

Cheating the system

Despite a new nationality verification programme, Thailand's immigrant workers still face problems trying to stay legal

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Earlier this year, a colourful leaflet written in Burmese script, began circulating in Samut Sakhon, Mae Sot, Rayong and migrant communities all over Thailand.



SCANT INFORMATION: The leaflet explaining the nationality verification programme.

The leaflet, prepared by the Burmese government with assistance and funding from international organisations, provided instructions for Burmese migrant workers on how to become legalised after verifying their nationality. It pictured three new centres in Burma where, from July 15, workers could receive temporary passports that allow them to apply for work permits in Thailand, and ultimately receive the same benefits and protection as Thai workers. Expenses, it said, would be only 3,000 kyats (100 baht).

The front flap of the cover was stamped with a Burmese police logo and promised that the process will involve "No Arresting, No stop/check, No Tax".

To the many the pamphlet was targeting, the programme sounded too good to be true. And in many ways, though perhaps not in the ways they were expecting, they've been right.

The Labour Ministry has set Feb 28, 2010, as the deadline for nationality verification for all workers (1.2 million are eligible). Those that are unverified at that point are theoretically subject to arrest and deportation.



SATISFIED CUSTOMERS: Some of the success stories at the Thai-Myanmar Development Cooperation Co. **LEGALISED:** The proud owner of a new Burmese passport.

Yet more than three months into the process, only 2,000 Burmese migrants have had their nationality verified. Burmese nationality verification centres say they are now processing 200 people per day on average (the capacity for the three centres is said to be 1,000 per day), a rate that many advocates have pointed out will legalise Thailand's Burmese migrant population only after a number of years.

But the policy has been panned by international organisations and migrant advocacy groups for being complicated, costly, time-consuming, non-transparent, insensitive, under-publicised and not fully explained to migrant workers.

"It's a train wreck," says Philip Robertson, the technical adviser on migration and workers' rights for the South East Asian Refugee Community Home, and a seasoned expert on migration policies in the Asean region.

While most believe the nationality verification effort was borne of good intentions and is, in theory, a step towards better management of a growing migrant population, observers charge the programme has become a seriously-flawed policy, and at worst, a corrupt and insincere "paper exercise" designed to exploit the country's migrant workers.



ALL IN A DAY'S WORK: Many Burmese migrant workers are involved in Thailand's fishing industry.

The process has drawn the watchful eye of the United Nations Inter-agency Project on Human Trafficking (Uniap) and enough concern that the UN Special Rapporteur on the Human Rights of Migrants was petitioned by a number of migrant advocacy

groups in September. The Special Rapporteur requested an investigatory visit, which Thailand has denied.

Though only a tiny fraction of Thailand's migrant workers have been through the process, there is already abundant evidence to bear out the concerns.

Aung, a 26-year-old worker who has been in Thailand for 10 years, is one of the 2,000 Burmese migrants who has had his nationality verified.

He received his temporary passport on Aug 18, and spent 6,450 baht in the process - 100 baht for his passport in Burma, 2,000 baht for a visa for Thailand and the remainder for services provided by a company called CEO Enterprise.

Among CEO Enterprise's services were a 250 baht plastic membership card (much like a gym ID), submission of personal documents to the Department of Employment (DoE) and a bus ride to and from the nationality verification centre in Tachilek.

His work permit will cost him an additional 3,800 baht, and he will be a legal worker after spending a total of 10,250 baht. He also paid 3,800 baht earlier this year, to extend his visa.

Like many in Samut Sakhon, he earns less than 200 baht a day, and his employer is deducting the cost of these fees from his wages at a rate of 2,000 baht every 50 days.

Yet, the cost to Aung turns out to have been a relative bargain.



ONE-STOP SHOP: One of several government-approved brokers offering services to migrant workers.

The price at the Thai-Myanmar Development Cooperation Company, another nationality verification service provider, is 7,300 baht, while CEO Enterprise has been known to charge varying rates (it would not disclose its price when contacted by Spectrum). Aung's sister was asked to pay 12,000 baht. Others, according to the

Human Rights Development Foundation (HRDF) and Rak Thai Foundation, have been charged up to 15,000 baht.

