requested detailed information about the correct rules, procedures and conditions for requesting and issuing car and motorbike driving licenses in relation to those who possess a identification cards for persons without Thai nationality, of which more details have already been discussed.

The Department of Land Transport wishes to inform you that rules, procedures and conditions for requesting and issuing car and motorbike driving licenses according to vehicle law are provided for in Regulations Providing for Rules, Procedures and Conditions when Applying For and Issuing a Driving License and for Extension and Requesting Extension 2005 (attached document 1). These regulations state that an individual who is an alien according to immigration law must provide the following documents:

1. Alien Identification Certificate or passports, alongside photographs;
2. Certification of Residence according to immigration law or a work permit which has not yet expired, together with photographs, or other documents which show their place of residence inside the country given by government officials or officials of foreign governments or international organizations which were provided no more than one year prior to applying for a license.

In relation to alien workers who do not possess such documents, procedures have been laid down in the letter of the Land Transport Office ref: KK 0310/W49, issued on 2nd August 1994 (attached document 2) which lays down that the Registrar is able to consider and issue driving licenses to 4 minority groups as follows: Yuan migrants, former soliders of the Chinese nationalist group and Chinese Hor migrants, persons assisting to develop the Thai Naion (former Malaya Communist) and Thai Ler. These groups and request for vehicle registration and driving licenses. In relation to those displace persons of Burmese nationality or individuals from other ethnic minority group apart from 4 groups

mentioned above,-as a result of the aforementioned policy, the Transport Office cannot proceed with a consideration of their motorbike license applications as there is no policy from the Government providing for the status of these groups. However, the Department of Land Transport will consider this issue further by contacting relevant departments to understand more clearly relating to these policies. If there is any result from these investigations I will let you know.

I write this in order to inform you.

Yours Respectfully,

Mr. Chairat Sanguanchur

Deputy Director General Carrying Out Duties on Behalf of the Director General of the Land Transport
Office

Office of Standards, Registration and Tax
Tel: 0 2272 3615-16

MJP CAMPAIGN FACT SHEET

Right to Driver's License and Motorcycle Ownership for Migrant Workers in Thailand



Background

The Human Rights and Development Foundation's (HRDF) Migrant Justice Programme (MJP) migrant motorcycle license/motorcycle ownership campaign began after three incidents of illegal search and seizures in Chiang Mai in Northern Thailand in 2007. At 5:00 a.m. on 7th Dec 2007, 30 police officers confiscated 27 motorcycles from a construction site, a work site and living quarters of migrant workers from Shan State, Burma. On 20th Feb 2008 at 6:00 a.m., 12 police officers illegally searched Shan migrant workers' living quarters and again seized 2 motorcycles in another area. Then, on 28th Feb 2008 a migrant learning center was targeted in a raid as Thai language lessons for Shan migrants were starting. Around 80 motorcycles were seized. A few more raids followed during the same period and were all documented by MJP. All raids were conducted on the basis of national security and because migrants did not apparently have the right to own or ride motorcycles.

The raids served as a declaration to migrant workers from Burma, Cambodia and Laos working in Thailand of the local authorities' power to openly handicap them without any laws or regulations to provide migrants with protection and social rights. Losing their motorcycles continues to be a major migrant community concern because motorcycles are a major means of transport for migrant workers, in particular in Chiang Mai due to the lack of affordable public transportation.

Although MJP's campaigns led quickly to the ceasing of illegal search and confiscation of motorcycles in migrant camps in Chiangmai, police switched to confiscating motorbikes and heavily fining migrants when they were

caught riding their motorcycles without driving licenses on the roads of Chiangmai. At the height of this systematic police exploitation, migrants in Chiangmai were being fined 10 times the amounts faced by Thai persons when similarly caught riding a motorcycle without a license, in a clear case of systematic and unjust discrimination. Migrant earnings were being deeply threatened and many simply sold their bikes and changed their lifestyles in response. Different patterns of police abuse and exploitation relating to migrant workers from Burma, Cambodia and Laos and their use of motorcycles have occurred in different provinces of Thailand and been monitored by MJP.

The deeper concern remained in Thailand that migrants did not have rights to obtain a driver's license or become legal owners of a motorcycle due to their "illegal" status, which made migrant workers vulnerable to endless police fines and harassment. This in turn made migrant lives restrained and unhappy. Hence MJP began to strategize to push for a change of existing government policies and regulations as a way to protect migrant workers and ensure their access to basic social rights like motorcycle licenses and ownership rights.

The Road Towards Change

MJP, with support of Shan migrant worker organisations in Chiangmai, carefully and systematically documented police raids of migrant living quarters and police stop and search/discriminatory fining of migrant motorcycle riders during late 2008 and early 2009. This data collection has continued until today as the situation develops. Initial reports were then filed with the National Human Rights Commission of Thailand (NHRC), the Ombudsman and relevant provincial and national authorities. Media scoops were organised to raise societal awareness on the issue. In addition, MJP began

to engage Chiang Mai authorities and relevant government ministries to develop transport regulations that included and protected migrant workers who used motorcycles.

In early Feb 2009, MJP requested negotiations between Chiang Mai police, transport office, the Governor's office and migrant communities in Chiangmai. By 18th Mar 2009, the Ministry of Social Development and Human Security had assisted to organise formal negotiations with local authorities to seek some leniency in enforcement of traffic laws against migrants who did not possess driving licenses in Chiang Mai but needed to use motorcycles. Two provincial meetings and discussions were held.

Furthermore, informal discussions between senior HRDF board members and the National Security Council, Internal Security Operations Commission and Region 5 Police Force officials were also undertaken. MJP also liaised with migrant organizations in a number of provinces in Thailand to gather case studies of the different ways and means in which the motorcycle regulations were enforced against migrant workers across Thailand to show a lack of consistency to authorities' approaches. On June 2nd 2009, a joint Human Rights Watch and HRDF statement in the UN Human Rights Council addressed the discriminatory system of robbing migrants of social entitlements like motorcycle license and ownership rights.

Finally, on 1st September 2009, the Ministry of Transport Deputy Director General met with HRDF in a proactive step to find a solution to this issue. MJP prepared a detailed report and recommendations for this meeting.

The problem surrounding migrant use of motorcycles has also been used as MJP legal test cases. Rejections to

allowing migrants to apply for driving licenses and motorcycle ownership rights have been appealed, since early 2008 with lawyers' assistance, to the present stage of being ready to file an administrative case against the Ministry of Transport in the Administrative Court. This case for refusing to allow migrants to apply for driving licenses was put on hold by HRDF as officials offered positive signs in 2010 of a breakthrough in allowing migrants to access motorbike licenses, as well

as because of concerning developments in the government's migrant registration policies and the crisis of nationality verification.

Following on from the meeting between HRDF and the Deputy Director General of the Department of Transport in September 2009, on 14th October 2009 the Department of Transport announced that migrant workers

Rights group demands probe into police raid

■ Subhatra Bhumi Prabhas
The Nation

A CIVIL RIGHTS group is demanding an urgent investigation into a dawn police raid at a migrant workers' community in Chiang Mai.

The Bangkok-based Cross Cultural Foundation (CrCF) yesterday issued a statement claiming that 12 officers from San Kamphaeng Police Station took part in a raid on Wednesday without a search warrant at a camp for migrant workers at Moo Baan Karnkanok in Tambon Tonpao.

"Police officers demanded

keys to 15 motorbikes parked in the camp and then asked who the registered owners were and to see all the registration book-lets.

@Some of the owners were summoned by workers to the camp to speak with officers. However, two registration books could not immediately be found nor the owners contacted, and the motorcycles confiscated by the police. A third motorbike was confiscated because the police said its mirror had been removed," it stated.

CrCF president and human rights lawyer Somchai Homlaor said such behaviour required

urgent investigation by the authorities. "This behaviour is clearly unlawful. It is an abuse of power against vulnerable migrant communities in breach of rule of law principles enunciated in Article 3 of the Thai Constitution. It instils fear among migrant communities and makes their lives miserable," the lawyer said.

Colonel Chak On-nim, chief of San Kamphaeng police, told *The Nation* that he accepted the principle of human rights and had no objection to migrant workers from Burma coming to work in Thailand.

"But human rights must be

based on the public interest. We had often received complaints from villagers at Baan Karnkanok about thefts in the village. We searched the most suspicious places because we had the complaints," he said.

Lt-Colonel Chatchai Banharn, who led 15 officers on the raid, said he had not asked for a search warrant because the migrant workers lived in temporary shacks at a construction site with no official house registration numbers.

Chatchai said the police operation at Baan Karnkanok was to search for illegal migrant workers. "If we didn't go at dawn,

they would have already gone to work," he said.

The police team, however, did not make any arrests.

Nang Man, a Shan woman who witnessed the police operation, said police ordered the workers to gather outside their rooms but there was no intimidation or physical assault.

Thai resident Sarawadee Sriwong said she did not believe migrant workers in the camp were thieves.

"Most people I know come here to work and they don't make any trouble for us," said Sarawadee, who runs a convenience store in the village.

could now become owners of motorcycles and soon would be able to apply for driving licenses. In addition, vehicle ownership rights were extended for many of Thailand's minority and highland groups, as well as for migrants passing the government's nationality verification process. Given reluctance by officials to apply the new regulations, and confusion by officials to verifying migrant status, the NHRC held a public hearing at the end of January 2010 to clarify the Department of Transport's policies regarding migrant and minority group use of motorcycles. Following on from this, migrants and minority groups have now been able to apply with ease for motorcycle ownership following the issuance of an additional clarificatory regulation.

As for allowing migrants to apply for driving licenses, following MJP's campaign, Thailand's influential National Security Council (NSC) issued its opinion in early 2009 that 14 minority groups, but not including migrant workers, should be the only persons allowed to apply for driving licenses on the basis of serious national security concerns. Finally, after involvement of the

NHRC and the public hearing in early 2010, and given pressure placed on the Ministry of Transport by HRDF's campaigns and legal test case progression, a regulation was issued on 22nd March 2010 extending driving license rights to 14 minority groups in Thailand, excluding migrant workers. The NSC has now strongly expressed its disagreement however with any extension of driving license rights to migrant workers who have not passed the nationality verification process because of continuing nationality security concerns.

