December 18th 2012

RegularRights

Do Documents Improve Migrants'Lives?



Acknowledgements

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MAP Foundation December 18th 2012

A Study Comparing the Working and Living Conditions of Three Groups of Migrants: Undocumented, Registered with a Migrant Worker Card, Holding a Nationality Verification Temporary Passport

INTRODUCTION

On International Migrants Day, December 18th, 2012 in Thailand, migrant workers from Myanmar/Burma who do not hold any documents or who do not hold a full set of documents are once again under threat of deportation. This is the 15th time such a threat has been issued. There is one difference however this year. Migrants are being told to go home, apply through a recruitment agency and return to Thailand fully documented. This process is commonly known as the MOU process after the *Memorandum of Understanding Between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on Cooperation in the Employment of Workers* signed in 2003. But what are the incentives for migrants to become documented? Have other documentation procedures provided enough benefits to persuade migrants to invest in this process or have the past experiences of registering or having their nationality verified left migrants disillusioned with the whole idea of seeking legal status?

REGULARRIGHTS is a project set up by MAP Foundation in January 2012 to support migrant workers from Burma to compare and analyse the benefits and drawbacks of three different migration statuses, namely being undocumented, being registered with a migrant workers card and holding a Temporary Passport through the Nationality verification process. 195 undocumented workers, 137 migrant workers holding migrant workers cards and 161 migrants holding Nationality verification temporary passports completed questionnaires about their living and working conditions in Chiang Mai, Mae Sot and Mahachai. In addition, migrants in Chiang Mai, Mae Sot, Mahachai and Phang Nga participated in 12 workshops on nationality verification, social security and the MOU process to learn more about these processes and share their own experiences.

This paper summarises the views and experiences of the migrants who participated in the activities and is the first of a series of proposed papers. In 2013, REGULARRIGHTs will continue to work with migrants to analyse the impacts, benefits and drawbacks of being documented, particularly focussing on the situation for migrants holding a temporary passport through the MOU process.

THE BACKGROUND: REGULARISING MIGRANTS

UNDOCUMENTED MIGRANTS

Thailand's neighbours have entered Thailand in search of livelihood and refuge for the last five decades. They have been received into closed refugee camps or have entered the labour market clandestinely. Due to the political situations in their countries of origin they entered Thailand without any documents. Employment opportunities grew as Thailand developed its export industry of agricultural products, seafood, garments and furniture. The demand for workers in the service industries also increased with the growth of tourism and the growth of the local middle class. From the 90s onwards work was available in abundance for migrants from Burma, Cambodia and Lao PDR, initially with little concern for their undocumented status. Despite various processes to provide amnesty or regularize migrants, the majority of migrants in Thailand from neighbouring countries have always been and remain today, undocumented. Current estimates of undocumented migrants in Thailand vary between 1 and 2 million. All undocumented migrants are liable to be raided, arrested, detained and deported at any time; in order to avoid this, they pay bribes and tea money.

REGISTRATION FOR MIGRANT WORKERS CARD

Since 1992, the Thai government has announced annual amnesties for undocumented migrants to register for temporary migrant workers cards. The cards provide the migrants with the right to work for a set period of time while awaiting deportation. At the end of each period, the government announces the deportation of all migrants. Usually, the number of deportations increase around the deadline and then a new amnesty is announced. In 2004, a new policy requiring migrants and their families to first register for a free temporary ID card (Tor Ror38/1) independent of an employer attracted a far greater number of migrants, 1.3 million migrants (921,492 from Burma) to register. Subsequent policies only allowed those registered in 2004 to re-register but whenever the numbers reduced too significantly, new registeration periods were opened to top up the numbers. The cost of registering for a migrant worker card has changed little over the years, remaining at just under 4,000baht including a medical check up and access to the national health system. 1,011,443 migrants held migrant workers cards.