CEO Enterprise, the Thai-Myanmar Development Cooperation Company and NIK Global were endorsed by the DoE as registered companies with Thailand's Ministry of Commerce to assist in the nationality verification process. The DoE issued the endorsement after the Burmese Embassy asked about the legalities of the service providers.

In some provinces, workers have been told by DoE employees they must use one of the brokers; in others, that the brokers will expedite the process.

The swift and non-transparent entrance of these three companies into the process in which there are 1.2 million potential clients has made observers suspicious. Some of the firms have connections to military and former labour ministry officials, according to human rights workers and employers familiar with the process.

The steep fees being charged by the three has exacerbated those concerns, and earlier this week provoked a demand from Burmese officials - NGOs have been making similar demands for weeks - for regulation of the companies and a price cap of 1,000 baht.

In a news release last Tuesday, the DoE said the companies would be regulated and their prices capped at 4,000 baht.

"Any time third parties are involved, costs go up, and ultimately those costs are paid by the migrant," says Federico Soda, a regional programme development officer with the International Organisation for Migration, who points out that the current costs of nationality verification through a broker service and a work permit amounts in some cases to four months' salary of a migrant worker earning the minimum wage (4,000 baht per month, but many make less). Without a broker, it costs about two months' wages. In either case, "it's too expensive", he said.

There have been other cost irregularities. The DoE says the price of the Thai visa will be reduced from 2,000 to 500 baht - what Cambodian and Lao workers are charged. But it is unclear when this will happen, why Burmese migrant workers are charged more, or if they will be reimbursed. There is also the problem of unregistered brokers recently entering the business and in some cases, disappearing with workers' money.

An employer in the seafood industry in Samut Sakhon who did not wish to be identified says the system is mired in corruption. Knowing the inflated prices of the brokers' services, the employer chose to register the factory's thousands of migrant employees without using a broker.

When the employer took the applications to the Samut Sakhon employment office, the employer was told that it was not the company's scheduled day for submissions. The company had never been informed there was a schedule. Only after paying a

fee, were the applications accepted. The employer also says that influential factories in the area have managed to pay a fee to have their workers exempted from the process.

An official with Thailand's Department of Labour Protection and Welfare (DLPW) conceded corruption was a problem in the process and there were investigations underway.

Mr Robertson says: "Brokers exist because the system doesn't work - it's so complicated that employers have no choice but to outsource the task to a third party." He adds that in the region, foreign labour recruitment and servicing has "always been seen as a business opportunity for well-connected elites".

Yet there is also evidence that the nationality verification business has not been the boon many were expecting.

The day I visited, the brand new Samut Sakhon branch of the Thai-Myanmar Development Cooperation Company was empty, aside from its 12 staff and a few workmen installing light fixtures.

Employees were busying themselves, creating information boards with photographs showing the company's success stories.

A Thai staff member explained the company helped Burmese workers get passports. He explained they charged 7,300 baht for "full service", which is a vague package that includes "transportation, food and other services".

He admitted that their first two months in the business had been tough.

The office had seen only about 200 applicants, only 29 of whom had been approved and sent by bus to the border to obtain their temporary passports.

Business had been dampened by widespread rumours, fear and ignorance of the process, he explained.

This, by all accounts, is true, and is due in large part to the lack of foresight that was given to implementing and communicating the policy, as well as a lack of consideration for those most affected by it.

Where nationality verification takes place has been a contentious issue - this was the point that prevented agreement until last year, when Thailand conceded and reportedly funded the border centres and provided computers for the Burmese officials.

The Burmese reportedly feared centres based in Thailand would be targeted by political groups, even though travel to Burma is costly, inconvenient and time consuming for migrants and their employers.

The trip for many migrants - notably those from ethnic minorities that in the past have been terrorised by Burmese authorities through forced labour, displacement or worse - is also unnerving.

The nationality verification process, which requires submission of personal and family details to Burmese authorities, has stirred suspicions that such information is being collected for more sinister purposes. Many also suspect that the urgent implementation of the process before an election year is not a coincidence.