Driving Forward

Although the Ministry of Transport has now issued national regulations allowing 14 minority groups rights to obtain a driver's license, and now most minority groups and migrants can register ownership of motorcycles, migrants from Burma, Cambodia and Laos working in Thailand still face discriminatory practices given they cannot apply for driving licenses and are frequently arrested and heavily fined when caught by officials riding motorcycles. Furthermore, the Ministry of Transport has not made systematic additions to support the new regulations such as documentation, awareness raising or driving tests and trainings in migrant or minority languages. Private broker firms have instead appeared in border provinces where there are many minority group individuals now eligible to apply for driving licenses, and given this group's illiteracy problems, brokers seem to be acting unregulated charging high fees to assist these individuals to get driving licenses.

In a last ditch effort to convince officials of the need to grant migrants driving licenses, HRDF held another provincial meeting in Chiangmai on 11th June 2010 and officials from the Ministry of Transport attended. The meeting made no progress as officials cited national security concerns as preventing the extension of motorbike license rights to migrant workers who have not passed the RTG's Nationality Verification Process.

Migrant Justice Programme, The Human Rights and Development Foundation

| Date | Camp Raid Developments |
|----------------------------|---|
| Dec 07-Feb 08 | Systematic data collection on camp raids |
| 21 st Feb 2008 | Cross Cultural Foundation (partnering with HRDF) publically requests to Region 5 Police, the NHRC and the Ombudsman to complete procedural review of camp raids |
| 30 th Apr 2008 | Response from Region 5 police chief confirming the legality of the raids and motorcycle seizures |
| 20 th Aug 2008 | Ombudsman warns Region 5 police for unlawful conduct |
| Date | Driver's License & Ownership Registration Developments |
| 4 th Apr 2008 | Chiangmai Department of Transport first refuses to issues a driver's license to migrants |
| 15 th May 2008 | First Appeal Against Chiangmai Department of Transport decision |
| 30 th May 2008 | Chiang Mai Department of Transport issued the reasons for refusal of driving licenses to migrants |
| 21 st July 2008 | Cross Cultural Foundation appeals to Minister of Transportation for migrant's rights to obtain a license |
| 21 st Feb 2009 | NSC releases opinion to allow 14 minority groups additional rights to driving license rights (not including migrants) |
| 18 th Mar 2009 | Provincial meeting in Chiang Mai and discussion about a driving license process for migrant workers, as well as the reduction in fine levels from TB2, 000 to TB1, 000 or TB500 for migrants arrested for driving motorbikes without a license. |
| 15 th May 2009 | Migrant worker and a lawyer formally appeal against Chiangmai Department of Transport's refusal to allow transfer of motorbike ownership between a Thai lawyer and a Burmese migrant |
| 16 th June 2009 | Chiangmai Department of Transport requested by Ministry of Transport to allow transfer of motorcycle to a migrant worker and appeal accepted |
| 22 nd June 2009 | 3 Shan migrant workers formally appeal against Chiangmai Department of Transport's refusal to allow them to apply for driving licenses |
| 1 st July 2009 | First ever motorcycle transferred from a Thai person to a Burmese migrant worker in Chiangmai |
| 20 th July 2009 | Chiangmai Department of Transport confirms the rejection of the appeal against the fact Shan migrant workers cannot at this time apply for driving licenses |
| August 2009 | HRDF meeting with Region 5 police chiefs and the start of reduction in fines when migrants caught driving a motorcycle without a license to TB500 |
| 1 st Sept 2009 | HRDF and Ministry of Transport meeting |
| 14 th Oct 2009 | Ministry of Transport issues a national regulation allowing ALL main groups of migrant workers and minority persons the ability to register of vehicles and suggests driving license rights will follow |
| 20 th Jan 2010 | NHRC public hearing on motorcycle and migrant issue |
| 29 th Jan 2010 | Ministry of Transport issues clarifications on the process of ownership registration to clear up problems being experienced by individuals seeking to attain rights contained in the 14 th Oct 2009 regulations |
| 22 nd Mar 2010 | Ministry of Transport issues a national regulation allowing 14 groups of migrant workers to get a driver's license, but this does not include migrant workers |
| 11 th Jun 2010 | HRDF hosts provincial meeting with officials from Ministry of Transport present to seek to find solution to motorbike license and migrant safe driving in Chiangmai but no progress when officials cite national security concerns |
| 20 th July 2010 | Shan migrant workers prosecutes Department of Land Transport in Chiangmai Administrative Court |

Man behind the scenes

Mr Narong Vongsumitr keeps a low profile as he looks after the interests of Thailand's seven to eight million Muslim citizens. **InSight, P11**



Al-Qaeda no threat if US leaves

Al-Qaeda has only been able to find support among local populations as long as they fight a common enemy, such as American troops in Iraq. **Global Viewpoint, P9**

Ethical Perversity

There's something wrong when sexual misconduct elicits more public outrage than fabricating a case for war. **Soul Searching Column, P10**



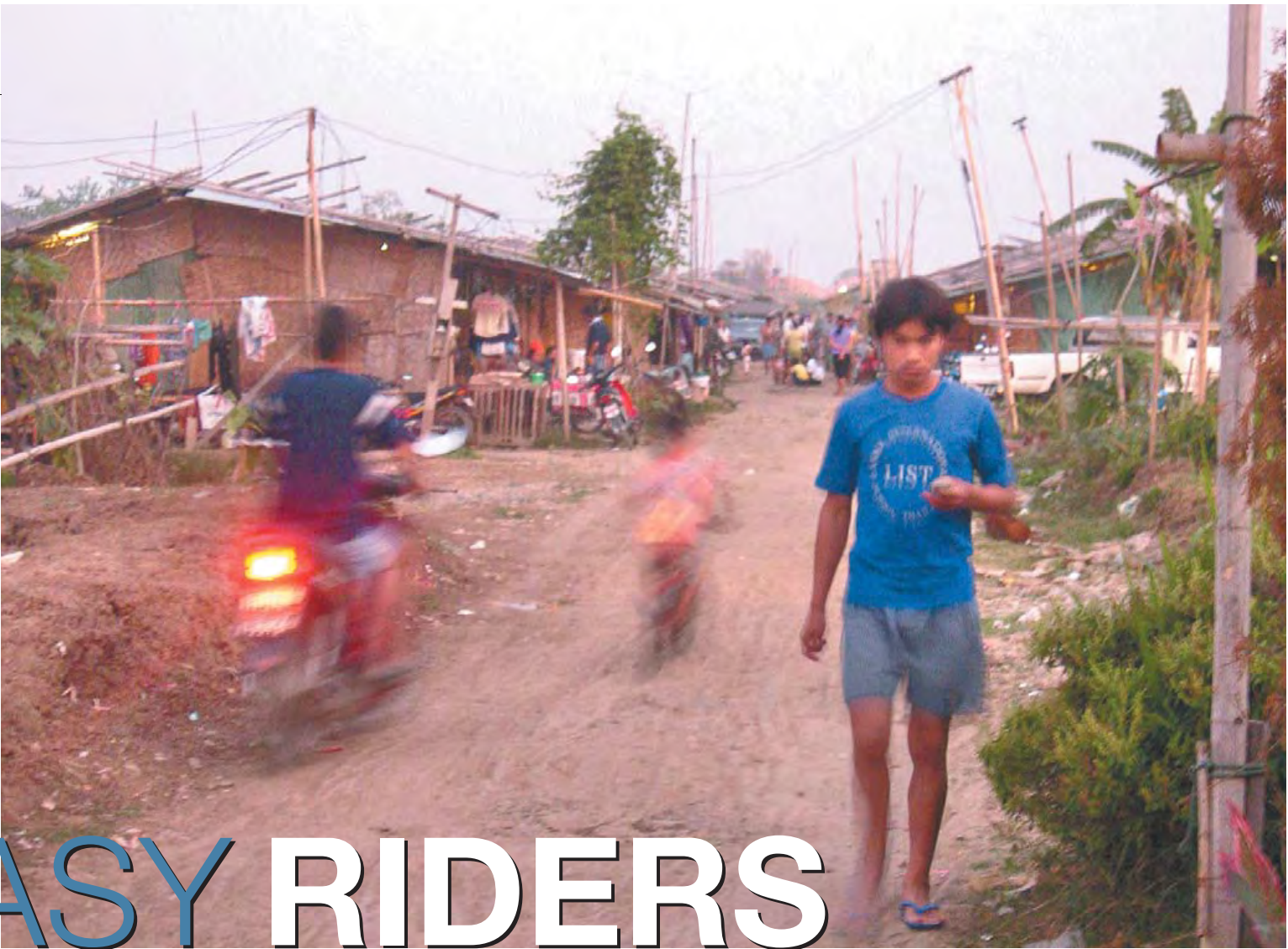
QUOTABLE

"Whip out dollars at the French flea market now, and they'll shoo you away ... Before it was like the second coming of Christ, but now they don't want it or if they do take dollars, they're going to take their pound of flesh."

MANHATTAN ANTIQUE DEALER BILLY LEROY, SPEAKING IN ANTICIPATION OF HIS ANNUAL BUYING TRIP TO PARIS.

RIGHT A migrant camp, like those raided near Chiang Mai.

Migrant workers who shell out their hard-earned money for two-wheeled transportation are forced to live in fear of routine police raids in which their motorbikes are confiscated and used to extract stiff fines, writes **ERIKA FRY** from Chiang Mai



UNEASY RIDERS

Well before dawn on a December morning last year, Sai Sai was asleep and nearly naked when police tugged at his blanket and charged him with riding a motorbike without a licence.

At the time, it was a direction he'd never dreamed the morning — however, rudely begun — would take.

He'd assumed this was just another of the jarring, but not unprecedented, 5 a.m. raids that police occasionally carry out at migrant camps to check legal documents and work permits.

Sai Sai has lived at the camp on the outskirts of Chiang Mai, working construction, for the past four years. He lives there with his wife and daughter in a house far less glamorous than the ones he builds, scraped together from cardboard and corrugated sheet metal.

That morning the police had shown up at the camp in force — about 30 officers in four trucks, and with a reporter taking pictures that would run the next day in the pages of the *Chiang Mai Daily News*.

By migrants' accounts, the officers took the homes by storm. Sai Sai says they'd nearly brought down his door and his bedroom's mosquito netting. Other migrants in the camp said they lost cameras and cell phones in the raid because officers told them they had "no right to use them". Sai Sai's three-year-old daughter, to the scorn of an officer, began to cry.