NATIONALITY VERIFICATION TEMPORARY PASSPORTS

Memorandums of Understanding on Cooperation in the Employment of Workers were signed between the Thai Government and the governments of Burma, Cambodia and Lao in 2002 and 2003 aiming to set up systems to regulate migration. In 2007, all migrants who were registered were told they would have to enter a process to have their nationality verified by their country of origin and be issued with a temporary passport in order to remain in Thailand. Due to the lack of progress by the Burmese government, a Cabinet Resolution in 2008 extended the period by two years for migrants to enter and complete the nationality verification process, with the new deadline being set at February 28th 2010. In 2009, the Burmese government set up three Nationality verification centres in Tachilek, Myawaddy and Kawthaung(later moved to Ranong). But with such a late start, only 142,000 Burmese

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International Organisation of Migration: Migrant Information Note #13

migrants had completed the process by February 28th 2010.² To speed up the process, five new NV centres were set up in Thailand and the deadline was extended first until February 28th 2012, and then until June 14th 2012 and currently until December 14th 2012.

The Thai government made their decision not to extend the deadline again leaving 356,351 migrants (91,678 Burmese, 99,019 Laotians,and 165,654 Cambodians) who had started but not completed the process. All migrants who were not holding a temporary passport by December 14th would be deported. They would have the option in their country of origin of applying for a passport and returning with documents to Thailand. The Ministry of Labour also wanted to look into starting a seasonal worker plan, and agreed to bring in Bangladeshi workers to replace fishermen and Vietnamese workers to replace construction workers.

The Nationality Verification process involves many steps for migrants and costs upwards from 5,000 baht depending on the agency the migrants use. The temporary passport is currently valid for 6 years but migrants can only work in Thailand for four years. At the end of four years, migrants will not be allowed to work in Thailand for the following three years.

MOU TEMPORARY PASSPORT

The main focus of the MOU was not on the nationality verification process but on encouraging migrants to be documented before they left their country of origin and to enter Thailand in a systematic way with an employer and job already lined up. Employers in Thailand must first advertise the vacancies with the local employment office. If no Thai workers apply the Department of Employment can issue a quota for migrant workers. An agency in Myanmar is contacted to recruit and arrange the deployment of the workers from Myanmar. Once the workers are recruited, the employer must provide the terms and conditions of employment, this is meant to happen in agreement with the workers. The names of the workers are then sent to authorities in Myanmar and Thailand. The workers enter through the border for a health check by the Thai Public Health. Migrants who pass the medical check up can apply for a passport and a Myanmar labor card. The employment contract should be signed by the employer and the workers in the presence of the Myanmar officials. The workers enter Thailand through the border and at Thai immigration are issued with a two year visa and then they apply for a work permit in the province where they will work. The actual costs of the process are not available but migrants report having to repay the employers between 15,000 baht to 30,000 baht. The full process appears to take between weeks to three months. In March 2012 there were only 18,372 Burmese migrants holding the MOU Temporary passport.⁴

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According to Ministry of Labour figures at the time a further 690,000 Burmese migrants had submitted their papers but not completed the process and a further 250,000 were eligible but had not yet started the process 3

Ministry of Labour website, Nov 14th 2012 Meeting minutes

Website of the Office of Foreign Workers Administration, Ministry of Labour, Thailand. Total MOU migrants: 90,899 including 15,603 Lao PDR and 56,924 Cambodian

COMPARISON OF BENEFITS AND DRAWBACK OF DIFFERENT MIGRATION STATUSES

Profile of Respondents

493 migrants (213 women, and 280 men) from Burma completed the questionnaires. 83 in Mahachai, 150 in Mae Sot and 260 in Chiang Mai. 195 migrants (90 women and 105 men) provided information about being undocumented, 137 migrants (55 women and 86 men)provided information holding the migrant workers card and 161 migrants (68 women and 93 men) provided information about holding the nationality verification temporary passport.

	Undocumented	Migrant workers card	Temporary Passport
Women	90	55	68
Men	105	82	93
Total	195	137	161
Age	Between 15yrs to	Between 16yrs to 60	Between 19ys and
	60yrs, mostly in 20s	yrs, mostly in 20s	48yrs, mostly in 20s
	and 30s	and 30s	and 30s
Marital status	115 married	93 married	115 married
Period reported on	Late 1990s: 15	1990s: 0	1990s: 0
_	2000s: 120	2000s: 91	2000s: 0
	2010s: 60	2010s:46	2010s: 161
Work	Domestic workers:	Domestic workers: 8	Domestic workers:
	17	Orange/coffee	11
	Orange/coffee	plantations: 3	Orange/coffee
	plantations: 6	Agriculture: 3	plantations: 5
	Agriculture: 18	Construction: 30	Agriculture: 2
	Construction: 28	Fish Factory: 0	Construction: 28
	Fish factory: 0	Garment/knitting	Fish Factory: 18
	Garment/knitting	factory: 22	Garment/knitting
	factory: 23	Small sewing	factory: 6
	Small sewing	factory: 9	Small sewing
	factory: 20	Other factory: 16	factory: 3
	Other factory: 27	Shop: 15	Other factory: 9
	Shop: 16	General labourer: 26	Shop: 11
	General labourer: 34	Other: 5	General labourer: 62
	Other: 6		Other: 6

