I. INTRODUCTION

Hundreds of thousands of Burmese migrant workers are employed in various industry, including fisheries, manufacturing, domestic and construction work, hotels, restaurants, and agriculture. As Thailand has become more prosperous, fewer willing to work in jobs which are commonly known as "dirty, dangerous, and dehumanizing". Burmese nationals have arrived in Thailand in increasing numbers to fill the labor shortages. The Royal Thai Government has recognized this need by establishing a series of registration processes which, although flawed from both the policy and implementation points, have been a good faith attempt to establish a legal framework and regularize the flow of workers into Thailand, given its porous borders with Myanmar, Laos, and Cambodia.

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

Burmese migrant workers make up approximately 80% of migrant workers in Thailand. The two other largest groups of migrant workers there are Cambodian workers and the other two largest groups of migrant workers there are over 143,000 Burmese refugees in Thai camps near the border, mostly from Kayah ethnic minorities, who are not permitted by the Thai authorities to work outside these camps. Shan refugees are also in Thailand, but they are not allowed by the government to work outside the refugee camps. Most of the Shan refugees are migrant workers, many of whom have been victims of or witnesses to the Myanmar Army's counter-insurgency activities, labour and forced relocation. Others from conflict-free areas have left their home because there are no jobs or other economic opportunities. A detailed discussion of the causes for migration from Myanmar will be the subject of a forthcoming report.
During May and June 2004, Amnesty International interviewed 115 Burmese nationals in Thailand who were either working or looking for work. They were from Kayin, Kayah, Shan, Rawang, Tavoyan and Bama ethnic groups, and were either Buddhist or Christian. They were employed mostly in the fishing, manufacturing, agriculture and domestic service industries.

None of the migrants interviewed by Amnesty International had been trafficked across the Myanmar–Thai border, but many voluntarily paid large sums to "agents" who smuggled them through checkpoints, often by bribing immigration officials. However, thousands of Burmese nationals have been trafficked to work in brothels, private homes or other sectors.

The vast majority of Burmese nationals do not possess passports, which cost too much to obtain. Returning to Myanmar unofficially by avoiding immigration checkpoints is punishable by imprisonment and a fine under Article 13 (1) of the Immigration (Emergency Provisions) Act of 1947, which prohibits such movements. Most Burmese migrants possess an identification card which generally grants them some form of citizenship, but which does not entitle them to leave or return to Myanmar legally. Moreover, a Myanmar ID card is no longer accepted by Thai authorities as a sufficient level of proof for work registration purposes.

Shan, Kayin, and Bama migrant workers interviewed by Amnesty International to cross the border on their own, without paying a fee to an "agent". However, an ethnic minority in particular paid large fees in Thai baht to smugglers who took them across the Myanmar border. The vast majority of ethnic minorities interviewed by Amnesty International did not cross the border officially. However, many who came to Mae Sot, Tak Province, paid a fee for a boat to cross the bridge on the Moei River which marks the boundary between Myanmar and Thailand. The vast majority of all the interviewed migrants did not cross the border officially. However, many who came to Mae Sot, Tak Province, paid a fee for a boat to cross the border on the Moei River in order to return immediately to Mae Sot. Burmese with a valid fear of persecution were generally not given the opportunity to make known to Thai immigration authorities nor to the United Nations High Commissioner for Refugees (UNHCR) before deportation.

Some of those interviewed had registered for a work permit with the Thai authorities, and others expressed a desire to register during the July 2004 registration period. However, the latter group stated that they could not afford the fee of 3,800 baht in order to cover a medical check-up and a registration card, which is generally paid up front by employers and then deducted from migrants' pay until the debt is fully re-paid. A Cabinet Resolution established a new registration process, taking place from 1 July 2006, which applies to migrants from Myanmar, Laos, and Cambodia who wish to work and live in Thailand.

Those migrants interviewed by Amnesty International had left their homes in Myanmar for a number of reasons, including the inability to find a job; confiscation of their houses and land; or fear that if they remained they would be subjected to human rights violations. A young Mon man described why he was in Thailand: "I like Thailand a lot and I would stay. In Burma it is 24 hours fear, every night I dreamed Misery Number 2."

