



THAILAND

From the Tiger to the Crocodile

Abuse of Migrant Workers in Thailand

HUMAN
RIGHTS
WATCH

Summary and Recommendations



FROM THE TIGER TO THE CROCODILE

Photographs by John Hulme



Burmese migrants and their children are held by Thai immigration at Chiang Mai detention center after a raid on a construction site on the outskirts of Chiang Mai city.
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As “Thailand” means the “land of the free,” it is our Government’s policy to ensure that migrants can enjoy their freedom and social welfare in Thailand while their human rights are duly respected....

[M]igrant workers, regardless of their legal status, can seek justice in Thailand’s court system for any violent abuses to which they have been subjected, and which are covered by these laws.

—PRIME MINISTER ABHISIT VEJJAJIVA,
ON OCTOBER 5, 2009, BANGKOK

I am Burmese and a migrant worker that is why the police don’t care about this case....

[M]y husband and I are only migrant workers and we have no rights here.

—AYE AYE MA, FROM BURMA, WHO WAS RAPED
BY TWO UNKNOWN THAI ASSAILANTS AFTER THEY SHOT
AND KILLED HER HUSBAND ON NOVEMBER 5, 2007,
IN PHANG NGA PROVINCE

The thousands of migrant workers from Burma, Cambodia, and Laos who cross the border into Thailand each year trade near-certain poverty at home for the possibility of relative prosperity abroad. While most of these bids for a better life do not end as tragically as that of Aye Aye Ma, almost all play out in an atmosphere circumscribed by fear, violence, abuse, corruption, intimidation, and an acute awareness of the many dangers posed by not belonging to Thai society.

From the moment they arrive in Thailand, many migrants face an existence straight out of a Thai proverb—escaping from the tiger, but then meeting the crocodile—that is commonly used to describe fleeing from one difficult or deadly situation into another that is equally bad, or sometimes worse.





Labor intensive production on a new housing estate on the ring road around Chiang Mai city depends on ready availability of low-wage ethnic Shan workers from Burma.
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A Thai immigration official fingerprints an undocumented migrant from Burma at the local police station in Mae Taeng, Chiang Mai district.

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“It feels like I’m caged here. I have gone to Bangkok on a few trips ... but I am worried that if I am stopped by a police checkpoint ... I will be arrested because I am not Thai.”

In many cases, police, military, and immigration officers, and other government officials threaten, physically harm, and extort migrant workers with impunity. Those detained face beatings and other abuses. And whether documented or undocumented, migrants in Thailand are especially vulnerable to abusive employers and common crime, which the Thai authorities are very reluctant to investigate and sometimes are complicit in.

In interviews in Thailand from August 2008 to May 2009 and in follow-up research through January 2010, we found evidence of widespread violations of the rights of migrant workers from Burma, Cambodia, and Laos. The violations are not limited to one or two areas but range the entire length of the country from the Thai-Lao border gateway towns in Ubon Ratchathani to the seaports on the Gulf of Thailand to remote crossroads in areas on the Thai-Burma border. Many types of abuses are either embedded in laws and local regulations,

such as restrictions on freedom of movement, or are perpetrated by officials, such as extortion by the police.

Human rights violations inflicted on migrants by police and local officials are exacerbated by the pervasive climate of impunity in Thailand. Migrants suffer silently and rarely complain because they fear retribution, are not proficient enough in the Thai language to protest, or lack faith in Thai institutions that too often turn a blind eye to their plight.

An in-depth interview with a long-time police informant, a Burmese migrant named Saw Htoo, provided alarming insight into the workings of the Thai police. Saw Htoo described beatings of migrant workers in detention, sexual harassment, and extortion.

Saw Htoo told Human Rights Watch, “When they are doing the beating, usually the police use their hands. They like to slap the cheeks of the people. Mostly they hit with hands and kick. They don’t use weapons in the beatings. When the migrant who is arrested talks to the police, he needs to keep his head down when talking—because if a migrant looks at the police’s face while talking, the police will hit him.”