The majority of migrants workers received less wages than the legal minimum wage. Domestic workers and agricultural workers earned the least regardless of their legal status. The average wage appears to increase with the documentation from 115 baht a day without any documents to 156 baht a day with the migrant workers card to 224 baht a day with the Temporary passport. However this also reflects the time period, with more of the undocumented reporting on periods in the late 90s and early 2000s when the minimum wage was lower. Only a very few migrants received higher than the minimum wage of the time and this was connected to their skills in the job (construction or factory) rather than their legal status.

The number of hours worked by migrants seemed to decrease with regularization, with more of the migrants holding migrant workers cards having working hours which complied with the law (73.3%). In addition more of the migrants holding temporary passports were likely to be paid overtime. Domestic workers and women working in small sewing factories worked the longest hours.

Occupational health and safety conditions were very poor for all migrants and did not improve with documentation Asked to rate their conditions for safety, around 15% of migrants in all categories rated their work as either dangerous or very dangerous and around 20% reported having experienced an accident at work. This percentage was slightly higher for migrants holding temporary passports. This is particularly worrying as this group is only reporting on accidents experienced in the last two or three years. Migrants listed the dangers at work as including electrical shocks, lifting heavy objects, falling from elephant, working at high heights, objects falling from heights, cuts, working in the hot sun. needle injuries (including in eyes), stepping on nails, using pesticide, respiratory problems from dust in factories and cement. Undocumented migrants also included in their list of dangers the panic caused by police and immigration raids. They experienced the raids and the running and the hiding as an occupational hazard. This was the only occupational hazard that reduced with greater regularization and documentation nevertheless one migrant with a temporary passport also reported still being afraid of raids, because her employer kept her passport.

All factory workers were afraid of a fire in the workplace. Less than half the workplaces had fire hydrants and this figure changed little with status, possibly reflecting that many workplaces have a mixed status workforce. Migrants receiving training on OHS or on what to do in case of fire increased slightly with documentation but still only 30% of migrants holding a temporary passport reported being informed what to do in case of fire. In the light of the recent disaster in the garment factory in Bangladesh and the history of fires in Thailand this is an issue of great concern.

195 Undocumented 137 Migrant Workers 161 Temporary
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in 1996 minimum wage in Chiang Mai was 140 baht a day, in 2005 minimum wage it was 153 baht a day, and in 2012,it was 251 baht a day

		Card	Passports
Wages			
Less than 100 baht a	93(47.6%)	30 (21.8%)	3 (1.8%)
day			
Less than 200 baht a	79 (40%)	87 (63.5%)	69 (42.8%)
day			
Less than 300baht a	23 (11.8%)	22 (16%)	77 (47.8%)
day			
More than 301 baht a	0 (0%)	2 (1.4%)	13 (8%)
day			
Average wage per	115	156	224
day			
Hours of work			
8 to 9 hours per day	104 (53.3%)	84 (61.3%)	118 (73.3%)
10 – 12 hrs	42 (21.5%)	23 (16.7%)	22 (13.6%)
Over 13 hours	49 (25%)	34 (24.8%)	14 (8.6%)
OT for workers	40 of 91 workers	27 of 57 workers	24 of 36 workers
reporting working	(43.95%)	(47.3%)	(66.6%)
over 9 hours			
OHS			
Accidents at work	36 (18.4%)	26 (18.9%)	36 (22.3%)
Fire hydrant at work	77 (39.4%)	68 (49.6%)	70 (43.4%)
OHS trainings	18 (9.2%)	27 (19.7%)	46 (28.5%)
What to do in case of	23 (11.8%)	33 (24%)	50 (31%)
fire trainings			

Decent Work: Right to Choose Employment

The migrants were asked to rate how contented they were at work. The number of migrants feeling content increased with documentation and those wishing to change their jobs also decreased.