Many of the young people who were interviewed had come to work in Thailand with their families. However, some of them could not save enough to return home, but were working in Thailand in order not to be a burden to their parents. Some of them fled from militarized areas in Myanmar, where they were much more likely to have experienced violations at the hands of the Myanmar military. For example, a 37-year-old Mon woman from Pa Nga village, Pa Nga village tract, Thanbyuzat township, Mon State had her home in Pa Nga village, Pa Nga village tract, Thanbyuzat township, Mon State, destroyed by the Myanmar military in order to clear the land. She was currently working in a coconut oil factory in Thailand for 175 baht per day. She told Amnesty International:

"The military cut all my rubber plants. I felt so sad to see this. They said they would compensate, but they didn't...I really want to tell you, to spread the news...N many acres were confiscated, some people are worse off than I am...".

A 29-year-old Shan-Karen woman from Shwepitha satellite town, Yangon, had her five brothers and sisters working in a garment factory in Yangon. She went because she was in debt, although she was making less money there than in Myanmar. She told Amnesty International:

"I don't want to go back [to Myanmar] with empty hands...I have a lot of sleepless nights and I am disappointed that there is no happy time for us." A 35-year-old
La Mon village, Wan La village tract, Kunhing township, Shan State, came to working in a bamboo shoot factory. He left his home because he could not support his brother was shot dead and sister raped and then killed by Burmese also took him for forced labour duties building a road.

In some areas most of the young people left their villages in order to work in Thailand. A man from Hpa’an township, Kayin State, told Amnesty International about the village: "Education is very important but the government hasn’t funded it. Our income is funded by villagers earning money in Thailand. Many people have been in Thailand for over 10 years, and many more are leaving now. Prices are going up, the population is having a hard time feeding themselves and have decided to leave."

The Tsunami

The 26 December 2004 tsunami in South and Southeast Asia affected Satun, Nga, Phuket, and Ranong provinces in Thailand, killing an unknown number of workers, who had been employed in the hospitality, agricultural, construction, etc industries there. The Tsunami Action Group (TAG, comprised of Thai and local groups) and the Law Society of Thailand have estimated that between 700 and 1,600 migrant workers went missing. Many of them had not registered with the Thai authorities and not appeared in any official list of those killed. A total of almost 5,400 people were reported by the Thai authorities to have been killed, including Thai nationals. However, this number does not include Burmese migrant workers. The above number does not include Burmese migrant workers. The number of Burmese migrant workers who died has not been formally acknowledged by the Thai government.

The resulting devastation of the tsunami exposed several major problems facing migrants in Thailand and other longstanding issues and concerns. According to advocates, one of the major issues revealed was the lack of support and resources at the provincial level in the implementation of the July 2004 registration policy, which required temporary ID cards, health cards, and work permits. Nevertheless, some 73,000 migrants were reportedly registered for work in the tsunami-affected provinces beginning in August 2004. However, according to reliable estimates, the number of migrants who had received temporary work permits for one year. However, according to reliable estimates, the number of registered workers was only possible if "agents", or "brokers" who had brought the migrants to work in Thailand and had charged approximately 5,000 to each migrant. After the tsunami hit the region, migrants lost their documents in the flood. Subsequently there has been an effort by Thai authorities, with the assistance of non-governmental organizations working with migrants, to re-issue the documents for registered migrants in the tsunami-affected areas.

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

Thailand and International human rights and labour standards

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

Thailand is a state party to both the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of All Forms of Racial Discrimination (CERD). Much of the abuses highlighted in this report are violations of the state’s obligation under these treaties to respect, protect, and promote economic, social, and cultural rights under the ICESCR. In particular Article 7 of the ICESCR recognizes the right to receive "fair wages and equal remuneration for work without distinction of any kind…2; the right to "safe and healthy working conditions…"
to "[rest, leisure, and reasonable limitation of working hours"] Article 2.2 undertakes to extend equality of rights between nationals and non-nationals, e.g. to both Thai nationals and nonnationals in Thailand. The guarantee of these rights is particularly pertinent to those living in Thailand, who generally receive lower wages, work longer hours, and endure unsafe working conditions.

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

The Royal Thai Government has not ratified several core International Labour Conventions, including Convention No 87, Concerning Freedom of Association and the Right to Organize, which protects the rights of workers to organize themselves. Convention No 98, Concerning the Application of the Principles of the Right to Bargain Collectively, which further protects trade union rights. Moreover, the Government ratified other core ILO conventions. Convention 111 on racial discrimination and harassment; and Convention 138 regulating minimum age for work. Thai ratify ILO Convention No 97 on Migration for Employment and No 105 Workers (Supplementary Provisions) (1975). Amnesty International urges the Government to ratify all eight core ILO Conventions as a means of protecting migrant workers.

