

MIGRANT WORKERS IN MYANMAR*

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Myanmar is facing two main challenges which are the infringement of international migrant workers' rights and the infringement of internal migrant workers' rights. Most of those workers have their rights and privileges infringed upon by their employers. Our country is the largest country in mainland Southeast Asia, Myanmar has one of the lowest population densities in the region. Internal migrants in Myanmar constitute a significant population.

The great majority of poor people in Myanmar live in rural areas. In rural areas most of the people live off the cultivation of the farmland, so they are farmers. The income of farmers is the lowest in Myanmar due to the bad weather and the economy of the country. Previously, their sons and daughters could not be sent to school to receive an education, but nowadays children have access to education. After young people finish their studies or get a degree, they need to earn a living. Even if they can find a job, they don't get enough money, therefore they cannot support their families. So most of the young people try to work and earn more money abroad. Some try to work as internal migrant workers. Whether they migrate to work internally or internationally, they are faced with their rights being infringed upon by their employers. Some have to face the worst situations or conditions.

In our country there are labor regulations protecting the migrant workers. There is no specific law about migrant workers, but there are several other legislative acts relating to migrant workers in Myanmar such as Workmen Compensation Act 1923 (as amended 2005), Leave and Holidays Act 1951 (as amended 2014), Law relating to Overseas Employment 1999, Minimum Wage Law 2013, Settlement of Labour Dispute Law 2012 (as amended 2014), Labour Organization Law 2011 etc. (see Table 1 below).

Even though these labor regulations provide protection for the workers, they still face the infringement of their rights in the relationship between employers and employees. NGOs are trying to save and support the victims. The most important fact is that the Government has to enact a specific law and implement the laws they have promulgated, so they should protect and prevent the abuse of migrants before these problems even occur. However, the rule of law is weak in Myanmar: if the rule of law was strong, the laws could easily protect and prevent those problems.

I have established two categories of migrants in this paper having stated the weak points of the laws of our country, Myanmar and I have used well-known cases in Myanmar as examples.

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1. Migrant Workers in Myanmar

There are two kinds of migrant workers in Myanmar, internal migrant workers and international migrant workers. The population of internal migrant workers is larger than international migrant workers. The people in rural areas are migrating to the big cities; Yangon, Mandalay and Naypyitaw. In rural areas there are few chances to work, so the people in rural areas are migrating to the big cities or abroad to work.

1.1 Internal Migrant Workers

51 percent of all internal migration in the country is across states/regions, 49 percent of all internal migration is within a state/region. Migration within a state/region is mainly rural-rural or urban-urban (ILO 2015).² The 2014 Myanmar Population and Housing Census (Census Atlas, 2015) listed internal migrants at over 9 million in 2014.³ The biggest cities are Yangon, Mandalay and Nay Pyi Taw. Most of the internal migrants are from Magway, Ayawady and Bago.

Internal migrant workers are mainly facing the issues of forced labour, human trafficking in person and child labour. They often work in unhealthy and unsafe conditions and they often exposed to extremely cold or hot air temperatures, dust, fumes, loud noises, or vibrations and sometimes toxic chemicals. 60 percent of migrant workers work the whole week. They don't get the holidays they should (UNESCO et al 2018). Even though every employee should be entitled to get the holidays as announced by the Government in Myanmar.⁴ 40 percent of migrant workers are working overtime, but they are not paid extra for their overtime work. Working hours are regulated in various labor laws. Under these laws, working hours are limited to 8 hours per day. If the employees need to work overtime, it should be a maximum of 12 hours per week. Migrant workers are reluctant to report abuse by employers to labour authorities or police because they believe that doing so might have negative consequences for them, such as losing their jobs (UNESCO et al 2018).

Most of the migrant workers were coerced into forced labour by the military and civilian officials, for decades. The practice of exacting forced labour from civilians was underpinned by British colonial laws, the Town Act of 1907 and Villages Act of 1908. In 2012, the Government signed an agreement with ILO for assistance in the elimination of forced labour. In 2012, the ILO and the Government signed a memorandum of understanding to adopt an overall framework and principles to end forced labour.

In 2014, the Government reported prosecuting 124 human trafficking cases involving 367 suspects and 309 trafficked persons. They majority of the cases were for forced marriage but also included labour exploitation, sexual exploitation and one child trafficking case. Of the 124 cases, 77 of them related to the trafficking of persons in China, 26 internally within Myanmar and 18 in Thailand (ILO 2015).

² The ILO study (ILO 2015) was based on a sample size of 7295 internal migrant workers. It used a non-probability sampling method, and statistical findings related to this research cannot be said to represent the entire population.

³ The 2014 Myanmar Population and Housing Census defines migration as inter-township movement of more than six months (Census Atlas, 2015).

⁴ Section 3, Leave and Holiday Act (1951), Myanmar

Internal migrants across the country raised the issue of insecure housing in their destination area. During the focus group discussions, workers explained that internal migrants are often unable to afford rental housing and instead have to construct their own housing out of basic materials, such as wood or bamboo, typically beside the work site, in urban areas or in the forest.

There are a lot of child laborers who are internal migrant workers. They usually work in a tea shop (there are a lot of tea shops in Myanmar) as waiters. They always work over the time set by the laws. They work from 5 am to 10 pm until the shop closes. But their salary is the lowest among the internal migrants. They can't rest until the shop closes. Most of the children are younger than the minimum age set by the law. Some children are forced to enter the military. This is the biggest problem to solve, but the law cannot protect them from this situation. Some girls who are under 18 years old are working as maids, moving from their city to Yangon City. In Myanmar there are well-known cases about the infringement of the rights of the internal migrants. Among them, I want to present a well-known case in the following.