There were workers in all categories who wanted to change their jobs because of the low wages, the working conditions, problems with the employer or with their workmates and bad living conditions. In all the categories, there were some migrants who expressed the sentiment that they were working in jobs that they did not want to do, which did not suit them, did not interest them. One migrant with a temporary passport said of her job "there is no improvement in our lives". In addition individual migrants mentioned being confined to the workplace. One migrant also said that during low season there was no work and she had to look for temporary work elsewhere, again exposing her to arrest and deportation for being in the wrong job.

Migrants also worried about the employer withholding their documents, which, although the incidence decreased for migrants holding a temporary passport, still about 10% of employers withheld their documents.

195 Undocumented	137Migrant Workers Card	161 Temporary Passports
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Want to change job	115 (59%)	55 (40%)	39 (24%)
because:			
Too little salary	65	29	16
Working conditions	22	9	5
not good			
Late payment	0	4	
Abusive employer	8	3	
Not the type of work	8	9	8
they want to do			
Problems with	4	3	4
workmates			
Bad living conditions	4		
Language	4		

Current regulations for registered migrants or migrants holding a Temporary Passport restrict their ability to change their work or employer. Migrants can only apply to change their employer if the employer dies, the business is closed, or the migrant has lodged a legal complaint about exploitation or against abuse. If the migrant is given permission to leave their current employer, they have only seven days to find a new employer. If they have not re-registered with a new employer within this period they lose their legal status and will be deported. The questionnaire asked migrants how long they felt was a reasonable amount of time to be able to find new employment. In each category, more migrants felt that they needed longer than 7 days to find a new employer.

Time needed to find a new employer	195 Undocumented	137Migrant Workers Card	161 Temporary Passports
Less than 7 days	66 (33.8%)	53(38.6%)	49 (30%)
8 -14 days	31 (15.8%)	20 (14.5%)	19 (11.8%)
15 days to one month	49 (25%)	20 (14.5%)	45(27.9%)
One to 3 mths	10 (5%)	17 (12.4%)	14 (8.7%)

LIVING and LIFE CONDITIONS

Nearly all undocumented migrants lived on the worksite. Most of the migrants noted that there was a lack of clean water and the number of bathrooms and toilets was not enough for the number of people so they were always dirty. The sleeping areas were also overcrowded with no ventilation. The number of migrants living off site increased with the documentation. Those living on site paid between 200 baht – 800 baht for electricity and water which was deducted from their salaries, while rooms outside cost between 1,000 to 3,000 baht per month and migrants shared the rooms and expenses. Migrants felt that there was not enough done to make proper housing options available for migrants and that they were paying a lot for often very poor conditions. Some migrants wanted to have enough space to grow vegetables to decease their costs and ensure healthy diets. On construction sites, migrants said that it was particularly hard in the rainy season and there were a lot of mosquitoes, while in the hot season living in the tin shacks on the construction sites was very hot. Despite having a temporary passport, 33 of the respondents said that they could not travel outside of the work area.

Asked about their freedom to exercise their culture or religion, most migrants in all groups said that they felt free to do so. Only 36 of undocumented migrants felt that they were not allowed to do so. But when questioned on how they exercised this freedom, the vast majority spoke of participating in two or three religious or cultural events per year. Very few migrants had any regular cultural or religious activity because they did not have time, did not know where to go or had no friends to do activities with.

The questionnaire asked migrants if they had ever been invited to any event or activity by people in the local community. Of all the migrants responding only one had Thai friends and only a very few ever did any activity with the Thai community. A few migrants mentioned joining the Thai community for celebrations such as the Water festival or making merit at the temple. Migrants explained why they did not have Thai friends, the following quotes represent the majority of the replies

- @ because I am an alien
- because we are workers
- @ because we are migrants
- because there is a type of separation between Thai and migrant workers
- because I am a domestic worker and so can't contact anyone

The interaction with Thai society increased somewhat for migrants holding a temporary passport with male migrants reporting that they were asked to join football or takraw matches. Migrants holding temporary passports in the workshops also felt that the right to travel with the temporary passport gave them greater freedom and more confidence. However, migrants with temporary passports in Mae Sot were not able to enjoy this right as a local decree prevents them from leaving Mae Sot.