On 1 July 2003 the United Nations (UN) International Convention on the Protection of Migrant Workers and Members of Their Families entered into force as an international law. This treaty imposes a series of obligations on States parties to other things: "sound, equitable, humane and lawful conditions" for all migrant workers documented or undocumented. Under the terms of this Convention, migrant workers' protection of their basic freedoms including the right to life; the right to freedom from arbitrary arrest and detention; the right that is urgently required and the right to equal treatment – in comparison to national workers – in respect to remuneration and other conditions of work, membership in trade unions, and social services. Amnesty International calls on the Royal Thai Government to ratify this treaty as an important step in the protection of migrant workers.

II. THE REGISTRATION PROCESS

Background

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

In August 2001 the Royal Thai Government established a registration system for migrant workers from neighbouring countries; some 560,000 workers subsequently registered. However, many who originally registered were eligible to re-register, but only 281,162 (16) re-registered. It is not known why so few chose to do so. In August 2003 the Thai Labour Ministry cabinet resolved to permit more than 400,000 previously registered migrant workers working in Thailand for one more year. (17) During September 2003 migrant workers previously registered could re-register, but those who had never gone through the registration process were not eligible. Moreover only migrants working in certain sectors of the economy, including agriculture, factory work, and fisheries, were permitted to re-register. There were several flaws in these registration processes, including the fact that the workers lost their jobs after a period of seven days. Those who had lost their jobs were not eligible. Moreover only migrants working in certain sectors of the economy, including agriculture, factory work, and fisheries, were permitted to register. There were several flaws in these registration processes, including the fact that the workers lost their jobs after a period of sever arrest, a fine, and deportation. This was particularly arduous for many migrants, whose nature of their work, whether in agriculture, fisheries, garment factories, or the meant that they would only be employed on a seasonal basis.
Only the employees themselves were permitted to register; however in practice, their families with them. Families of migrant workers were at risk of being deported as they did not have legal status in Thailand. Most of them do not attempt or education for fear of deportation or rejection. Moreover children of migrant workers are eligible for government health care or education in Thailand. A 36-year-old Bar Mon State explained what her children were doing: "My husband is fishing out at sea – he is paid 4,000 baht per month... My sons – 15 and 16 – are working as well. They get 2,500 baht per month. My daughters are five and 12 years old and stay with me at school." In general only the families of those migrants being assisted by welfare attempt access the Thai public health and educational systems.

Registered workers are theoretically exempt from arrest and deportation by the but those found without a registration card on their person remain vulnerable to employers often retain the workers’ registration cards and only provide them with does not prevent them from being arrested. Many workers have stated that employers ask for permission cards so that the workers could not quit their jobs. Moreover police concentrations of migrants from Myanmar often arrest both registered and unregistered workers demanding bribes before releasing them.

The current registration

On 16 June 2004, the Royal Thai Government and the State Peace and Development Council (SPDC, Myanmar’s military government) signed a Memorandum of Understanding to oversee Burmese migrant workers in Thailand.(18) In a written response to Amnesty International in 2004, the Thai Government provided an English language version of this agreement. IX of the Memorandum, terms and conditions of employment should not exceed four years, after which time the migrant worker must return to Myanmar. XVIII states that "Workers of both Parties [Myanmar and Thailand] are entitled to workers. The benefits due for local workers based on the principles of non-discrimination and protection of race, and religion."

Under both the terms of the MOU with the Myanmar Government and another government document, entitled Report No. 0307/2275, migrant workers are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status. Under Report No. 0307/2275, migrants from Myanmar, Laos, and Cambodia are entitled to the same labour rights as Thai nationals, provided they have registered their labour status.

Amnesty International welcomes the provisions by the Thai government which permit workers to return to their countries. Moreover the organization welcomes the provision for migrant workers to have the same rights in the control of labour as are granted to Thai workers. However, as noted below, in practice migrant workers are not paid the legal minimum wage, nor are they permitted to organize or enter into bargaining, both rights which Thai workers are in principle entitled to.

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

Many of the migrants whom Amnesty International interviewed in May and June registration had started, said that they did not have enough money to register. As one Shan woman relayed is typical: "I heard about the registration – I would like to have no money, barely enough to eat. I can’t decide whether to stay here or not and I can’t work properly because we have health problems – we have to depend on our husbands. Even if we want to return to Myanmar we have no money. But stay see any future."
The overall pattern revealed in interviews with migrants is that those who were steady work had already registered in previous years or were planning to do so scheme. All of them said that the employer deducted from their wages a specific period, so the workers in effect paid for their own registration. Those who were more casual labour or who had recently arrived in Thailand and had not yet found out they had not registered because they could not afford it. Under the current regime it is believed that it is the migrants themselves who are responsible for paying the enormous burden on them, as they are in most cases already making significant legal minimum wage. Thai non governmental organizations who provide assist migrant workers have stated that if they were earning the minimum wage, pay it not be a hardship.

