

THAILAND

Illegal Burmese migrants: caught between hiding or becoming legal

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MANY OF the estimated 2 million Burmese migrants currently living in Thailand can remember the mass deportation a decade ago. With the threat of another mass expulsion looming, migrant workers are exploring their options and hoping to avoid the panic, the desperation and the dangers of November 1999.

This collective memory is in itself an acknowledgement of the number of years that migrants have given to Thailand, but despite this, they still have limited options to secure their livelihood, safety and all options that render them temporary commodities.

Newly arrived migrants from Burma only have one option and that is to live and work illegally in Thailand. Migrants who have missed all of the registrations offered by Thailand must also live a clandestine life. Migrants who have registered and re-registered since 2004 have the option of re-registering but this time with the proviso that their details will be sent to Burmese authorities to have their nationality verified. Those who pass this scrutiny will then be issued a temporary passport to allow them to enter Thailand legally for work. Ironically, the illegal workers may be the most permanent of all the workers. They certainly are the largest in number, currently estimated at around 1.5 million.

The 600,000 registered migrants have permission to stay year by year, with a threat of deportation at the end of each 12-month cycle. Next year, all the various registration processes expire on the same date, February 28, 2010, with the threat of mass expulsion.

The temporary passports being issued to migrants, who have had their nationality confirmed, are part of a process started by the signing of a memorandum of understanding between Thailand and Burma in 2003. To date, only around 2,000 Burmese migrants have been issued with passports. As the name implies, these passports are only valid for three years. Migrants with these passports can then apply for a work permit, which may be extended for a further two years. After four years of working in Thailand, the migrant will not be allowed back for three years.

Many of the ethnic nationalities of Burma fear repercussions for their families if they enter the verification process and so are opting out of the whole registration process. Having read the policy and heard the threats, they are preparing to go home. They are working hard, saving money and asking around about jobs in other countries. They will require some assistance from Thai authorities to safely return to the border and bid farewell to their lives in Thailand.

Others who are rejecting the verification and passport process are making preparations of a different kind. They are preparing to return to the illegal status and continue working. Many already have the experience of being considered illegal and their experience is often that legal status does not make a great deal of difference. Registering for a migrant worker's card has never guaranteed a minimum wage or proper health and safety standards or even days off. So, they will save the money they would normally have paid for registration, and instead give it under the table when demanded from the local police or immigration. They are also preparing to ward off brokers and traffickers, and to run when needed.

And then there are some migrants who vacillate between getting verified or not. The right to have a nationality, passport, be legal for four years, be able to travel by local transport or drive are tempting. But the concerns about taxation, repercussions on family members, increased costs and the experience that the Burmese military regime has no qualms on backtracking on policies and promises remain strong deterrents. Maybe if the incentives were greater, more migrants would enter the process. If having a passport and work permit guaranteed regular payment of minimum wage; if it was not left up to the discretion of the employer to register workers in the social security system to ensure that workers got free healthcare and welfare benefits and rights; if the work permit did not come with the three-year ban; maybe if migrants were not classed as second-class citizens only worthy of a temporary passport; maybe if migrants could travel on a normal passport and make their own decisions regarding which country offered better conditions, more migrants would be eager to join the process.

Even the previous registrations of migrant workers in Thailand in their own way provided more security and stability than the four years of the passport. Though only annual policies, they have been renewed again and again over the last 17 years. Even the current policy acknowledges the length of time migrants stay. All those migrants registering today have been in Thailand for five years. With the passport system, they would be long gone, having passed their expiry date of four years. With the ban on returning for the

following three years, they will surely be off to the Middle East or elsewhere, certainly not waiting around to return to Thailand.

Registration, temporary work permits, illegal status - the choices are limited. And the choices all ignore the migrants and their families, their lives, their talents, their interests and their dreams. The choices all focus only on the productivity of the migrants, on the profits for the employers and the country's economy. Woven through every policy is the discourse of illegality and impermanence. It is time that migrants were afforded identity, rights and protection as people as well as workers. A migrant's right to healthcare or to housing should not be dependent on an employer. Migrants need legal status as a people first and then as workers.

"Booths on the border" is one possible solution. A migrant crosses into Thailand and immediately gets a card with a photograph, which is then entered into a computerised system. Thailand has the technology. The long porous border, supposedly impossible to man, seems a bit of a myth when one sits and watches the rubber rings floating across at Myawaddy to Mae Sot. If the border is so long and porous, why cross right in front of the immigration authorities? Land-mined and militarised might better describe the Thai-Burma border. Immediate documentation of migrants on arrival would put traffickers out of business, and brokers could only facilitate not manipulate the labour market. Migrants could travel freely to their places of work and then register with local authorities once they have found work.

More migrants might come, but more migrants might also return. Research has shown that the greater the restrictions placed on migration, the longer migrants stay put. Ease the restrictions and migrants can move with the economy, the labour flows and the normal patterns of ones life. The restrictions mean that migrants risk everything to move and so will not take that risk a second time, they will stay in the country of destination despite economic downfalls or bad conditions because the risk of getting home and not being able to return is too great.

If limiting the number of migrants arriving is a concern, then Thailand together with Asean countries need to address the situation in Burma. Migrants from Burma are simply looking for a chance to have a stable, secure livelihood and outlive the military regime. Asean needs to speed up the demise of the military dictatorship in Burma and give migrants the choice of living in their own country or migrating for work.

There is an urgent need for review of the policies towards migrants and towards Burma. Mass expulsion and mass unemployment of migrants without temporary passports in February 2010 is a repugnant solution; collective expulsions are inherently arbitrary and thus prohibited under international human-rights law. They invariably result in accidents, abuse and the separation of families.

Migrants have voiced concerns over the temporary passports, and these concerns need to be taken into consideration for future policies. The temporary passport may be one option but it is not the choice for most migrants, and would take years to implement even with full cooperation from the migrants, employers and Burmese authorities. Migrants are asking for policies which protect their rights and dignity as people, which enforce labour standards equal to their Thai counterparts, and which do not force them to live in states of insecurity, instability and dishonesty.