SECURITY

Most migrant respondents had been stopped by the police at some time, regardless of their legal status. Undocumented migrants either paid a bribe or were detained and deported. Migrant workers holding migrant workers cards reported being checked for documents and were often stopped for driving a motorbike without a licence. Although this is an offence with a set fine, migrants reported paying anything from 500 baht to 3,000 baht. Migrants with migrant workers cards also reported being routinely fined 2,000 baht for being outside the area of registration, working in the wrong job or with the wrong employer. The amount of fines and bribes paid reduced with the temporary passport. Not only could migrants not be fined for not holding documents or for being in the wrong place but with the temporary passport they were also able to take a driving test and hold a driving licence. However during the workshops with migrants on the Temporary passport, migrants said that they although they were no longer paying bribes to authorities, they were still paying the same amount of money or more to be in Thailand. Not only were there the costs of getting the temporary passport and work permit but they also had to report to Immigration every 90 days which involved loss of a days work, transport costs, and fees for filling in the forms.

None of the migrants reported getting any assistance from the Myanmar embassy when they were arrested.

EDUCATION AND HEALTH

All children of migrants have been able to officially access the Thai education system since the policy for "Education for Non-Thai and Non-Documented Persons" was issued in July 2005 in line with the UN policy on Education for All. Even though children of undocumented migrants are also eligible for education, the respondents clearly show that being registered and holding a temporary passport has greatly improved the access to Thai schools for migrant children. While only 8.5% of the children of undocumented respondents were attending Thai school, 67% of children of parents holding temporary passports were attending Thai schools. Schools run by the migrant community played a significant role for migrant families in all categories. 11% of children of undocumented migrants did not attend any school while all children of documented migrants were in school.

Access to affordable health care also improved greatly for migrant workers with the increased documentation. Only in Mae Sot could undocumented migrants access affordable health care, all other undocumented migrants had to pay high costs for health care. Migrants with migrant worker cards and migrants with temporary passports had equal access to 30 baht health care. In one area however, migrants with temporary passports reported paying fairly large amounts for health care at one particular hospital. Only undocumented migrants reported cases of not being able to access health care when needed.

Employers of migrants holding temporary passports are meant to facilitate workers access to the national social security system of Thailand in which the employer, employee and government make a monthly contribution which then provides the worker with a social safety net. None of the migrants holding temporary passports had been informed about the social security system by their employers. Migrants attending the workshops on Social Security had no prior knowledge of the details of social security benefits. Some had heard that if they entered the system their wages would be cut and they were therefore wary of discussing with their employers. After the workshop many migrants were interested in following up the issue with their employers and felt that paying into social security could provide them with greater security in their lives.

Asked if they were confident to contact Thai authorities, the majority of undocumented migrants were too afraid to make contact, while the level of confidence rose with each level of documentation.

	195 Undocumented	137 Migrant Workers Card	161 Temporary Passports
Children	63 had children of whom 35 had children of school age	67 had children of whom 44 had children of school age	
Schooling	3 (8.5%)in Thai schools 14 (40%) in migrant schools	22 (50%) in Thai schools	45 (67%) in Thai schools 19 (28.3%)in migrant schools 4 (5.9%) in Burma 0% no schooling
Access to health care	In Mae Sot migrants accessed health care through Mae Tao Clinic, in other areas they accessed private clinics or hospitals and paid between 200 baht and 5,000 baht	Nearly all had access to 30 baht health care either at government hospital or Mae Tao clinic	Nearly all had access to 30 baht health care either at government hospital or MaeTao clinic

CONCLUSIONS

> Temporary passport is good for travelling and living, but it is not so different for wages and working

At the beginning of this paper, we posed the question: what are the incentives for migrants to become documented. This paper has compared the working and living conditions of migrants with different migration statuses and found the following incentives and disincentives for migrants to become documented.

INCENTIVES

➤ Since I have had a card, things are much better, I don't need to be afraid
Being documented made some significant improvements to the migrants' family and social
lives. The children of migrants with temporary passports had much greater access to
education, and in Thai schools to qualifications. Documented migrants also had better access
to affordable health care, although there was no significant difference between access for
migrants with migrant workers cards and migrants with temporary passports. In both
education and health, migrant run facilities played a major role for all migrants.