Even so, Sai Sai was confident, as he and his family filed outside on the orders of the officer, that'd he'd done nothing wrong and they'd have no problems. He is a registered worker, he works hard and he is "not a bad man."

But by the episode's end, hours later, he'd had "his" motorbike confiscated, visited two police stations, and paid 1,600 baht (though official receipts were written for less) for an infraction that police were telling him he'd committed in his sleep. (At the station, Sai Sai asked how he could be charged with driving a motorbike when he had been sleeping, but was given no answer).

Twenty-six others in the camp were found guilty of the same thing.

An officer with the Region 5 Police force that raided Sai Sai's camp explained that such sweeps at migrant camps are routine. The station tries to conduct about 10 such sweeps per month in an effort to manage illegal migration — an increasing problem for the province — as well as to check for stolen motorcycles, which he says have also been on the rise in the region, and are oftentimes taken by gangs of migrant motorcycle bandits.

He considers the raids an important means to maintaining national security — and explained that heightened surveillance of the migrant population has been policy since 2000, when Burmese rebels took control of hundreds of hostages at a hospital in Ratchaburi.

He also explained that police have the

power to confiscate a bike if it is not in the possession of its registered owner. Migrant workers cannot obtain a licence to drive motorbikes, nor can they register a bike under their name, said the officer, so the 27 in possession of workers at Sai Sai's camp had been accordingly seized.

Nonetheless, Sai Sai had had his motorbike for over a year. He used it to drive around his work site and to take his daughter to school. He was paying for the bike — registered for him by his employer — in monthly installments. At the time of the police raid, Sai Sai had provided the officers his employer's registration documents and a receipt of payment that bore his own name.

The police told him that he was an alien and that he had no right to buy a bike.

Yet Sai Sai is hardly the first migrant worker to have purchased a bike; and he is one of an increasing number to have had a bike confiscated — and at some cost, returned — in raids that police contend are routine, and human rights groups denounce as corrupt, discriminatory and unlawful.

Most migrants understand they drive a motorbike at a risk, and that using one invites the same quiet, unquestioned (though, as a migrant, slightly more costly — anywhere from 200-2,000 baht) exchanges most Thai motorists have with traffic policemen.

Whether for reasons of practicality or convenience, many migrant workers still decide to pay for motorbikes and whatever additional fees are asked of them — by shopkeepers or individuals that register the bikes — for the service. Employers, relatives, and bike shop owners — the last of which tend to be the most unscrupulous brokers — often register

the bikes for the migrants and collect upwards of 500 baht for the favour. A fee is also charged on occasions when they are asked to go retrieve a confiscated bike from a police station.

Inevitability of exploitation

The workers' willingness to submit themselves to this sort of screwed-at-every-turn scheme may stem from widespread confusion over rules, as well as what they perceive as the inevitability of exploitation.

Workers in Chiang Mai province are not subject to the strict decrees implemented in Phang-nga and a few other provinces — restricting mobile phone use and movement after dark, for example. The decrees were once proposed in Chiang Mai, however, and many people — migrants and advocacy workers included — are unclear on what the rules really are.

Migrants who believe they are under the thumb of such strict regulations are often resigned to the thought that they will have to break them. As well, the uncertainty seems to have encouraged exploitation and ad hoc rulemaking by authorities in some communities. The headman in a village near Mae Rim, for example, subjects migrant workers to a 6 p.m. curfew (he collects 600 baht when he sees them out) and a prohibition on growing sweet peppers — which one season had brought the migrant farmers more profits than flower-growing Thai farmers.

Meanwhile, the migrants' confiscated motorbikes are suspected "stolen" only until the suspected migrant pays a sum of money to get them back, leaving one to wonder whether policy managing the nation's migrant

population is in many cases less about preserving national security than advancing personal or financial interests.

Two Thursdays ago, at a time when Sai Murng would normally be driving home from a computer course at Chiang Mai's Migrant Learning Centre, he found himself vaulting over the school's back wall.

Though he is a registered worker and had his documents on hand, Sai Murng was scared when, right around the 8 p.m. dismissal time, four police trucks surrounded the school that offers nightly Thai, English and computer classes.

As Sai Murng fled, police approached the school, wanting to check students' identification and inspect the 70 or 80 motorbikes — Sai Murng's included — parked alongside the school. Meanwhile, plainclothes officers entered the school and began taking pictures and materials from the shelves. A few students, again to the scorn of officers, began to cry.

"The students were very, very nervous," said one of the teachers. "It was as if they were raiding a casino."

Calmer, Sai Murng returned to the school to find police still there but his motorbike — with the registration, insurance, and payment documentation inside it — already confiscated and on its way to the station.

He rode with the officers to the station, called the registered owner of the bike to join him, paid 1,000 baht for driving without a licence (bargained down from 1,500 because he did not have anything more), and had his bike returned.

He drove off with it and without a licence. So, too, did 50 or so students at the Migrant Learning Centre that were able to provide police a motorbike registration booklet and evidence that the registered owner had given it to them (some of the individuals came to the school, while others spoke to the police on students' mobile phones).

By the end of the incident, police had hauled off about 15 bikes and one student, who was arrested, handcuffed and kept for one night at the station after he, following Sai Murng, fled over the back wall.

Many of the bikes confiscated at the school have since been recovered by their migrant owners, all from the same station, but according to widely varying procedure and wide-ranging sums of money. One individual paid 200 baht for not having bike registration; the majority of others paid 1,500 or 2,000 baht and were charged for driving without a licence (as in Sai Sai's case, the charge arose from an inspection of parked bikes — more confoundingly, this charge was levelled while others with motorbikes were dismissed to drive off without a licence). Some were given receipts.

The only standard in the process seemed to be that officers collected from the migrants what they could (in all cases where migrants paid less than 1,500, it was because they did not have that much with them.) In all cases, it was also a fair bit of money for workers who

The 'GREEN' alliance

Like drops of water at risk of being swallowed by the ocean, the 'Greens' chose to form their own wave and do battle with giants, writes **SUPARAJANCHITFAH**

At their study centre in Don Samran village of Prachuap Khiri Khan, Saowalee Veerakul and Supoj Songsieng were busy reading the newest environmental impact assessment (EIA) for a controversial iron ore smelting project planned by the Sahaviriya Group of Companies (SGC) for the area. They jotted down some crucial points for discussion with the membership of the Mae Ramphueng Environmental Association.

"Look at page 158," Supoj exclaimed. "This is amazing. It states that the Irrigation Department has allowed the company to siphon water from Bang Saphan dyke in the rainy season. Do you think they will take water only in the rainy season?" Supoj asked the members.

Many of the villagers, whose rice fields are located near the area, shook their heads. "You remember at the Thailand Journalist Association two weeks ago, the Irrigation officials even said that they do not know who allowed the water pumping machinery to be installed in the canal. But in this EIA it states that the department has allowed the company to siphon the water. Think about it," said Sombat Chuekrod, whose rice field is located below the dyke.

He continued: "We cannot even enter the area, as the company's security guards would expel us, so how could we know if the company pumps water only in the rainy season or not?"

Sombat added that few farmers now remain in the area because there is not enough water.

The group discussed the content in the new EIA at great length. Although they felt it was not much different from the previous ones, they wanted to make sure they knew all about it so no one could accuse them of blindly opposing the project.

"Oh look! The tar, ammonium, sulfate, benzene and sulfur are the by-products of crude gas purification, totalling about 184,700 tonnes a year. These would be sent to GENCO (Thailand's only company treating hazardous wastes, located about ten hours drive away in Rayong province)," read Saowalee, a mother of three whose husband has also joined the movement.

Another villager asked, "Do you think they will ask GENCO to take the waste?" Most villagers shook their heads.

They discussed the pollution carrying capacity in the area, where SGC and its subsidiaries have long been operating a steel mill and other related industrial projects.

Members expressed concern that they were already being made to suffer from the existing operations, and now they are being asked by the company to accept more pollution from new activities. The company maintains that new technologies can mitigate any potentially adverse environmental impacts.

Saowalee could have stayed home and looked after her small soybean milk producing business, but the little woman was unable to sit still, as she is concerned about the future of her children.

"We joined the 'Green' movement because we read all about this project and learned that our town would be very polluted in the future if we don't protect it today," said Saowalee, adding that "we don't want our town to be like Map Ta Phut (the industrial estate in Rayong province)".

Locals already blame SGC's operations for the de-beautification of the scenery and the deteriorating quality of the air and water, as well as obstructing the natural flow of the waterways, which affects the catches of the fishermen. The company denies the charges.

Seeking justice

Saowalee is one of the many simple villagers with rudimentary education who have found passion in seeking environmental and social justice. They have read everything related to the project, even the old EIA for the Prachuab Port, which was built to accommodate the steel mill. They found the old EIA contains some inaccura-



A migrant workers' home. Low wages make finding shelter difficult.

See **UNEASY RIDERS** Page 9

See **THE 'GREEN' ALLIANCE** Page 8

GLOBAL**Viewpoint**
OLIVIER ROY

Al-Qaeda no threat if US leaves

Al-Qaeda has only been able to find support among local populations as long as they fight a common enemy, such as American troops in Iraq

Olivier Roy is research director at the French National Center for Scientific Research and a lecturer at the Ecole des Hautes Etudes en Sciences Sociales and the Institut d'Etudes Politiques in Paris. He is author of "Globalized Islam: The Search for a New Ummah" and "Islamist Networks: The Pakistan-Afghan Connection."

Paris — Now that Sen. John McCain, R-Ariz., is the formal presidential nominee of the Republican Party, he promises to put Iraq and the "global war on terror" on the front burner again in American politics.

The key debate in the US election will be, then, "What will happen if the US troops leave Iraq?" McCain and Sen. Barack Obama, D-Ill., have already sparred over whether al-Qaeda will be strengthened or weakened if the US withdraws. Sen. Hillary Clinton, D-N.Y., also has pledged to draw down troops if she wins.

Of course, nobody knows exactly. But I can tell what will not happen: al-Qaeda taking power and establishing an Islamic state.

Too many in the West persist in seeing al-Qaeda as a territorialised, Middle East organisation bent on expelling the Christians and Jews from the region in order to create a dar al-Islam (land of Islam), under the umbrella of a caliphate.