Beyond threats of ill-treatment, extended detention, and deportation, migrants constantly fear extortion by the police. Nearly all migrants held in police custody that we interviewed



A Thai immigration officer handcuffs an undocumented migrant worker from Burma during a raid on a construction site.

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Burmese migrant workers wait in the back of an immigration patrol truck after being arrested near Chiang Mai.

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said that police had demanded money or valuables from them or their relatives in exchange for their release. Migrants reported paying substantial bribes depending on the area, the circumstances of the arrest, and the attitudes of the police officers involved. It is not uncommon for a migrant to lose the equivalent of one to several months' pay in one extortion incident. And if they do not possess enough money to be released, frequently the arresting officers ask whether they have relatives or friends willing to pay to secure their release.

Migrants' daily lives are restricted in many other ways as well. Migrant workers are prohibited from forming associations and trade unions, taking part in peaceful assemblies, and face restricted freedom of movement. Often they cannot leave the area where their work is located without written permission from employers and district officials. The government prohibits migrants from obtaining driver's licenses. Governmental decrees in the provinces of Phang Nga, Phuket, Surat Thani, Ranong, and Rayong sharply curtail basic rights of migrants, including by prohibiting migrants from registering motor vehicles, owning mobile phones, or being outside their

work or living premises after designated curfew hours. In December 2009, the Department of Land Transport made an important decision to permit registered migrant workers to apply for and receive motorcycle ownership documents, but the Thai government has yet to rule on the legal relationship of this new policy and the restrictions in the provincial decrees.

As a result, migrants find themselves arbitrarily stopped by police—or police imposters—searched, and relieved of their motorcycles, cell phones, and other valuables. As Burmese worker Say Sorn said, "It feels like I'm caged here. I have gone to Bangkok on a few trips ... but I am worried that if I am stopped by a police checkpoint ... I will be arrested because I am not Thai."

Thai police often fail to actively investigate ordinary crimes against migrants as well as human rights violations by authorities. Migrants' lack of trust in police is underscored by the frequent number of instances, several documented in this report, in which Thais who have committed beatings or other physical abuses against migrants have then called the police to arrest and detain the migrant.

Migrant workers from Burma, Cambodia, and Laos make up a significant portion of the workforce in Thailand, with estimates ranging from 1.8 million to as many as 3 million



Ethnic Shan from Burma work on a construction site in Chiang Mai.

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A migrant worker from Burma carries a heavy load in a Ranong boatyard. Migrant workers in Thailand's fishing industry work long hours for days on end and are often paid a meager salary.

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workers and accompanying family members, roughly equivalent to 5 to 10 percent of the workforce. Partly due to the vagaries of registration, there are more undocumented than documented migrant workers in Thailand. But documented workers said they too are vulnerable to arbitrary arrest, financial shakedowns for release, and physical abuse. Employers often hold migrants' worker ID cards, the keys to their legal presence in the country. They also retain the power to sign—or not sign—the crucial transfer forms that allow migrants to change jobs and retain their legal status.

Human Rights Watch found many serious abuses of migrants' rights in the workplace. Workers who sought to organize and collectively assert their rights were subject to intimidation and threats by their employers, and retaliation if they filed grievances with Thai authorities. Both registered and unregistered migrant workers complained of physical and verbal abuse, forced overtime and lack of holiday time off, poor wages and dangerous working conditions, and unexplained and illegal deductions from their salary. When migrant workers miss a day or more of work, they often forfeit whatever outstanding wages are owed them. And migrant workers who might complain of mistreatment must always be on guard against employers who would take advantage of their lack of citizenship by calling in immigration officials, police, and even well-connected local thugs who act with impunity.



Police commonly extort money and valuables from migrants, either when they are stopped by police or while the migrant is in police detention. Migrants reported paying bribes ranging from 200 to 8000 baht or more, depending on the area, the circumstances of the arrest, and the attitudes of the police officers involved. For detained migrants who do not possess enough money to be released, frequently the arresting officers asked whether they had relatives or friends willing to pay to secure their release.