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

III. LACK OF RECOGNITION OF LABOUR RIGHTS OF MIGRANT WORKER

Rights in the workplace

Trade union and labour rights are limited for Thai workers as well as for migrant than four percent of the Thai work force is registered in labour unions and only workers are union members. The low overall trade union membership is believed to be because of the high proportion of Thai workers in informal employment and in a general unfamiliarity with the concept of industrial relations. The minimum wage for each province is set by provincial committees and is generally not sufficient adequate standard of living for a worker and family. (21) The legal minimum wage is 133 baht to 169 baht per day.

Migrants usually work in the following sectors of the Thai economy: agriculture; work, particularly in the garment and fishery sectors; the construction industry; service. Much of this work is sporadic; agricultural workers only work at certain and garment factory workers only work when the factory receives orders. The rate varies; depending on industry sector and the individual employer, some migrants are paid according to piecework rates, and some are paid on a daily or monthly basis. Factory workers are generally paid monthly and often live in insalubrious conditions. Their employers normally deduct any food and lodging from their pay. Agricultural workers often stay in field huts which the owners allow them to on larger farms, such as large fruit orchards, live in cramped compounds at the

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

The Ministry of Labour sets minimum wage rates for each of Thailand’s provinces, the vast majority of those interviewed did not receive this rate even if they had regi the authorities. They were often punished by their employers if they attempted better working conditions and rate of pay. Punishments have ranged from beat hired by the employer; to mass arrests and deportation to Myanmar by local au

A 21-year-old Shan man told Amnesty International that he left his home in Lai he was 11, after Burmese troops had driven him and his fellow villagers out of
to forcibly relocate them. He was subsequently separated from his family and to
Initially he worked in a bakery, making only 300 baht per month; then he got a
where he was paid 2,000 baht per month and provided with a place to live. At t
interview, he was working selling plastic bags, making 120 baht per day instea
d is the legal minimum wage in Chiang Mai Province, northern Thailand. He des
he received from his current employer: "He doesn't treat me well – I am verbalm
sometimes physically. He threatened to fire me but I must be patient because j
find…sometimes he shoves me around – he doesn’t let us have a meal until the

One 23 year old Mon unemployed goldsmith told Amnesty International how he
Thailand:
"...Thai police are a big threat to Burmese workers. Sometimes they abuse theu
us even if we have a pass [work permit]. The Burmese sometimes don’t realize
are mistreated by police. Generally Thai people regard us as garbage. They dc
helping the economy. We are taking jobs which the Thai won’t do. They regard
troublemakers, never as good friends…I didn’t want to come to Thailand – bec
country and land – but because of economic mismanagement and poverty and
especially for rural people – what they want is a better life. But they are being s
dering.

Arrests, detention and deportation

Migrant workers are subjected to "shakedowns"(23) and arrests by Thai police
their labour registration cards with them, and sometimes even if they are in pos
cards. Migrants are vulnerable to arrest by the police if they are not registered,
in possession of their registration documents. Once the focus of police attentio
risk of being threatened with arrest in order to extract a bribe. Some Burmese
that they did not travel far from their homes with more than 200 baht so the pol
all their money. A Mon automobile mechanic told Amnesty International that his
daughter was stopped locally by the police in May 2004 and when she was un
registration card, the police threatened to arrest her unless her father paid 1,0C
This police behaviour is typical of migrant areas, although migrants were often
the police to get a reduction in the bribe.

If arrested, Burmese migrant workers are usually held in unhealthy conditions in
Immigration Detention Centres. A 20-year-old Bama-Mon man from Belugyun I
described his experience of arrest and detention in June 2004 at the hands of t
was arrested on the way from Phuket…three of us came together – the Thai p
baht and did body searches and took everything – one of my friends was kicke
operating…We spent two days in a police lockup and then 10 days in Ranor D
Detention Centre…It was extremely crowded…I saw some people who couldn’th
had been there for so long…they couldn’t walk properly."