But al-Qaeda is not a continuation of the Muslim Brotherhood, Hamas or Hezbollah. It is a non-territorial global entity. It has never tried to implement an Islamic state, including in Afghanistan where it found sanctuary for years in the 1990s.

It is pointless thinking of al-Qaeda as a political organisation seeking to conquer and rule a territory. Al-Qaeda recruits among disenfranchised youth, most of them without direct connections with the embattled countries of the Middle East. Second-generation Western Muslims, converts, Saudis, Egyptian and Moroccans make the bulk of the al-Qaeda travelling jihadists, not Afghans, Palestinians or Iraqis. Al-Qaeda does not have the necessary local rooting for taking power.

Al-Qaeda's strategy is twofold. It wants to confront the big boys, or rather the big boy, the US, directly, striking out against America's power, relying not on the actual damage inflicted (financial cost, number of dead) but on image, media impact and the terror effect.

The mirror effect of those who claim a clash of civilisations, of course, intensifies the impact. In fact, al-Qaeda needs those who demonise it, because it makes it what it is not: the vanguard of the "Muslim wrath."

Al-Qaeda goes where the Americans are, while the US Army goes where Washington thinks it might be... one day.

Secondly, al-Qaeda seeks to hijack existing conflicts and give them a new significance by making them part of the global jihad against



Members of a Sunni insurgent group now aligned with US forces in Iraq celebrate after conducting a raid in which some 15 suspected al-Qaeda members were arrested.

the West.

However, in Bosnia, Chechnya, Afghanistan and now Iraq, the Islamist internationalist groups have been unsuccessful in diverting local and national conflicts, playing only the role of auxiliaries.

The key actors of the local conflicts are the local actors: the Taliban in Afghanistan, the different Sunni and Shia groups in Iraq, Hezbollah in Lebanon. These groups are not under the leadership of al-Qaeda. Al-Qaeda has only been able to implant foreign volunteers, who usually do not understand local politics, and finds support among local populations only as long as they fight a common enemy, such as American troops in Iraq. But their respective agenda is totally different: Local actors, Islamist or not, want a political solution on their own terms. They do not want chaos or global jihad. As soon as there is a discrepancy between "the policy of the worst" waged by al-Qaeda and a possible local political settlement, local actors choose the local settlement.

The Bosnians got rid of the radical foreign fighters once they achieved their independence; the Taliban rank and file refused to die for al-Qaeda when the Western

forces landed in Afghanistan after 9/11. In Iraq, many among the Sunnis, including the Salafists, resent not only al-Qaeda tactics of indiscriminate suicide bombings, but also the strategy of confronting the Shias. The fact is, al-Qaeda plays a role in the deterioration of the conflicts, but is unable to succeed in coordinating them. Local, national, tribal or sectarian religious channels are stronger.

Al-Qaeda may recruit some local organisations, acting within a limited area or linguistic region, with their own history. These groups then claim affiliation with al-Qaeda. They are to be found in Indonesia (Jemah Islamiyya); in the northern Sahel (the Salafist Group for Preaching and Combat, which in January 2007 changed its name to the Al-Qaeda Organisation in the Islamic Maghreb); Northern Lebanon (third-generation but still uprooted Palestinian refugees); in the Sunni triangle of Iraq (with the late Abu Musab al-Zarqawi's group); and in Saudi Arabia and Yemen ("Al-Qaeda Organisation in the Arabic Peninsula").

These organisations do not need al-Qaeda in order to recruit or operate. If they have rallied to it, it is precisely because they have difficulty in defining or achieving a local

objective (an Islamic state for example). They become globalised therefore by default.

In short, there may be good reasons to stay in Iraq, but they have nothing to do with al-Qaeda; they have more to do with a damage-control operation. If the US troops leave, there might be a civil war, there might be a growing Iranian influence, Iraq might be turned into a battlefield by proxies between Saudi Arabia and Iran. There could be a Sunni-controlled area, a Shia state and an independent Kurdistan, but no Qaidistan.

It would have been better to concentrate the forces on Afghanistan, which has been the real cradle of al-Qaeda. If only part of the brains and armour devoted to the "surge" in Iraq had been devoted to Afghanistan, instead of the incessant turnover of disparaged Nato troops with little knowledge of the country, things would have been better.

But in Afghanistan, as anywhere else in the greater Middle East, there is no military solution, only a political solution by dealing with the local actors, and dropping the senseless idea of a "global war on terror".

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Perspective

Divisions

surface ahead of poll

On assignment in Teheran, **GEORGE McLEOD** provides a rare glimpse into the political thinking of Iranian youth just one week before the parliamentary election, which was held on March 14

It is a packed Friday night in one of Teheran's popular tea houses. Young Iranians lounge on traditional Persian carpets, chatting, flirting, sipping tea and smoking from water tobacco pipes.

At a nearby table, a group of young men dressed in designer jeans and leather jackets show off to girls done up in make-up, their veils lazily draped around their shoulders — a risque challenge to the country's strict Islamic laws.

As a girl takes a puff from the water pipe and passes it to her friend, the bearded owner approaches the tables. "You have to stop," he says, snatching away the pipe and pointing to a warning sign on the wall.

"The police will come and they will shut us down. Please leave." An argument ensues before the group gets up and heads for the door.

"Do you see how crazy this is?" said one of the young men in English as he gets up to leave. "With all of the problems this country faces, all they can think about is our haircuts and whether women smoke cigarettes."

"Look at my friend," said Hasan, a university student, brushing his friend's gelled hair with his palm. "Last week, the authorities told him his hairstyle is too Western, and they gave him a warning. The government thinks that this is some sort of American plot to undermine Islam. It is ridiculous."

After three years under the hard-line presidency of Ahmadinejad, many of Teheran's young say they are divided on the country's strict Islamic policies. On one hand are reformists who are tired of police crackdowns and what they say is a lack of jobs. On the other side are conservatives who are pleased that Ahmadinejad has cut crime, increased social spending and strengthened Iran's international presence.

With Iranians heading to the polls for parliamentary elections last Friday, the political and social tensions naturally came to the fore.

Many students interviewed outside Teheran University, often seen as an opposition hotbed, were eager to complain about the government. They say that the hard-line government has brought police crackdowns in the form of police stakeouts outside shopping malls and restaurants, where authorities look for the smallest infringement of Iran's strict Islamic social laws.

Women failing to meet the stringent dress code by wearing a colourful veil, or putting on too much make-up, are fair game. Even couples holding hands can face repercussions. Police often photograph rule-breakers and make them sign contracts saying they will respect the rules, while repeat offenders may face arrest, imprisonment or confiscation of property.

One reform-minded student said he would not bother voting on March 14.

"They are a joke," said Hassan of the elections, standing with his girlfriend outside Teheran University. "The government has hand-picked the candidates and wants to put on a sideshow for the world — it is a joke."

"Believe me if these elections were free and fair, the hardliners wouldn't even get 20% of the vote," he said.

"They treat us like children," said one student named Ali as he smokes a Marlboro cigarette. Clean-shaven and dressed in a knock-off Armani shirt, he could easily have passed for a typical young Western man.

His girlfriend Bahar said that the situation is worse for women. "Just imagine what it is like wearing all of this clothing when it is 40 degrees in the summer," she said.

Others are more supportive of Ahmadinejad and his populist policies. "He put a rocket into space and has given us nuclear power," said a medical student who asked not to be named. "He is a simple guy. He lives in a small house and understands the people."

In all, 290 seats in the Iranian Parliament, or Majlis, were up for grabs in last Friday's election. Candidates from both reform and conservative parties competed, but critics charged that many reformers were banned from running for office and that dissident newspapers and journalists had been tamed or silenced. Proponents pointed out that more than 5,000 candidates did run for office, representing a wide range of political viewpoints.

"People are frustrated with the system," said a local political science professor, who would not give her name for fear of repercussions from the university.

"They don't have faith in either the reformists or the conservatives. On the one hand, you have conservatives who are completely paranoid of anything or anyone they deem un-Islamic. On the other hand, you have reformers, who are often dishonest and unwilling or unable to make change. Even the reformers say nothing about students and activists that are in prison."

Instead of expressing their discontent through mainstream political lines, many young people say they simply disobey the strict Islamic rules, in secret and with the help of modern technology. Nowhere is this more apparent than in Teheran's subways, where mobile phones are often bombarded with pornographic images sent by rebellious youngsters.

"You could probably go to jail for this, but we just erase the pictures if the police come," said Ali, a medical student, as he shows off a graphic photo of a naked Iranian woman wearing an Islamic headscarf.

But Shireen Hunter, Deputy Director of the Middle East Program at the Center for Strategic and International Studies in Washington, DC, says that the elections are a step in the right direction.

"Change is possible [in Iran], but within limits. I don't see Iran going back to the Khatami years, but I do see it moving more towards the centre," she says, referring to the reformist president that preceded Ahmadinejad.

For hard-line supporters, the rebelliousness of Iran's youth is only more reason to clamp down. "I like Ahmadinejad," said a science student named Hassan.

"Many young people today have no respect for their religion. They say they are Muslims, but then drink alcohol and have sex. They are not acting like Muslims, and they are breaking the law," he said.

"Ahmadinejad has done a lot for this country. He sent a satellite into space, he is giving us nuclear power, and he has resisted the West. He has made this country strong."

UNEASY RIDERS

FROM Page 12

make around 160 baht per day.

It is also worth noting that the procedure differed from that used in Sai Sai's case, which differed from still other cases where bikes had been confiscated by other stations in early morning raids.

'Raids are illegal'

Despite the inconsistency in application of the law, one might perceive the police's protocol in these cases as generous — they could have rejected lesser payments and confiscated all 80 of the students' bikes, since all belonged to migrant workers who are prohibited from registering bikes and having driver's licences.

Human rights lawyer and chair of the Cross Cultural Foundation Somchai Homlaor thinks differently. He contends that confiscation of motorbikes, as well as police conduct during these raids, is illegal, and whether it be out of misunderstanding or malice, these cases are examples of the habitual exploitation and rights violations that Thailand's migrant workers face.

He says that it is very unfair the way a number of people profit from the situation. "I'm afraid it's a kind of corruption and very shameful trying to get money from these poor migrants."