The Thai Constitution of 2007 guarantees basic human rights. And Thailand is a party to the major human rights treaties, which provide that non-citizens are entitled to the same rights as citizens, except for political rights such as voting or running for office. Unfortunately, the Thai government has done little to ensure basic rights are extended to migrant workers and their families.

Burmese workers overhaul a fishing boat in the dry dock at the port of Ranong. According to the London-based International Transport Workers Federation, 250,000 Burmese migrant fishermen and women work in Thailand's fishing industry, at sea and in fish-processing factories, but only 70,000 are legally registered.

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Thai government policies on migrant worker registration and residence are complex and frustrating for many migrants and their advocates. The requirements, conditions, and costs to migrants of remaining in Thailand legally have undergone significant changes since 1996. New formal migration channels have so far been underutilized due to the complexities and slowness of procedures, and higher costs involved.



Burmese migrant workers fix a fishing boat in dry dock in a Ranong boatyard.

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Burmese fishermen at the port of Ranong, recover their personal documents and passports after returning from three months at sea.

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A policy announced in 2008 requires registered migrant workers to verify their nationality with officials of their own government. This means more than one million registered Burmese migrant workers must apply before February 28, 2010 to return to Burma and seek the approval of the Burmese military government to receive a temporary passport, and complete the process before February 28, 2012. To date very few have applied, with many justifiably citing fears of possible criminal sanction in Burma for originally leaving the country illegally. A crackdown on undocumented migrant workers, and those registered workers who fail to enter the nationality verification process, may begin in March 2010. In preparation, on December 29, 2009, Deputy Prime Minister Sanan

Kachornprasart issued an order that established a high-level inter-agency committee led by the police who will lead efforts to arrest and prosecute migrants.

Thai government policy towards migrant workers has been largely shaped by national security concerns, as reflected in the language used in the five provincial decrees analyzed in this report and provisions of the Alien Employment Act of 2008. Government officials often regard migrant workers from neighboring countries as a potential danger to Thai communities, the interests of Thai workers, and national sovereignty. Public statements by senior Thai military and police officials, provincial decrees severely restricting migrants' rights, and provisions of law all reflect this policy orientation, which manifests itself most concretely in the nearly absolute control that the Thai migration registration system grants to employers over migrant workers.

Corruption and criminal behavior by local police and other officials fuels a system of impunity in which rights violations

by the authorities and common crimes against migrants frequently are either not investigated or fail to receive proper follow-up.

In the case of Aye Aye Ma, the woman quoted at the start of this report who was raped and whose husband was killed, for example, the police launched an investigation but the case has languished. Despite the discovery of semen at the crime scene that could be submitted for DNA testing and a police report that identified a Thai man from the area as a suspect, the case apparently never advanced beyond the initial stage. Aye Aye Ma, migrant advocates working on her case, and her Thai employer all told Human Rights Watch they believe her migrant status is the primary reason for the lack of police follow-through on the case.

Aye Aye Ma's experience with law enforcement is not uncommon. While it is possible for migrant workers to achieve a measure of justice in certain high profile cases, the norm is one in which police discretion is paramount, and impunity for abuses against migrants is pervasive.

As the quotation of the Prime Minister on October 5, 2009, shows, the Thai government at the highest levels has been vociferous in asserting its commitment to upholding human rights for migrant workers. At the UN Human Rights Council in Geneva in June 2009, the Thai government declared its support for migrant worker rights, responding to an intervention by Human Rights Watch by stating "The Thai Government stands ready, ... to cooperate with all stakeholders in guaranteeing the basic rights of migrant workers, including, but not limited to, the NGOs and international mechanisms such as the [UN Special Rapporteur on the Human Rights of Migrants]."

Human Rights Watch welcomes this commitment and looks forward to engaging with the Thai government on its treatment of its migrant population. But our research shows that the Thai government is violating the civil and economic rights of migrant workers set forth in the core human rights treaties to which Thailand is party.