After arrest and detention for 24 hours or more, migrant workers are transporte
extremely overcrowded trucks. For example on 20 February 2004 a group of 1
migrants and family members crammed into a truck insured for only 26 people
from Thong Pha Phom to Sangklaburi, Kanchanaburi Province when the truck
crashed on a steep and winding road, killing eight people, and seriously injurin
children were among the 106 Burmese, including an eight month old baby. The T
Thailand is pursuing the case in the courts, but it is not known if any compensa
tion was paid to the victims or the families.

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

Health and education

Burmese migrant workers generally do not choose to use the Thai public health
people can receive medical care for 30 baht per visit.(24) Several workers inter
International said that they did not attempt to use such a scheme because they
they would receive proper medical care, or because they had experienced disc
public health workers. Instead they went to private clinics and paid a much hig
health care. One 37-year old Kayah woman described her husband’s health pr
husband is working in construction as a foreman and is registered…he has a k
from heavy work – last year he suffered a lot – he went to a private hospital – it is not as good. He was suffering and screaming. He went to another private hospital to a Chinese herbal medical doctor so he recovered a bit but he is still sometimes costs a lot of money.”

Amnesty International is further concerned that both Thai and migrant female workers are frequently dismissed from their jobs if they become pregnant. The organization has obtained information that both Thai and migrant employers are not to dismiss pregnant workers and to ensure that female workers are not discriminated against in the workplace. Female migrant workers often do not receive adequate medical care and so are particularly vulnerable to unplanned pregnancies and sexually transmitted diseases.

The Royal Thai Government is a state party to the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) and is such is obliged not to dismiss female workers on the basis of marital status; for taking maternity leave; or for becoming pregnant (CEDAW Art. 11). Although Thai labour law protects against dismissal of pregnant workers by employers not to dismiss pregnant workers, in order to “prevent the problem of stateless children” (25) According to reliable sources, in practice both Thai and migrant workers can become pregnant. In Mae Sot Burmese migrant workers have been dismissed and deported to Myanmar because they became pregnant. For example in November 2002 a migrant worker with two children was deported from Mae Sot to Myawaddy, Myanmar.

**Burmesse migrant workers in garment factories**

Those migrants who worked in garment factories in particular told Amnesty International that they were forced to work extremely long hours, and were seldom paid overtime. Working conditions were often poor, with inadequate ventilation and water in the factories in very crowded conditions, whether in accommodation which the factory owners provided or other living areas. Factory workers who attempted to organize into informal unions or to negotiate with employers appeared to have contacted the Thai immigration police, who then deported the migrants.(26)

In October 2002 60 Burmese migrant workers at Nut Knitting Factory, Mae Sot were dismissed for protesting against receiving 77 baht per day rather than the minimum wage of 133 baht for Tak Province. Young Chi Oo Burmese Workers’ Association and the Assistance Program (MAP) agreed to provide legal counselling to the migrants, who then pursued their case. In April 2002 they were arrested and taken to the border by Thirty-three of them subsequently took their grievances to the Tak Province Labour Protection Department in order to demand unpaid wages. In February 2003 this office ruled that the employer had 30 days to appeal against the ruling. Under Art. 17 of the Labour Protection Act of 1998, the employer had 30 days to appeal against the ruling, which the employer ignored. Under Art. 17 of the Labour Protection Act of 1998, the employer had 30 days to appeal against the ruling, which the employer ignored. Under Art. 17 of the Labour Protection Act of 1998, the employer had 30 days to appeal against the ruling. In April 2003 the Labour Protection Court of Nakhon Sawan in Thailand took their case to the Tak Province Labour Court to appeal against the ruling. In November 2003 the employers appeared to have contacted the Thai immigration police, who then deported the migrants.

In December 2001 a group of Burmese migrant workers at Nasawat garment factory began protesting against the fact that they were only paid 50 baht per day rather than the minimum wage of 133 baht, and that they had not been paid for three months. The workers were organized by the Young Chi Oo Burmese Workers’ Association and MAP agreed to provide legal advice and negotiation with the manager of the factory, and in November 2003 finally reached an agreement and the workers left the factory compound where they had been a refuge in a local Buddhist temple.
On 16 December 2003, all of them were arrested by a mixed group of immigration soldiers and the Tak Employment Department and taken to the Mae Sot Immigration Centre (IDC). All but 16 of them were deported to Myanmar, but most of them to Thailand. The workers subsequently filed a complaint at the Tak Labour Office in January 2004 with the assistance of non-governmental organizations. In April 2004 the Labour Office ordered the Nasawat factory owner to pay 15 million baht in back wages. To date, the employer has not yet paid the back wages. In the meantime, the Special Investigations Unit of the Ministry of Justice, which is independent of police, began an investigation, which is still ongoing. On 30 January 2005 the Nasawat Factory offered 20,000 baht to each of the 217 workers, which is only 1/75 of the 16 million baht granted by the labour court. The workers had to accept the 20,000 baht each, as it is far less than the amount stipulated by the court. 