He objects to past raids for a number of reasons. For example, at Sai Sai's camp "police did not have a search warrant from the court and raided the camp before sunrise. This is prohibited by law."

That migrant homes do not have an official house number; or that migrants must report to work shortly after sunrise (two justifications that have been given to these claims of unlawfulness) does not exempt officers from having to follow the letter of the law and respect personal property, he says.

What's more, the police have no power to confiscate property; if officers find that a driver is unlicensed, says Somchai, they can assess a fine, but taking the bike is against the law.

This is particularly true in cases like Sai Sai's and the Learning Centre, when "at the time of confiscation, no one was riding a

motorbike. No one at that time was violating the law."

Sai Sai still speaks of feeling alternatively baffled and humiliated throughout the charade in which — without explanation of what was going on, where they were going or hint to put on proper dress (Sai Sai was still in the shorts he had thrown on when police broke into his bedroom) — the officers asked for motorbike keys, told the migrants to climb on and hauled them off to the police station.

In addition to finding fault with the appropriateness and transparency of procedure, Somchai argues that, according to the Thai Constitution, there is no problem with migrant workers having motorbikes. He says bikes are considered "moveable property" and so, "anyone has the right to be an owner or to purchase them".

Meanwhile, even if migrant workers cannot register their bikes in their own name, he says that "according to the law, licences and registration are not documents of entitlement."

"Police have the duty to protect people and prevent crime, but not in a way that violates the rights of people. To what extent does a raid on a school or a migrant camp protect Thai national security?"

He sees such practices — singling out all migrant workers without strong reason for doing so — as discriminatory, if not corrupt police work.

"They must have some grounds, some indicator or complaint that this kind of bike was stolen or that these are migrants that make problems. They can't just go after all migrant workers."

Why not license migrants?

An officer with the Chiang Mai's Chang Phueak Police Station said that though he was not familiar with the details of the Learning



Though migrant workers cannot register motorbikes, many are allowed to purchase them.

Centre case, there was no special campaign targeting migrant workers that drive motorbikes.

He doesn't think it is a problem, other than for young migrants who, like young Thais, go joyriding at night and make a lot of noise.

On the other side of the issue, and in the wake of the increasing number of such incidents, the Cross Cultural Foundation has sent a letter to Police Region 5 to seek clarification and file a complaint with the National Human Rights Commission to investigate the practice of confiscating motorbikes, which the foundation feels is unfair and in violation of the rights of migrant workers.

Somchai believes that allowing migrants

I follow the law and just try to make a living." He gestured at the cardboard walls of his living room and said, "We have many burdens. Why do they want me to pay?"

He's no longer driving a motorbike. Though his employer retrieved it for him 6 days after the raid, Sai Sai returned it to the shop, saying he can no longer afford the installments, what with his daughter's schooling and the fines he's still paying from December.

(Editor's Note: The Chiang Mai governor did not want to comment on the issue until the new government articulates its policy on migrant workers.)

This is the third in a series on migrant workers in Thailand

Appendix 5

(Unofficial Translation by the Human Rights and Development Foundation)



Order of the Prime Minister's Office No. 282/2553

Re: Establishment of the Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground and Human Trafficking Processes

Pursuant to the Cabinet Resolution dated 19th January 2010, approval was granted for an extension of the time period to complete nationality verification for alien workers who illegally entered the Kingdom of Thailand, thereby allowing them to be granted an amnesty to remain in the Kingdom, awaiting repatriation, for no more than two years until 28th February 2012. These alien workers must have applied for the nationality verification process and renewed or applied for work permits prior to 28th February 2010. This resolution also stated that once this time period had elapsed, relevant agencies should strictly carry out actions according to the law to prevent and inhibit the arrival of new alien workers as well as undertake legal proceedings against alien workers who continued working underground without having undergone the nationality verification process.

With a view to resolving the previously mentioned problems systematically, the relevant agencies, in addition to legal proceedings against alien workers who failed to enter the nationality verification process and continue working underground in Thailand, shall extend results of these actions to financial backers involved with trafficking of alien workers working underground such as smugglers, harboring persons or employers. For effectiveness of undertaking such operations, and utilising powers provided under Article 11 (3), (6) and (9) of the Organization of State Administration Act B.E. 2534 (1991), the following orders are hereby issued:

1. The Order of the Prime Minister's Office No. 269/2553 dated 15th October 2010 shall be revoked.
2. There shall be established a Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground and Human Trafficking Processes, or called in brief " Sor Por Ror Tor." The centre shall serve as an administrative centre for resolving the problem of alien workers working underground and extend the results of these actions to financial backers and other persons involved with human trafficking in accordance with the

Government's policy. For this purpose, one committee shall be set up within this Centre with the following composition and authority:

2.1. Composition

| | | |
|------|--|-----------------------------------|
| (1) | Deputy Prime Minister (Major General Sanan Khajornprasart) | Chairperson |
| (2) | Minister of Labour | Vice-Chairperson |
| (3) | Minister of Social Development and Human Security | Vice-Chairperson |
| (4) | Minister of Justice | Vice-Chairperson |
| (5) | Permanent Secretary of Labour | Member |
| (6) | Permanent Secretary of Social Development and Human Security | Member |
| (7) | Permanent Secretary of Justice | Member |
| (8) | Army Commander | Member |
| (9) | Navy Commander | Member |
| (10) | Police Commander | Member |
| (11) | Director-General of the Department of Employment | Member |
| (12) | Director-General of the Department of Provincial Administration | Member |
| (13) | Commander of the Office of Immigration | Member |
| (14) | Police General Sawas Amornwivat | Member |
| (15) | Mr. Irawach Chandrarapasert | Member |
| (16) | Pol. Lt. Gen. Surasee Sundhornsarathul | Member |
| (17) | Mr. Thanonsorn Lertridsirikul | Member |
| (18) | Cpt. Chet Rommayanond | Member |
| (19) | Pol.Lt.Col. Pichit Meesang | Member |
| (20) | Deputy Director-General of the Department of Employment as Assigned | Member and Secretary |
| (21) | Director of the Office of Foreign Workers Administration, Department of Employment | Member and Assistant Secretary |
| (22) | Expert on Formulating Systems for Alien Workers | Member and Assistant Secretary |
| (23) | Director of the Inspection and Job-Seekers Protection Division | Member and Assistant Secretary |

2.2. Authority

- (1) Prescribe standards and measures by drawing up a plan of action for resolving the problem of alien workers working underground in a systematic manner both at the national and the provincial levels
- (2) Direct and command the inspection, suppression, arrest and prosecution of alien workers and systems for smuggling and trafficking related to the transfer of illegal alien workers as well as inhibiting the arrival of new alien workers
- (3) Undertake other duties as assigned by the Prime Minister or the Cabinet
- (4) The venue of Sor Por Ror Tor's office, structure for communication, reporting and monitoring or evaluating the operations of Sor Por Ror Tor shall be in accordance with the requirements specified by the Chairperson

(5) Government officials of all ministries should promptly respond to the operations of Sor Por Ror Tor under all circumstances and in all situations as well as undertaking the operations as requested by Sor Por Ror Tor

(6) The Department of Employment under the Ministry of Labour should act as the Secretary of the Sor Por Ror Tor Committee and coordinate all operations as assigned by the Chairperson

3. The Chairperson of the Committee shall have the authority to set up a sub-committee or working group or appoint officials to inspect, suppress, arrest and prosecute alien workers working underground and relevant financial backers as well as extending results to processes involved with trafficking of alien workers and they shall explain such processes to the Committee
4. The Committee, the sub-committee and the working group, including the officials appointed by the Chairperson of the Committee under (3), shall be entitled to meeting attendance payments, allowances, accommodation allowance and transport allowance in accordance with the public services regulations.
5. Disbursement of the meeting attendance fee shall conform with the Royal Decree on Attendance Fee and Remuneration B.E. 2543 (2000), including its amendments.
6. The Department of Employment shall request the budget from the Fund for Deportation of Alien Workers Out of the Kingdom of Thailand for covering expenses and budgets associated with the Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground and Human Trafficking Processes. This should all be carried out in accordance with the regulations of the Committee of the Fund for Deportation of Alien Workers Out of the Kingdom of Thailand.

This order shall be effective immediately.

Ordered issued on 27th October 2553 (2010)

(Signature Provided)

Mr. Abhisit Vejjajiva
Prime Minister

(Unofficial Translation by the Human Rights and Development Foundation)



Ref: RN0405 (LR.3) /12710

The Office of the Prime Minister
Government House, Bangkok 10400

11th November 2010

Re: Inspection, suppression, arrest and prosecution of alien workers working underground

To: Director-General of the Department of Employment

With Reference: Order of the Prime Minister's Office No. 282/2553, dated 27th October 2010

In relation to the referenced document, the Prime Minister signed the Order of the Prime Minister's Office No. 282/2553 dated 27th October 2010 in respect of the Establishment of a Centre to Suppress, Arrest and Prosecute Alien Workers Working Underground and Human Trafficking Processes.

The Deputy Prime Minister (Major General Sanan Khajornprasart), utilizing his authority as Chairperson of this Centre, hereby orders the Department of Employment to coordinate with the Royal Thai Police (via Police General Pongsapat Pongcharoen, Sor Bor 10 Adviser) to mobilise forces to inspect, suppress, arrest and prosecute alien workers working underground including their employers, smugglers and harboring persons in all regions of the country between 17th and 28th November 2010, or for a total period of 12 days. Urgent reporting of the results to the Deputy Prime Minister would be much appreciated.

I send this for your consideration and proceeding.

Respectfully,
Captain (Signature Provided)

(Chet Rommayanand)
Political Deputy Secretary-General of the Prime Minister
Acting Secretary-General of the Prime Minister

Office of the Deputy Prime Minister
Tel. 0 2288 4000 extension 4535
Facsimile 0 2288 4085

(Unofficial Translation by the Human Rights and Development Foundation)



Ref: RN0311/W21128

Department of Employment,
Mitmaitree Road,
Dindaeng,
Bangkok 10400

15th November 2010

Re: Mobilising forces to investigate, suppress, arrest and prosecute alien workers working underground

To: Provincial Governors

Attached: 1. Order of the Prime Minister's Office No. 282/2553, dated 27th October 2010
2. Copy of the letter from the Office of the Secretariat of the Prime Minister Ref: NR0405 (LR.3)/12710, dated 11th November 2010
3. Copy of the most urgent letter issued by the Department of Employment Ref: RN0311/21115, dated 15th November 2010

The Deputy Prime Minister (Major General Sanan Khajornprasart), utilizing his authority as Chairperson of the Centre to Suppress, Arrest and Prosecute Alien Workers Working Underground and Human Trafficking Processes, has ordered the Department of Employment to coordinate with the Royal Thai Police (via Police General Pongsapat Pongcharoen, Sor Bor 10 Adviser) to mobilise forces to investigate, suppress, arrest and prosecute alien workers working underground including employers, smugglers and harboring persons in all provinces of the country during 17th to 28th November 2010 and urgently report the results of this activity to the Deputy Prime Minister.