Migrants with temporary passports were more able to live outside of the worksite and thus have a little more freedom from the employer. However, construction workers and domestic workers did not have this choice, even when fully documented.

While all other migrants had almost no interaction with the local Thai community, a few male migrants with temporary passports could join sports events.

Documentation protected migrants from paying bribes to the police but not from being stopped by the police and having documents checked. Being able to take a driving test and get a licence was often cited as a major benefit of documentation as was being able to open a bank account. The right to travel in Thailand with the temporary passport was also mentioned as an improvement to migrants lives.

- When I was undocumented I was afraid to go anywhere, I only worked and only got a little money and I had to watch out all the time
- **Q** TP helps to travel easier and to pay less at check point
- When I had no card, I was very afraid, but now I have a card, I am not afraid, I can go wherever I want.
- We can work without fearing arrest

DISINCENTIVES

➤ Before when I had no card, I paid the police, then I paid for the card, for the TP I pay many people and more money

The major disincentive is the financial and time costs which are not compensated for by an improvement in working conditions. Despite being fully documented with temporary passports, only half of the migrants responding were receiving wages close to the minimum wage. The increase in wages for most migrants however did not offset the increased costs of documentation.

There was no significant increase in the safety conditions of migrants. Most workplaces did not have fire hydrants or procedures for what to do in case of fire or occupational health and safety trainings. Being documented did not give migrants any guarantee of safe working conditions.

The dangers at work was one of the reasons why migrants wanted to change jobs but migrants with temporary passports face more restrictions and costs in trying to change jobs. This greatly limits migrants negotiating powers to improve their working conditions because the employers know that the workers have no choices and no freedom to leave. Documented migrants who do manage to get permission to change their employer have only 7 days to find a new employer and thus do not have the time to choose employment with better conditions.

- I still don't earn enough for living and I need to pay more for cards
- Q I don't understand that we have a passport, but we cannot get full wages. We have to work at 8am to 9pm but just get 170 baht
- It is the same except police don't arrest us
- Don't like all cards as it need to pay a lot and I borrowed for register fees. Cards don't help anything in working conditions.
- Uses a lot of money and then very stressful to go to immigration
- Q I am so afraid of the fine for the 90days because I cannot read
- It is not so different we have work permit but do not get full wage

RECOMMENDATIONS

WORKING CONDITIONS

- ✓ The Thai Ministry of Labour should be pro-active in enforcing the Labour Laws of Thailand in all workplaces, for all workers, including payment of minimum wage. This should not exclude domestic workers or undocumented migrants.
- ✓ Sufficient funds should be made available to hire, train and deploy labour inspectors to inspect health and safety conditions. Cooperation with NGOs and migrant groups could be sought to increase labour inspections.
- ✓ Directives should be immediately issued to all employers to provide trainings to employees on what to do in case of fire and to have working fire fighting equipment in place.
- ✓ Employers who do not comply with the Labour laws and with health and safety standards should be severely sanctioned.
- ✓ Restrictions on the change of employer should be lifted to allow migrants to choose work and to create healthy competition among employers.
- ✓ The Embassy of Myanmar should offer full consular services to migrants including assistance in cases of labour exploitation. More labour attaches should be employed, with at least one in each region of Thailand or attached to the current NV centres.
- ✓ The Government of Myanmar should work together with other countries of origin, including Lao, Cambodia, Vietnam and Bangladesh to negotiate collectively for better conditions for migrant workers in Thailand.

DOCUMENTATION PROCESSES

- ✓ Thailand and Myanmar should work together to ensure that the costs of documentation are reasonable (in relation to wages).
- ✓ Threats of deportations and actual deportations should not be used to coerce migrants and employers into entering documentation processes.
- ✓ Open-ended systems should be put into place for migrants to apply for passports which could be issued by the Myanmar embassy in Bangkok.
- ✓ Documented migrants who have not committed any offence should be free from all forms of police and immigration harassment.

LIVING CONDITIONS

- ✓ The improvements in access to health and education which has been achieved through cooperation with NGOs and migrant community facilities must continue in order to achieve universal coverage.
- ✓ The Ministry of Social Development and Human Security should set up a committee to research and make recommendations on improving the interaction between migrant and host community.
- ✓ Affordable social housing should be built in places where there are large numbers of migrant workers.

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