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

**Burmese migrants in other industry sectors**

Burmese migrants typically work in several other industry sectors, including agriculture, construction, and domestic work. They face common problems in their working life, such as low payment of well under minimum wage, unsafe and unclean working and living conditions, vulnerability to harassment, arrest, and deportation, and their access to education and medical care is comparable to that which Thai workers enjoy. Tens of thousands of Burmese migrant workers are employed in Thai agriculture, particularly in orchards, or in rice, onion, and chili fields. They often live in simple huts in their fields or in dormitories paid from 50 to 100 baht per day, and like the fishing industry, the work is seasonal. In general migrant workers are not provided with any protection against unsafe and unclean working and living conditions, and they must spray on crops or otherwise handle, as is the case with other Burmese workers, sometimes come alone or with their spouse, leaving their children behind. Other children, who generally do not receive any form of education or proper health care, are often taken out of school.

Agricultural labourers often cannot afford to register officially. Registration is usually only done for the seasonal nature of their work.

Another large category of Burmese migrant workers is found in the fishing industry. International interviewed several Burmese migrant workers employed on fishing vessels and shrimp processing factories in two locations in Thailand. Those working on boats frequently work at sea for weeks at a time, only returning to port for a few days. Others worked on shrimp sorting, making from 70 to 100 baht per day. Migrants employed in the fishing industry are paid daily, rather than weekly, and work seasonally. A 19-year-old Mon woman from Kyaikmaraw township described her job peeling shrimp: "I have a job here peeling shrimp, I am paid 8 baht per day, seven days per week...It is not a big factory, owned by a Thai. I am terms of verbal abuse – they use harsh words to Burmese employees...I want don't have any money...I stay with friends, all in one room. I work at a piecework factory."

Burmese migrant workers, usually male, also work as day labourers, usually in construction or doing odd jobs at a private house. They are paid from 50 to 100 baht per day, not necessarily employed every day, making it difficult for them to earn a living. on a daily basis often cannot afford to register with the Thai Government, and an employer who could facilitate the process. A 22-year-old Karen man from Kayin described the casual labour he was doing: "I'm working here but not a very good job – I work at someone's plantation. I get paid 80 to 90 baht per day. I'm living at a friend's house back in the village [in Myanmar]. I can't send money back because I can't know anything about Thai registration." Another young Karen man from Kayin described life in Thailand: "I'm a day labourer here – I earn 70 to 80 baht per day...I don't do household jobs, building, cleaning, cutting firewood, gardening...I don't know registration in Thailand. I would like to register, it would be safer for me. Yesterday through the jungle and I saw the police - the pointed a gun at me but I ran away.

Many female Burmese migrants live in private homes, cleaning and taking care of foreign nationals. They are usually paid a monthly rate, and receive room and board, in contrast to the female migrants whom Amnesty International interviewed who did much the same work but were still minors. One Mon woman began working in Bangkok at a Thai family's house when she was 14 years old. She has been with the same employer for the last eight years, working very well, as if she were a member of the family. She told Amnesty Interna...
finish basic education always go to work in Thailand. I didn’t realize how diffic

However, not all female domestic workers were treated as well; several told Am

She had nine siblings, but was unable to send money home, although

Amnesty International is concerned about the overall lack of basic labour rights

Amnesty International calls on the government to ensure that migrant workers:

Amnesty International calls on the government to ensure that migrant workers:

IV. ABUSES AGAINST HUMAN RIGHTS DEFENDERS/LABOUR ACTIVISTS

Both Thai and Burmese human rights defenders who assist Burmese migrant

In May and June 2004 Amnesty International interviewed several human rights

In December 2003 two leaders of the Young Chi Oo Workers Association in Mi

“rely” on Young Chi Oo.
The Tak Labour Office had awarded the Nasawat workers 15 million baht back in May of that year. A Danish national volunteering at Young Chi Oo was beaten and stabbed with a knife around midnight in the Mae Sot market, requiring stitches in his hands before. Two Burmese Young Chi Oo workers were attacked by a gang armed with iron pipes and a knife. Also in May 2004, a member and Burmese migrant worker was attacked by six men armed with knives; two of them suffered a head wound which required hospitalization.