The Department of Employment has considered this issue carefully already. With a view to complying with the Order of the Prime Minister's Office No. 282/2553 dated 27th October 2010, which prescribes the measures and standards including a plan of action to systematically resolve the problem of alien workers working underground, the Department of Employment hereby requests your kind cooperation in assigning the Provincial Employment Office to provide its officials to collaborate with police officers in the inspection, suppression, arrest and prosecution of alien workers working underground as well as their employers, smugglers and harboring persons in the areas under your responsibility. We request you to report the results of this operation before 29th November 2010. The Department of Employment has already issued a letter to the Police Commissioner requesting cooperation in providing police officers for this joint operation in every region of the country.

We send this letter for your consideration,

Respectfully,

(Signature Provided)

(Mr. Jeerasak Sukhonthachart)

Director-General, Department of Employment

Inspection and Job-Seekers Protection Division
Telephone/ Facsimile 0 2354 1386



Ref: RN0311/W21128

Department of Employment,
Mitmaitree Road,
Dindaeng,
Bangkok 10400

15th November 2010

Re: Mobilising forces to investigate, suppress, arrest and prosecute alien workers working underground

To: Police Commissioner

Attached: 1. Order of the Prime Minister's Office No. 282/2553, dated 27th October 2010
2. Copy of the letter from the Office of the Secretariat of the Prime Minister Ref: NR0405 (LR.3)/12710, dated 11th November 2010

The Deputy Prime Minister (Major General Sanan Khajornprasart), utilizing his authority as Chairperson of the Centre to Suppress, Arrest and Prosecute Alien Workers Working Underground and Human Trafficking Processes, has ordered the Department of Employment to coordinate with the Royal Thai Police (via Police General Pongsapat Pongcharoen, Sor Bor 10 Adviser) to mobilise forces to investigate, suppress, arrest and prosecute alien workers working underground including employers, smugglers and harboring persons in all provinces of the country during 17th to 28th November 2010 and urgently report the results of this activity to the Deputy Prime Minister.

The Centre to Suppress, Arrest and Prosecute Alien Workers Working Underground and Human Trafficking Processes has considered this issue carefully already. With a view to complying with the Order of the Prime Minister's Office No. 282/2553 dated 27th October 2010, which prescribes the measures and standards including a plan of action to systematically resolve the problem of alien workers working underground, the Department of Employment hereby requests your kind cooperation in providing police officers to collaborate in inspection, suppression, arrest and prosecution of alien workers working underground as well as their employers, smugglers and harboring persons in every region of the country.

We send this letter for your consideration,

Respectfully,
(Signature Provided)
(Mr. Jeerasak Sukhonthachart)
Director-General, Department of Employment

Inspection and Job-Seekers Protection Division
Telephone/ Facsimile 0 2354 1386

Appendix 6

Exploitation and Risks of Trafficking Faced by Deported Migrant Workers



For Immediate Release: 25th October 2010

Rights Groups Call on UN Secretary General for Urgent Investigation into Abuses Against Myanmar Migrants Deported from Thailand

THREE rights groups in Thailand have today called on Ban Ki-moon, the United Nation's (UN) Secretary General, to intervene to prevent further abuse of Myanmar migrants deported from Thailand. The UN Secretary General will visit Bangkok on Tuesday as a guest of the Royal Thai Government (RTG).

The State Enterprise Workers Relations Confederation (SERC), the Thai Labour Solidarity Committee (TLSC) and the Human Rights and Development Foundation (HRDF) call upon the UN Secretary General to instruct related UN agencies to urgently investigate allegations of abuse committed against migrants deported from Thailand to Myanmar. The UN Secretary General should also press the RTG to ensure increased respect for migrant's human rights and to allow UN experts to visit Thailand to assist in development of future migration policies.

SERC, TLSC and HRDF also today called upon the RTG, in advance of the UN Secretary General's visit, to ensure transparent investigations into all migrant deportation abuse claims and punish those involved. The RTG should also urgently reconsider its migration policies more generally to ensure respect for migrant's human rights.

Human rights violations against migrants deported from Thailand to Myanmar continue to be reported. Al-Jazeera reported how migrants deported to Myanmar are being sent to camps controlled by the Democratic Karen Buddhist Army (DKBA) where they must pay for their release before being smuggled or trafficked back to Thailand. The South China Morning Post (SCMP) revealed migrants are being sold to traffickers during deportations in waters between Southern Thailand and Kawthuang (Myanmar) and then returned to Thailand. Rights groups have demanded investigations into these allegations since July 2010 but no response has been evident and the abuses continue.

For further comments on this statement, please contact:

- **Mr. Sawit Keawan (General Secretary, SERC): +66 863 361119 (Thai)**
- **Mr. Somchai Homlaor (Secretary General, HRDF): +66 818 995476 (Thai/English)**
- **Mr. Andy Hall (Consultant, HRDF): +66 846 119209 (English/Thai)**
- **Mr. Hseng Htay (HRDF's Migrant Justice Programme): +66 830 139736 (Burmese/Thai)**

Background

Currently around 2 million low skilled migrants work in Thailand, making up around 5-10% of the labour force. More than 80% of these migrants are from Myanmar. For two decades these migrants received temporary permission to work in Thailand despite being smuggled "illegally" into the country due to absence of formal migration channels. The RTG recently began implementing a migrant regularisation process whereby registered migrants enter a Nationality Verification (NV) process to become "legal" despite their illegal entry. In addition, import processes are meant to ensure fresh migrants are brought in legally from neighbouring countries. The RTG insists these regularisation processes will decrease smuggling and trafficking in persons and increase migrant rights protection.

On 2nd June 2010, Prime Minister Abhisit Vejjajiva signed a crackdown order impacting on over 1 million migrants, mostly from Burma, who did not enter NV by a 28th February 2010 deadline or who were undocumented and thus ineligible for NV. A Centre to Suppress, Arrest and Prosecute Alien Workers Who Are Working Underground was established to manage this ongoing crackdown with regional committees pooling police, army, navy and other officials. Last week, the RTG created a scheme whereby all migrants will have money deducted from their salaries to pay into a fund to pay for their own deportation if they don't leave Thailand once their work permits expire.

Regularisation strategies and an ongoing crackdown have opened up opportunities for systematic rights abuses against migrants and are not solving irregular migration challenges or guaranteeing increased rights protection. Media report that crackdowns are not proceeding in accordance with the rule of law and rights groups insist they are not supporting regularisation efforts. Reports allege migrants rounded up in crackdowns face extortion before being released to work again whilst employers are warned of inspections to ensure undocumented migrants are not arrested.

News reports show how arrested migrants from Myanmar (including children and women) are being deported by Thai officials into situations at high risk of trafficking, detention and torture. Al-Jazeera documented how migrants deported from Mae Sot in Western Thailand are sent to camps run by the DKBA. Here they are forced to pay for their release and then smuggled or trafficked back to Thailand. SCMP documented how in Southern Thailand migrants are deported on boats into waters between Ranong (Thailand) and Kawthaung (Myanmar). If migrants cannot pay for release they too are sold to brokers and smuggled or trafficked back to Thailand also.

In relation to the RTG's complex NV process, practices have developed whereby migrants and employers must utilise brokers. Attempts to regulate extortionate costs charged by these brokers are ineffective. High fees paid to complete NV are being passed onto migrants who often have their passports unlawfully confiscated until they repay debts to employers. Freedom of movement for migrants becomes heavily restricted. Exploitation of migrants passing NV by employers and officials, particularly police, remains rife.

Fees charged for legal migrant import from neighbouring countries remain unreasonably high. Brokers request between 8, 000 and 18, 000 Baht per worker from employers. Such fees result in passports being seized from migrants as employers guard against their absconding until all registration costs are deducted from workers' salaries. Freedom of movement for migrants is thus heavily restricted. Migrants are forced to pay money to brokers in neighbouring countries to ensure their import into Thailand also. No systems exist to regulate such broker activities.

Although the RTG insists labour import is key to regularising migration in Thailand, alongside NV and deportation of migrants not entering NV, official statistics show how only 25, 000 Cambodian or Laotian migrants and only 500 Myanmar migrants were legally imported into Thailand since MoU's were signed seven years ago.

Despite an ongoing migrant crackdown and due to low skilled labour shortages, recently the Ministry of Labour announced a new amnesty to allow undocumented migrants to register. Information regarding this policy remains unavailable whilst senior officials insist the Cabinet has not yet approved the policy. The RTG's existing migration policies are unable to ensure Thailand's demand for low skilled migrants is lawfully and humanely met.

Recommendations to the RTG

In advance of the UN Secretary General's visit to Thailand tomorrow, SERC, TLSC and HRDF make the following recommendations to the RTG:

1. The RTG should allow UN Special Rapporteurs on Migrants, Trafficking and Torture to visit Thailand to advise on means to address challenges faced by Thailand in implementing a migration policy that ensures both respect for the basic human rights of migrants and that labour demands are effectively met.

2. The RTG should immediately halt its migrant deportation policy until thorough investigations have been completed to ensure an end to systems whereby deported migrants are falling victims to human rights abuses, including trafficking in persons and extortion. All those found to be involved in this unlawful conduct should be held to account whilst victims should be accorded all assistance as required.
3. The RTG's existing migrant arrest and deportation policy makes little sense given recent policy announcements to reopen migrant registration to address low skilled labour shortages. This policy is undermining incentives for migrants and employers to comply with future regularisation process and should be revoked.
4. The RTG's new migrant registration process should be devised and implemented with genuine participation from civil society, employers and migrants to ensure increased regularisation of migrants working in Thailand in the most convenient, effective and transparent ways. This will ensure increased adherence to the rule of law and protection of the fundamental human rights of migrants and their families in the future.
5. The RTG should carefully re-consider how it can achieve its goal of encouraging import of workers into Thailand from neighbouring countries in the future in a way that upholds migrants' fundamental human rights and prevents gross economic and other kinds of exploitation.
6. The policy of the RTG to manage migration remains unclear and inconsistent such that failures to effectively manage migration in accordance with the rule of law continue, systematic corruption and illegality prospers and human rights of migrants are undermined. The RTG should prioritise planning of a long term migration policy to be implemented by an independent agency and supported by civil society, employer and migrant's participation.