The Thai government is reforming its policies towards migrants by adopting nationality verification procedures and revamping the use of government-to-government recruitment schemes. But so far only a small percentage of registered migrant workers have gone through nationality verification, and even fewer have entered Thailand through the formal recruitment channel set out in each bilateral agreement between Thailand and its three neighbors—Burma, Cambodia, and Laos. Serious difficulties with the nationality verification policy may make it hard for employers to legally maintain their migrant workforces in the near future.

Our research found government sanctioned discrimination and denial of status to migrants creates the conditions for flourishing corruption and extortion by local police and other officials which remain all too easily hidden from national authorities. Neither employers nor their migrant workers benefit from a situation in which corrupt officials have greater leeway to extort money in exchange for ignoring undocumented workers. But decisions on migration policies remain strongly influenced by national security agencies and their focus on maintaining structures and rules that permit close and continuous control of migrants, and effectively discourage migrants' rights to freedom of assembly, association, expression, and movement. How the Thai government resolves the relationship between migrants' human rights and security concerns will determine the course of its policies.

KEY RECOMMENDATIONS

To address the human rights violations faced by migrants, the Royal Thai government should promptly:

- **Establish a special commission to independently and impartially investigate allegations of systematic violations of the basic rights of migrants by police and other Thai authorities across the country. The commission should have the power to subpoena witnesses and compel provision of documentary evidence, and produce a public report. It should be empowered to make recommendations for criminal investigations in specific cases and for changes in laws, regulations, and policies that adversely affect the human rights of migrants.**
- **Immediately revoke provincial decrees restricting migrant worker's rights in Phang Nga, Phuket, Ranong, Rayong, and Surat Thani provinces, and institute all necessary measures to ensure that the governors of all Thai provinces respect the fundamental rights of both documented and undocumented migrants.**
- **Take all necessary measures to end torture and ill-treatment of migrants in custody. Ensure that all allegations of mistreatment are promptly and thoroughly investigated and that all those responsible are appropriately prosecuted.**
- **Amend articles 88 and 100 of the Labor Relations Act of 1975 to allow for persons of all nationalities to apply to establish a trade union and serve as a legally recognized trade union officer, and ensure that the revised Labor Relations Act is fully in compliance with the standards set out in International Labor Organization Convention No. 87 (Freedom of Association).**

From the Tiger to the Crocodile

Abuse of Migrant Workers in Thailand

The thousands of migrant workers from Burma, Cambodia, and Laos who yearly cross porous borders into Thailand experience daily situations straight out of a Thai proverb—“escaping from the tiger, but then meeting the crocodile”—that describes fleeing from one difficult or deadly situation into another that is just as bad. Migrant workers are effectively bonded to their employers and face rights violations from police, soldiers, immigration officers, and other government officials who threaten, assault, and extort migrant workers with impunity.

Based on firsthand accounts, *From the Tiger to the Crocodile* exposes killings, torture, and ill-treatment of migrant workers by government officials in Thailand. Extortion by government authorities is common at roadside stops, in police stations, during raids on migrant communities, in workplaces, and in the process of deportations at the Thai-Burma border. Police also frequently fail to effectively investigate serious crimes by private citizens against migrants.

The report finds a litany of labor rights violations against migrants, including denying the right to organize and collectively bargain, and retaliating with intimidation, violence, and firings against workers who complain about sub-minimum wages and working conditions. Forced labor and human trafficking continue to be the other major risks faced by migrant workers in Thailand.

Severely restrictive decrees in several Thai provinces compound abuses by prohibiting meetings of more than five migrants without permission, preventing use of mobile phones or motorbikes, establishing nighttime curfews, and restricting migrants’ movements. Thailand’s migrant registration system also increases migrants’ vulnerability by placing them at the mercy of their employer.

The report makes a series of comprehensive recommendations, including to: establish an effective national commission to systematically investigate and publicize information on abuse of migrants, and refer cases for prosecution; revoke the anti-migrant provincial decrees; end torture and ill-treatment of migrants in custody; and amend the labor law to allow migrants to exercise their right to freedom of association to form their own unions.

A Burmese migrant worker waits as Thai immigration officers check documentation during a raid on his worksite near Chiang Mai.

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