In another case of abuse against a labour activist, A Salam, a 19-year-old Muslim of Myanmar origin, was arrested in December 2004 in Mae Sot, Tak Province. He is a member of the Burmese and Thai languages, and has been called upon by the local authorities for interpretation services. He has also volunteered to interpret for migrants whose language is facilitated by MAP, and has interpreted in major migrant cases and in cases of Burmese migrant workers in Mae Sot. According to reports, a combined force of police, Immigration and Department of Labour officials illegally searched without a warrant a migrant community centre run by MAP and Young Chi Oo; arrested A Salam; and seized confidential files.

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

Moreover, these human rights defenders themselves faced human rights abuse. In 2005, six Thai and Burmese relief workers from the international aid agency Wso were seized by villagers in Ban Thab Lamu, Phang Nga Province, for attempting to help the local Burmese migrant community there. The villagers had reportedly been organized to do this by the headman. The relief workers were held in a cage in the hot sun for several hours, transferred to the local police station, when they were finally released at midnight. A Salam was severely beaten by the villagers and spent a few days in the hospital.

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

V. CONCLUSION AND RECOMMENDATIONS

Amnesty International welcomes the initiatives which the Royal Thai Government has taken to regularize migrant labour within its borders. However, it remains concerned that measures, such as payment of a minimum wage, protection from arbitrary arrest and deportation, and opportunities for migrants to seek asylum are not enforced. Moreover, working and living conditions for migrant workers and members of their families are sometimes even worse than international standards. Employers, local police, and smugglers often abuse workers, taking advantage of the fact that some workers are unregistered. More costly and difficult for migrants to register their labour, which is compounded by the fact that employers, local police, and smugglers often do not employ them before they attempt to do so. As explained above, many of the cases are seasonal, making it even more difficult for them to register with the government.

Amnesty International calls on the Royal Thai Government to:
2. Ensure that state officials at every level of the state apparatus, including law officials, respect the legitimacy of the work of human rights defenders and allow this work safely and without interference or harassment.
3. Initiate prompt, independent, impartial, and effective investigations into allegations of violations or abuses against human rights defenders, and bring the suspected perpetrators to justice which meet international standards of fair trials.
Rights, in particular article 7, under which it is obliged to ensure that no one, in workers is denied their right to:
(i) Ensure that fair wages and equal remuneration for work of equal value with kind are paid;
(ii) Ensure safe and healthy working conditions;
(iii) Ensure rest, leisure and reasonable limitation of working hours.
2. Comply with its obligations under the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), in ensuring that women who marry, or take maternity leave are not dismissed from their employment, under Article 14 of the Convention.
3. Ratify all eight core International Labour Organization (ILO) Conventions as protecting both Thai and migrant workers. These are: Convention No 87, Conciliation, Settlement and Protection of the Right to Organise, and Convention No 98, Concerning the Application of the Right to Organise and to Bargain Collectively, which further protects trade unionism. Ratify ILO Convention No. 111 on racial discrimination and sexual discrimination in the workplace. Ratify ILO Convention No. 138 regulating minimum age for work. Ratify ILO Convention No. 9 Employment (Revised) (1949) and No. 143 on Migrant Workers (Supplementary Convention, 1975).
5. Take measures to ensure that arrests and deportations by the police and immigration officials are conducted with due respect of human rights and the rule of law. Ensure that workers and members of their families, whether registered or not, are not arbitrarily detained by local police.
6. Ensure that those migrant workers who peacefully demand labour rights are doing so, including by arresting and deporting them.
7. Ensure that those migrants who express fear of persecution if returned to Myanmar, or who have full access to a fair and satisfactory procedure to determine their refugee status, are not returned to a country where s/he is at risk of torture and other forms of ill-treatment. Those seeking asylum have full access to the UN High Commissioner for Refugees, and to international monitors, including UN independent monitors, access to all places of detention where migrants are held. Adequate detention be provided at all times including prior to and during any expulsion process, particularly in the case of those apprehended outside of police lock-ups and immigration detention centres.
8. Comply with its obligations under the Convention on the Rights of the Child, and ensure that all migrant children, whether registered or unregistered, have effective right to free and accessible primary education. Ensure also that all migrant children born in Thailand, and that all possible rights-respecting measures are taken to prevent statelessness.

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(1) 40 Thai baht equals approximately one US dollar.
(2) In 1994 the Thai authorities began to register migrant workers but only in some areas of Thailand. However it is almost impossible to estimate the number of unregistered workers because they do not make themselves known to the Thai authorities.