Victims San Kay Khine and Orphan Thazin were just 12 and 11 years old when they were sent to Yangon in 2011, San Kay Khine's mother Nyo Nyo Win said during an interview in a remote village in Kawhmu Township, three hours drive south of Yangon. Their salary is about 15000 kyats (12\$) as live-in maids. Since the girls worked at Ava Tailor Shop on 40th Street in Yangon owned by a man named Tin Thuzar, they were tortured and treated like slaves. Their families often tried to meet them by going to Yangon every month. The shop owner didn't allow them to meet their families. The girls were hidden and kept to work in the tailor shop or in the employer's eight-floor apartment. The employers were subject to horrible daily abuse, such as beating with steel rope, cutting with scissors and burns inflicted on the skin with cigarette butts and lighters. San Kay Khine suffered most as all of her fingers were broken. Her right arm was broken once too. They suffered for five years. A man who had business dealings with the shop alerted Myanmar Now of the brutal abuses to Kyauktada Police, but as there was no police follow-up, Myanmar Now alerted the Myanmar's National Human Rights Commission. The Commission solved the problem with the compensation (5,000,000 kyats). The Commission asked to accept the compensation lump sum from the tailor shop owner. The employer swiftly offered to pay 4 million kyats for San Kay Khine and 1 million for Thazin. But later the case was tried in court. Finally the court sentenced four family members to 13 years and up.⁵

Internal migrant workers in Myanmar are deprived of their rights, be it by coercion, abduction, sale of workers, deception about the nature of the work (industry, occupation, employer, location, hours, wages, housing or living conditions), physical or sexual violence or threats, required overtime or other work (outside of employment agreement), restriction on freedom of movement, financial penalties or dismissal (ILO 2015).

1.2 International Migrant Workers

Under the military regime, the economy of the country declined. It was difficult to earn a living within the country for the people of the country. So many people decided to

⁵ BBC Burmese News, 3rd October 2016, <https://www.bbc.com/burmese>

work at the borders (Muse, Myawady, Tachileik, Mae Sai) or abroad. Why they intend to work at the borders or abroad is to support their families and help their friends. Although there are a lot of chances of employment within the country, chances are that they'd receive a poor salary that's not enough to support their families.

70 percent of international migrant workers from Myanmar are in Thailand and Malaysia. Some people are working in China, Singapore and South Korea etc. (Census Atlas, 2016). Nowadays young people are migrating to Singapore and South Korea more than before. Girls who migrate to Singapore are working as nurses, maids or engineers etc. When they leave to work abroad, some are going by legal routes but some move illegally. Previously, a lot of migrant workers were illegal migrants. Later the Government has signed a MOU with the government of Thailand about working visas. But there are still illegal migrant workers in Thailand and Malaysia (Census Atlas, 2016).

About migration to Thailand: in the past, the people living along the Thailand-Myanmar borders used to cross the border to work abroad. From 1992 to 2012, the influx of migrant workers from Myanmar has continued to grow in Thailand. Nowadays there are 2 million migrant workers from Myanmar in Thailand. The largest population of migrants from Myanmar are in Thailand. They can work in many sectors in Thailand: in the sectors of agriculture, construction, fishery, domestic, services and sales, transport and trade etc. (Chantavanich, 2013).

About migration to Malaysia: There are 139,200 Burmese refugees (Chins, Rohingyas, Panthays and Rakhines) in Malaysia. The second largest population of migrants from Myanmar is in Malaysia. Many of the new migrant workers are in the hands of human traffickers or have been killed by other criminals.

70% of migrant workers from Myanmar are in Thailand, 15% in Malaysia, 4.6% in China, 3.9% in Singapore and 1.9% in USA.⁶ In Singapore most of the girls from Myanmar are working as maids. Some are nurses and engineers. Some maids are deprived of their some rights, such as not having enough to eat and a good place to sleep.

2. Relevant Laws in Myanmar

As we mentioned above, there is no specific law about migrant workers, but there are other relevant legislative acts concerning (directly or indirectly) the rights of migrant workers in Myanmar. Table 1 summarizes these acts as follows.

⁶ <https://www.iom.int/countries/myanmar>

Table 1

Relevant Laws in Myanmar

Title	Year of adoption
Workmen's Compensation Act	1923 (originally), amended in 2005
Leave and Holiday Act	1951 (originally), amended in 2014
Employment Restriction Act	1959
Income Tax Law	1974 (originally), amended by Union Tax Law in 2017
Law Relating to Overseas Employment	1999
Labour Organization Law	2011
Social Security Law	2012
Settlement of Labour Dispute Law	2012 (originally), amended in 2014
Employment and Skills Development Law	2013
Minimum Wage Law	2013
Payment of Wages Law	2016
Factories Act	1951 (originally), amended in 2016
Shops and Establishment Law	2016
Oilfields (Labour and Welfare) Act	1951

*Source: author***Conclusions**

A lot of cases of internal and international labour migration are still happening although the percentage of migrants at the present is lower than in the past. 40 percent of migrant workers have access to legal protection. But 50 percent are still suffering from the infringement of their rights. In the future, how will this percentage improve? I think we can reduce the rights violations at least 20 percent more, as the government has been trying to reduce this number by cooperating with the NGOs. The most important development would be the implementation of specific laws for the protection of migrant workers' rights. In Myanmar there are two centres for the settlement of migrant workers' disputes, but there is no labour court and specific law for the migrant workers. If the government can establish a specific labour court and promulgate specific law for the migrants, it can further reduce the percentage.

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