Rumours are widespread within migrant communities that Burmese authorities are physically threatening and/or extorting money from the families of applicants. There are also stories circulating that busloads of applicants have been arrested at the border and taken to Insein prison.

While many advocates admit such behaviour would not be out of keeping for Burma's military junta, they caution, that, despite much effort to do so, none of the stories have been substantiated. Many suspect political opposition groups and people traffickers who have made large sums of money smuggling and extorting illegal Burmese workers over the years are spreading the stories.

Even so, fear persists. Many migrant workers receive phone calls from their families in Burma, pressing them not to go through with nationality verification for fears over their safety. The majority of the migrants interviewed for this story either refused to complete a nationality verification application or, if forced to do so by their employer, submitted false information.

The official with DLPW said half the applications that had been received had incorrect information. In those cases, the applications are sent back to employers, who ask workers to correct the forms.

Advocates stress that disinformation has flourished, largely because the process has not been clearly explained. Aside from the leaflet produced by international organisations on behalf of the Burmese government, there has been no formal information to help migrant workers.

The Thai government's public relations effort was limited to alerting employers of the policy and asking them to inform and distribute nationality verification forms to workers.

There seems to have been little awareness that minority ethnic groups persecuted by the regime would not want to be labelled "Burmese" or in fact that some may not be given such a status. Muslims from Burma, such as the Rohingya, are excluded from the process.

In focus groups conducted by the HRDF with 80 workers from Chiang Mai, Bangkok and Samut Sakhon, lack of awareness of, and a lack of trust in the national verification process, was prevalent. For instance, they were unaware whether they

had to verify their nationality, the costs involved, what benefits it would bring and what the consequences would be if they did not.

"I don't understand anything about this issue. It's like they are ordering us to go into a cave, but we don't know what's inside. Is it dangerous?" asked one man.

While some in the focus group had sworn off the process _ including a woman who makes 110 baht a day and finds it far too expensive, and a man who believed it was simply a disingenuous ploy to win votes in the upcoming election _ most migrants interviewed seemed to be at various stages of weighing up the personal costs, benefits and risks. There are reports that the process has driven workers home to Burma and to seek refugee cards in Malaysia, though most observers doubt there will be significant migrations, because those journeys are also costly.

Mr Soda of the International Organisation for Migration concedes the process puts migrants in a difficult position. "If migrants do not accept these conditions, they risk being dismissed by their employers. Migrants will be assessing the cost of the process, versus the benefits."

How robust those benefits will be is also being questioned. While most observers agree that it should improve the legal status of workers, they are also quick to point out that it won't necessarily improve workers' rights.

"It's a thin layer of protection," says Paul Buckley of Uniap, noting that the longstanding problems of employers holding on to the passports of workers they fear would otherwise run away, will likely continue.

"This happens with documented Cambodians and Laos," says Mr Soda. "Even when they go through the proper channels. Suddenly they have this precious piece of ID. It cost a lot, it took time and employers will still withhold it and they'll still have debts to pay. That won't go away."

Mr Robertson advocates a system in which workers are registered independently and allowed to change employers freely. "This would force good practices and place an upward pressure on standards."

Others suggested solutions include reducing the costs, extending the time period (which everyone I spoke to called "impossible"), eliminating third-party brokers, moving nationality verification to Thailand and better educating migrants and employers on the process.

There are signs some of these doubts are starting to receive attention. The MoL has tinkered with the policy in recent weeks, extending the programme to workers' children and vowing to regulate the nationality verification brokers.

While these are improvements, observers are concerned by the failure of both governments involved to acknowledge the migrants' security concerns. "There is no easy solution. Thailand is dealing with one of the most difficult migration flows in the

region, and probably beyond. It's a process which is virtually impossible to implement without a proper structure on the other side. Thailand often benefits from these workers, but it's not always easy," says Mr Soda.

As for the few who have been through the process, they seem to be happy, if considerably poorer. Aung is proud, and quick to show off his passport. In the two months since he obtained it, he's returned to Burma three times. He enjoyed the easy passage through the provinces and crossing the border, these times, without the smuggling fees.

The DoE did not respond in time for publication of this article.