(3) This estimate comprises both unregistered and registered migrant workers in Thailand. However it is almost impossible to estimate the number of unregistered workers because they do not make themselves known to the Thai authorities.

(4) Migrant workers are not only persons who have moved voluntarily in search of opportunities, but also comprise asylum-seekers and refugees who are engaged in activities in their host countries. See Amnesty International, International Labour Office, and Amnesty International’s concerns relevant to the 92nd International Labour Conference, June 2004 (AI Index IOR 42/008/2004).

(5) Bama is the Myanmar language word for Burmese; in June 1989 the Myanmar government changed the name of the country from Burma to Myanmar and also changed the Bama language.

(6) Article 3 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Particularly Women and Children, (the Trafficking Protocol), supplementary to the UN Convention Against Transnational Organized Crime defines trafficking as "a) Trafficking in persons recruitment, transportation, transfer, harbouring or receipt of persons, by means of force or other forms of coercion, of abduction, of fraud, of deception, of the giving or receiving of payments or benefits of a nature similar to the ones involved in slavery, for the purpose of exploitation of the services of that person in domestic service, in the sex industry including prostitution, in the production of illegal drugs, for the purpose of organ removal."
consent of a person having control over another person, for the purpose of exp
Exploitation shall include, at a minimum, the exploitation of the prostitution of o
of sexual exploitation, forced labour or services, slavery or practices similar to :
the removal of organs”.

(7) At least three prisoners of conscience in Myanmar have been sentenced ur
for returning “illegally” to Myanmar.

(8) Myanmar law provides for three categories of citizenship.

(9) Kunhing township is a counter-insurgency area where the Shan armed opp
Shan State Army-South operates.

(10) The Nation, 6 May 2005.

(11) The tsunami also adversely affected the livelihoods of Thai nationals in th
many of whose boats and fishing nets were destroyed. Assistance from the go
reached these areas, but a network of Thai non-governmental organizations ha
relief is not sufficient to restore Thai fisher folks’ livelihoods, and so have been assistance. Moreover Thais working in the tourist industry, including hotel and employees, also lost their jobs when their places of employment were destroye
the largest industries in the tsunami-affected area, where hundreds of thousand
beaches and islands in the region every year. Finally thousands of Thais – who
living in these six provinces have had their homes destroyed or badly damage

(12) Thailand is a state party to both the International Covenant on Economic,
Rights Covenant (ICESCR) and the Covenant on the Elimination of Racial Disc
( ICERD).

(13) The ILO has designated eight Conventions as Core.


(16) Bangkok Post, 9 September 2002. This number also includes workers from Laos.

(17) Bangkok Post, 20 August 2003

(18) The full title of the document is: Memorandum of Understanding between th
the Kingdom of Thailand and the Government of the Union of Myanmar on Co
Employment of Workers. The Thai Government also has Memoranda of Under
Lao and Cambodian governments about migrant workers.

(19) Amnesty International has obtained Report No. 0307/2275 from the Thai
the United Nations. The information above is based on an unofficial translation organization commissioned from an independent translator.

(20) According to TNA, Bangkok, May 10 2005, the validity of the work permits

(21) Tim De Meyer, an International Labour Organization (ILO) specialist, as q
Bangkok Post, 7 June 2004.

(22) For a full discussion see THAILAND: Grave Developments – Killings and ( Index ASA 39/008/2003, pages 22 – 28.

(23) Local police routinely stop Burmese migrant workers and extort money fro
them with arrest and deportation if they do not hand over their cash.

(24) The 30 baht health care scheme is part of Prime Minister Thaksin’s popul
believed to be popular with many Thai people. However, having said that, som
expressed concern about how the scheme is financed.

(25) 15 December 2004, Xinhua General News Service, a publication of the G
Peoples’ Republic of China.

(26) For a full discussion see pages 26 – 28 of THAILAND: Grave Developme
Other Abuses, Amnesty International November 2003, and AI Index ASA 39/001/2005

(27) Burmese migrant workers frequently return to Thailand after being deported or dropped by immigration officials on the border.


(29) See UN Committee on ESCR, General Comment No 14, The right to health.

(30) Daw Aung San Suu Kyi is the leader of the opposition National League for democracy in Myanmar and has been under house arrest since May 2003. 19 June 2005.

(31) Please see above for a description of the Nasawat Garment Factory case.

(32) The Irrawaddy on line, a regional magazine, 7 January 2004.


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Further information

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