SERC, TLSC and HRDF believe the above actions would enable the RTG to manage its migration challenges in ways that respect the human rights of all migrants in Thailand whilst in no way negatively impacting on RTG's economic and national security concerns. In contrast, a policy to arrest and deport migrants and the visible exploitation and human rights abuses involved serve only to harm Thailand's economy, which remains heavily reliant on migrant labour. In addition, Thailand's international human rights reputation continues to be tarnished by its failure to ensure protection of the human rights of migrants, particularly during its Chair of the UN Human Rights Council and given it will next month host the International Anti-Corruption Conference in Bangkok.

Bangkok Post (5th September 2010)

Two Women, Two Countries, No Choices

<http://www.bangkokpost.com/news/investigation/194684/two-women-two-countries-no-choices>

People fleeing the Burmese regime would rather face a life of prostitution and fear than return home

- Published: [5/09/2010](#) at 12:00 AM
- Newspaper section: [Spectrum](#)

Illegal immigrants to Thailand have accused officials in the border town of Ranong of selling them by the boatload to people-traffickers and engaging in the sexual enslavement of young women. Two Burmese women have told the Phuketwan news website that local police and Immigration officers in Ranong extort money or sex from their victims, detaining them for lengthy periods or selling them to labour brokers if payments cannot be made.



TIGHT SQUEEZE: Illegal immigrants being placed aboard a truck at Ranong Immigration in 2008, prior to being repatriated. PHOTOS: COURTESY OF PHUKETWAN.COM

One young woman, aged 17, said that she had been obliged to work at the age of 13 as a prostitute in a karaoke bar, selling sex for 350 baht a time, with 125 baht going to her "owner" and 100 baht going to a corrupt Immigration officer. The karaoke bar, she says, is owned by a local policeman.

Arrested immigrants, after varying periods of detention in Ranong, are sorted into groups and marked for delivery across the Kra Buri River to Burma, or for transfer to the boats of people-traffickers in mid-stream, the Burmese say.

The illegal trade in people has been going on for years, said a source in Ranong, with thousands of Burmese caught and trafficked annually.

Ranong is the border return-point for illegal Burmese immigrants arrested throughout Thailand's 14 southern provinces, which include the international holiday destinations of Phuket and the Andaman coast.

Paradoxically, the sordid process meets with the tacit approval of its Burmese victims. Being sold into sexual slavery or forced to work as a shrimp factory labourer is deemed to be a better outcome than being delivered directly across the border to Burmese officials, who impose long jail terms and sometimes brutal punishment.



SORDID BUSINESS: Some of the vehicles involved in the trafficking of illegal immigrants.

The two women who we spoke to - one we have named "Ae" and the other "Mo" - risked punishment from police and Immigration officials to give their account of life on the run in Thailand. Their story was endorsed by well-placed sources that, for obvious reasons, cannot be named.

In January, 2009, PhuketWan and a Hong Kong newspaper reported that the Thai army had set adrift hundreds of Rohingya boatpeople from a secret island camp not far from Ranong. Many would-be refugees are thought to have perished at sea, and the Muslim outcasts now flee to Malaysia, using other routes.

For years, the victimisation of thousands of Burmese immigrants to Thailand has continued without government intervention. It continues today, even after international attention focused on the treatment of the Rohingya, and an horrific incident in 2008, in which 54 people suffocated to death when the air-conditioning failed on a sealed container truck carrying more than 100 to Phuket.

A life labouring legally or illegally in construction gangs on the holiday island of Phuket represents the dream of many Burmese, who prefer the hardship of dodging authorities in Thailand to poverty and hunger in their homeland.



The two women who were interviewed in Ranong are not related but through their experiences they have now formed a sisterly bond.

Their account is timely because the International Anti-Corruption Conference, attracting about 1,500 delegates from around the world, convenes in Bangkok in November. Thailand's Sihasak Phuangketkeow is the current president of the UN Human Rights Council.

MO'S STORY

Mo is 17. She says she is an orphan. She does not have memories of either of her parents, and was raised by a Burmese woman in Victoria Point, the Burmese town closest to Ranong.

"When I was six years old, I was brought to Thailand by the woman who took care of me after my mother and father died. She took me to Chumphon province, where she worked in a fish factory. We stayed in Thailand, and when I was 13, she sold me to the owner of a karaoke bar for 70,000 baht. I was paid 4,000 baht a month, but my salary went to the woman who sold me. I served beer and cleaned the shop and sat with the customers.

"If customers gave me a tip, I was able to keep it. I told the owner I wanted to leave, but he said he had paid for me, so I couldn't. I ran away. I met a Burmese man who was kind to me and got me a job in a fish factory. I saved my money for a year, then I met Ae. She was looking for a job. Ae decided to head back to Ranong and took me with her.



CLANDESTINE: One method employed to smuggle illegal immigrants into the country.

"Before we could leave Chumphon, we were stopped by policemen in the street. The policeman asked for 7,000 baht from each of us. He said that would mean he could let us go. Ae said she didn't have money, but I had saved some money and we negotiated the price down to 3,000 baht. They freed me and I went back to work in the factory.

"Ae was kept at the police station for a month. They wait to have enough people to fill a truck before they take them all back together to Ranong. So I met Ae back in Ranong.

"I had no job, and no money, so I decided to go to Soi 3 [Ranong's red light district]. I worked there for a policeman. The man kept our Burmese ID cards. I was paid 350 baht every time I had sex. The owner got 125 baht and Immigration got 100 baht. I had to work every day, with four or five customers on some days. In the end, I ran away and met Ae. But the owner traced me and sent a guy to take me back to the bar.

"Eventually I fell sick and went to Ranong Hospital. Then Ae took me to stay with another friend. I was stopped by a policeman, and told him that my ID card was with the owner of the bar in Soi 3. The patrol policeman wanted 2,000 baht, but I couldn't pay, so he took me to the police station. In court, I was fined 2,000 baht, which meant that I had to serve 10 days in jail, at 200 baht a day. After that, I was sent to the Immigration detention centre.



ILLEGAL TRADE: Sources claim that thousands of Burmese immigrants are trafficked each year.

"A woman came to see me and asked 'Anyone come to pay for you yet?' I said 'No.' The woman paid 1,500 baht for me to Immigration officers, and took me and 20 women and about 30 men in a truck. We were put on two boats, one for men and one for women.

"Close to Victoria Point, a longtail boat came to meet us. The man in the boat had a list of the people he was taking. Four other girls and I got on the boat and were taken back to Thailand. Everybody else on board the big boats was transferred to different small boats.

"We never saw any Burmese authorities. I know we were taken back to Thailand, but I don't know exactly where. The woman who paid 1,500 baht for me was waiting at the pier. She had to pay 2,000 baht more for each of us.

"We were taken by minivan to work in Kra Buri district in a rubber plantation. After six weeks, the woman told me she was looking for a husband for me.

"I befriended a man who took me shopping at a local market, but when I had the chance I ran away with 1,000 baht in shopping money, and I caught a bus to Ranong and met Ae again."

AE'S STORY

Ae is 23. She says she has been living in Ranong for more than 10 years, having arrived with eight other members of her immediate family. They came to sell clothing, but stayed to live in Thailand.

"About four years ago, my family decided to go back to Burma. They had saved some money, so they were able to open a shop back there. I liked it in Thailand, so I stayed. It's tougher back there. I sometimes work in a bar if I need money. One bar owner took my ID card and kept it.

"I've travelled around Thailand a bit, to Samui, to Nakhon Si Thammarat, and even to Phuket once. They asked for my ID at the Tah Chat Chai checkpoint, but I said that I was a Phuket girl and I'd left my card at home. They were OK with that. I speak Thai quite well, so the police sometimes don't realise I am illegal.

"One time in Chumphon, I met Mo and I was arrested because I had no ID and no money to buy my way out. I was stuck in detention there, while they waited for numbers to build to make it worthwhile to take us all to Ranong. At Immigration, they asked for money but I said I only had 1,500 baht, which was enough for one way, to Victoria Point.

"When I had some money, I headed back to Thailand on a one-week temporary pass card. Since then, I haven't gone back. A policeman pulled me up in Ranong one night. I told him I didn't have a card. He asked for 5,000 baht, but I said I didn't have that kind of money. 'If you sleep with me, I won't take you to the police station,' he said. Eventually, he took 1,500 baht.

"When we meet the police, they always ask for money. I remember the time when three men came looking for Mo at my place. They did not find her, because she was staying with my friend. That was safer. The men beat me and took me up to a hill. I think they were going to kill me, because I wouldn't tell them where Mo was. Then they took me to a bar in Soi 3 and handcuffed me to a table. The handcuffs were not very good so I managed to escape. I got back to my room, grabbed my belongings, and went to see Mo.

"Now, in the daytime, I am not scared if someone spots me. Night is different, because it's more dangerous. The police here make money on Burmese any time, all the time. Even people with legal documents are sometimes told they will be framed and have drugs planted on them if they do not pay up."

Mo and Ae plan to continue living in Thailand, probably in Ranong. They do not answer when asked about their futures.

South China Morning Post (7th September, 2010)

It's merry-go-round of misery in Thailand

<http://www.scmp.com/portal/site/SCMP/menuitem.2af62ecb329d3d7733492d9253a0a0a0/?vgnextoid=10bed25b477ea210VgnVCM100000360a0a0aRCRD&ss=Asia+%26+World&s=News>

Myanmese tell how authorities profit from human smuggling they are meant to stop

THAILAND

****Chutima Sidasathian and Alan Morison** in Ranong and Phuket -Sep 07, 2010**

When teenage Myanmar prostitute Mo encountered police in Thailand, she was entitled to expect arrest and deportation. But she claims that what she got instead was a job working in a seedy bar, owned by a local police officer. From the age of about 14, she sold sex in the bar in the border town of Ranong, for 350 baht (HK\$86) a time. Of that, 125 baht went to the pimp policeman. Mo says 100 baht went to immigration officers.

Now 17, Mo and fellow Myanmar illegal immigrant Ae, 23, have described how Thai officials in Ranong have systematically profited from the human smuggling they are supposed to be battling. They have described how the process of deportation of illegal Myanmar immigrants in Ranong is a sham, with Thai police and other officials using the act of expulsion as an opportunity to sell them by the boatload back to people smugglers.

Instead of being sent back to Myanmar when their "deportation" boat takes them from Thai soil across the Kraburi River, the Myanmar are transferred midstream onto the waiting boats of snakeheads who simply ferry them back to Thailand.

Their claims and descriptions of the process have been endorsed by an authoritative and official source in the region, who requested anonymity, as well as by activists working on behalf of Myanmar immigrants. These sources suggest that the trade involves thousands of Myanmar each year. The colonel in charge of immigration at Ranong said all questions to him would first have to be vetted by his superior officer in Bangkok. No other comment was provided.

Mo and Ae, whose names have been changed for this article, made contact with the South China Morning Post) in Ranong via contacts in the Myanmar community. Their account is timely - the International Anti-Corruption Conference, attracting about 1,500 delegates from around the world, convenes in Bangkok in November, and Thailand's Sihasak Phuangketkeow is the current president of the UN Human Rights Council.

The pair described their life together on the run from police and immigration authorities, a life in which almost every interaction with the Thai authorities is corrupt, or predatory, or both. "A patrol policeman pulled me up in Ranong one night," says Ae, describing a typical encounter. "I told him I didn't have an [ID] card. He asked for 5,000 baht, but I said I didn't have that kind of money. 'If you sleep with me, I won't send you to the police station,' he said. Eventually, he took 1,500 baht."

Adisorn Kerdmongkon, a research officer for the International Rescue Committee non-governmental organisation, said systemic corruption prospered in Thailand because of lack of government intervention. "The opportunity is there for immigration officials to make money as long as there are no representatives from Burma to take charge of the people being returned," he said. "We know there is corruption in the process. The immigrants can simply come back again, and they do in large numbers." Mo says she is an orphan. She has no memories of her parents and was raised by a woman in Victoria Point, the Myanmar town closest to Ranong across the Kraburi River. For as long as she can remember, she has been beholden to the illicit trade in Myanmar immigrants.

"When I was six years old, I was brought to Thailand by the woman who took care of me after my mother and father died. She took me to Chumphon province, where she worked in a fish factory," Mo says.

"But when I was 13, she sold me to the owner of a karaoke bar for 70,000 baht. I was paid 4,000 baht a month, but my salary went to the woman who sold me. I served beer and cleaned the shop and sat with the customers. If customers gave me a tip, I was able to keep that. I told the owner I wanted to leave, but he said he had paid for me, so I couldn't. I ran away. I met a Burmese man who was kind to me and got me a job in a fish factory."

Mo says that all went well for a year, when she was befriended by the older Ae. The friends decided to head to Ranong, but before they could make their way out of Chumphon, they were stopped by a policeman on the street. "The policeman asked for 7,000 baht from each of us; he said that would mean he could let us go. Ae didn't have money, but I had saved some and we negotiated my price down to 3,000 baht."

Mo was freed, but Ae says she remained in police custody for a month before she was sent with a truckload of fellow Myanmar to Ranong. Ae said immigration officers in Ranong again demanded cash from her to allow her to stay, but she didn't have enough and was sent back to Victoria Point. "When I had some money, I headed back to Thailand on a one-week temporary pass card. Since then, I haven't gone back [to Myanmar]."

Mo had headed for Ranong. "I had no job, and no money, so I decided to go to Soi 3 [Ranong's brothel zone]. I worked there for a policeman [who owned a bar]. He kept my Burmese ID card. I was paid 350 baht for every time I had sex. The owner got 125 baht and immigration got 100 baht. I had to work every day, with four or five customers some days." Mo says she ran away and met up with Ae, but the policeman bar owner had someone hunt them down and forced Mo back to work.

Later, Mo thought she had finally made good her escape when she fell sick and was admitted to Ranong Hospital; when she checked out she went with Ae to stay with a friend. But, as had happened so many times before, Mo encountered a policeman who was determined to profit from her. "When we meet the police, they always ask for money," Ae says.

Says Mo: "I was stopped by a patrol policeman and told him that my ID card was with the owner of the bar in Soi 3. The patrol policeman wanted 2,000 baht but I couldn't pay, so he took me to the police station. In court, I was fined 2,000 baht, which meant that I had to serve 10 days in jail instead, at 200 baht a day. After that, I was sent to the immigration detention centre.

"A woman came to see me and asked, 'Anyone come to pay for you yet?' I said no. The woman paid 1,500 baht for me to immigration officers, and took me and 20 women and about 30 men in a truck. We were put on two boats, one for men and one for women. We were all banded around the wrist."

It was then that the fake deportation took place, as the boats headed for Victoria Point on the Myanmar side. "Close to Victoria Point, a long-tail boat came to meet us," says Mo. "The man in the boat had a list of the people he was taking. Four other girls and I got on the boat and were taken back to Thailand.

Everybody else on board the big boats was transferred to different small boats.

"We never saw any Burmese authorities. I know we were taken back to Thailand, but I don't know exactly where. The woman who paid 1,500 baht for me was waiting again at the pier. We were taken in a minivan to work at Kraburi district in a rubber plantation. After six weeks, the woman told me she was looking for a husband for me. I befriended a man who took me shopping at a local market, but when I had the chance I ran away with 1,000 baht in shopping money. I caught a bus to Ranong and met Ae again."

Paradoxically, the Thai officials' involvement in the human smuggling process meets with the approval of Ae and Mo; they consider being sold into sexual slavery or forced to work in shrimp factories better outcomes than being deported into the hands of Myanmar officials, who impose long jail terms and sometimes brutal punishment.

But their treatment in Thailand has been nothing short of brutal, too. "I remember the time when three men came looking for Mo at my place," says Ae. "They did not find her, because she was staying with my friend. That was safer. The men beat me and took me up to a hill. I thought they were going to kill me because I wouldn't tell them where Mo was. Then they took me to a bar in Soi 3 and handcuffed me to a table. The handcuffs were not very good so I managed to escape."

Thai human rights lawyer Nassir Achwarin said Myanmar like Ae and Mo were constantly victims of corruption at the hands of immigration officials and police at border points. "It's an ongoing abuse that the government fails to act to prevent," he said. "It's time the government acknowledged the problem and stepped in to do something about it."

Ae concurs. "In the daytime, I am not scared if someone spots me. Night is different, because it's more dangerous. The police here make money on Myanmar any time, all the time. Even people with legal documents are sometimes told they will be framed and have drugs planted on them if they do not pay up."

Adisorn, of the International Rescue Committee, added: "Human trafficking in Ranong is more powerful than the law. Too much freedom is given to local authorities to do whatever they wish."

Phnom Penh Post (30th June 2010) <http://www.mekongmigration.org/?p=730>

Thailand detains migrant,

MORE than 400 Cambodian migrant workers have been detained in a series of raids throughout Thailand since Wednesday, although it remained unclear on Sunday how they would be processed in the wake of new policies approved earlier this month by Thai Prime Minister Abhisit Vejjajiva.

The policies, outlined in a June 2 order signed by Abhisit, include the establishment of a "special centre to suppress, arrest and prosecute alien workers who are working underground", though few details of the centre have been made public.

The move to detain and potentially prosecute alien workers, however, has alarmed some rights workers, who were previously under the impression that they would simply be deported.

Migrant workers had until March 2 to begin the process of nationality verification, wherein they were to submit documents to their home governments in order to secure new work permits in Thailand. According to statistics from the Human Rights and Development Foundation, 43,301 Cambodian migrant workers missed the deadline and thus could be subjected to the new measures.

HRDF's Migrant Justice Programme released statistics Sunday night showing that 307 out of 830 migrant workers arrested in Bangkok between June 16 and June 20 were Cambodians. The statistics, drawn from Thai news reports, showed that the number of arrested Cambodians was second only to workers from Myanmar, who totalled 346.

A report published Sunday by INN News quoted a Bangkok metropolitan police commander as saying at a press conference that those arrested "were alien workers who entered the Kingdom of Thailand illegally".

The report said that the raids were part of the broader crackdown on illegal workers, and pointed to unspecified "evidence" that such workers were responsible for a rise in crime in Thailand.

An article published Saturday by the Thai news service Daily News Online said 99 Cambodian workers – 66 of them male and 33 female – were arrested in Sa Kaeo province, and that they were believed to have been travelling south to find work.

Supat Guukhun, deputy director general of the employment office at the Thai ministry of labour, said on Sunday that all 99 of those workers were illegal.

"They are illegal; they will be put into camps," he said. "After their cases are finished, they will be released. But if the case is made criminal, they will be put in jail."

He could not provide information on the raids carried out in Bangkok.

MJP Director Andy Hall said the high number of arrests over the weekend suggested that implementation of the policies approved on June 2 had begun in earnest.

"There is a lot of stuff in the news recently. It's not usually this many," he said. "We don't want these people arrested, rounded up and extorted. We don't want it on such a large scale."

He said he was unsure of what would happen to the arrested workers, noting that few details had been included in the June 2 order.

Thai government spokesman Panitan Wattanayagorn said that the arrests were in accordance with government policy.

"We have a policy of making sure we handle our illegal immigration laws," he said. "We welcome migrant workers; they contribute to our economy. But they need to follow the rules and regulations. They need to register and they need to be regulated."

He referred all questions on specific cases to the Thai ministry of foreign affairs, spokesmen for which could not be reached Sunday.

Cambodian Foreign Affairs Ministry spokesman Koy Kuong said Sunday that he had not received any word of the recent arrests.

He noted, as he did last week, that a memorandum of understanding exists between Cambodia and Thailand calling for the deportation of migrant workers back to the Kingdom.

According to the statistics on the Bangkok arrests provided by HRDF, 172 of the workers were from Laos. There were also two workers from Iran and Vietnam, and one from Nigeria and India.