There are approximately over 4 million migrant workers in Thailand from Cambodia, the Laos People's Democratic Republic, and Myanmar. However, as of February 2021, out of 4 million, only 1,931,650 migrant workers are legally permitted to work in Thailand. Together, they make up more than 10% of the country’s workforce. While Thailand is home to many migrant workers, its policies have been ineffective in managing the growing number of migrant workers. The Thai government has neither ratified the International Convention on the Protection of the Rights of Migrant Workers and their Families nor ILO Conventions 87 and 98, all of which set out international standards for workers’ rights. Moreover, no legislation upholding migrants’ rights has been implemented. Since policies are often ineffective and ever-changing, migrant workers, particularly undocumented migrants, live with a precarious legal status and are thus vulnerable to human rights violations.

During its 2nd UPR cycle, Thailand received three recommendations regarding the necessity to ratify the International Convention on the Protection of the Rights of Migrant Workers and their Families, of which it supported two and noted one. Furthermore, the government received five recommendations directly addressing the protection of migrant workers’ rights, all of which it supported, and therefore committed to “put in place legislations to protect migrant workers from abuse and exploitation.” In addition, the Thai government received 25 recommendations addressing the protection of vulnerable people, 23 of which it supported and two of which it noted. While the Government has approved all the recommendations, it has failed to implement all of them.

REALITIES ON THE GROUND

**Challenge 1: Migrant workers and their families have been disproportionately affected by the COVID-19 outbreak yet continue to experience discrimination in receiving government assistance**

Migrant workers were among the first to lose their jobs in Thailand, leaving them without income to support themselves and their dependents. While some have returned to their home countries, others are unable to do so because of border closure.

**The Thai government’s response to the COVID-19 outbreak is not inclusive of migrant workers and their families.** Financial assistance is not provided to migrant workers, despite estimates that as many as 700,000 migrant workers have lost their jobs during the COVID-19 outbreak. Since the outbreak, laid-off migrant workers have been unable to access financial assistance from the government either because of their foreign nationality or because of their former employer’s failure to notify the Social Security Office of their employment termination. On top of the lack of financial assistance from their employer and the government, Thai labour law remains unnecessarily harsh on migrant workers. Under Thai labour law, they are required to find a new job within 15 days of the termination of employment, otherwise their legal status will automatically expire. As a result of business closures and suspension of operations, many migrant workers have been unable to find new jobs within the required time frame, rendering them illegal immigrants subject to arrest and deportation.
Despite the government’s extension of the timeframe to 60 days from July 2021 onwards, the extension by a mere 45 days provides little to no relief for migrant workers during the COVID-19 outbreak.

Despite their overcrowded, hazardous, unsanitary work and living conditions, which expose them to a higher risk of infection, COVID-19 vaccines remain unavailable to most, if not all, migrant workers and their families, either due to language barriers or their illegal status. When COVID-19 outbreaks emerged among migrant workers, the government responded with drastic measures adversely affecting the physical and mental health of the workers and their families, i.e., sealing worker camps and deploying soldiers and security personnel to prevent anyone from leaving. In June 2021, the government locked down worker camps in Bangkok and surrounding provinces, as well as four southern provinces of Pattani, Yala, Songkhla, and Narathiwat, restricting movement for the duration of the lockdown. The government stated that it will supply food and drinking water to the workers for the duration of the lockdown. However, there are multiple reports indicating that worker camps have yet to receive any food or drinking water from the government, even though the workers are unable to leave the camps and, in any event, do not have income to purchase food and drinking water on their own. A month later, in July 2021, the government ceased proactive COVID-19 testing and healthcare assistance for migrant workers in Bangkok and surrounding provinces, citing scarce resources and medical personnel. The decision has been described as a "license to kill migrant workers facing the COVID-19 crisis in Thailand."

As for migrant workers’ children, school closures during the COVID-19 outbreak deprived them of enjoying their right to education due to a lack of access to online lessons, combined with language barriers and limited personalized learning support. Many families have had to take out loans to purchase mobile phones for their children to attend online lessons, causing them further financial strain, while others have forced their children to drop out of school to help them earn income. The Migrant Working Group estimates that 300,000 migrant workers’ children in Thailand are in need of education.

Ultimately, migrant workers and their families have become increasingly isolated from assistance, and are at greater risk of rights violations as a result of the government’s stigmatization labeling them as COVID-19 carriers. Prime Minister Prayut Chan-o-cha himself blamed the COVID-19 outbreak on migrant workers, stating: "This latest flare-up of infections in Samut Sakhon is primarily due to such illegal immigrants and they have brought much grief to the country."

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**Challenge 2: Migrant workers are vulnerable to labour rights violations, as they face barriers to registering themselves and obtaining legal status**

Migrant workers face obstacles to access administrative procedures, and Thailand’s migrant registration process fails to tackle debt bondage.

**Complex procedures and hurdles make it difficult for migrant workers in Thailand to register and obtain legal status.** Due to language barriers, migrant workers are unable to undertake the procedures themselves and have to rely on the assistance of agents or employers. Moreover, due to financial barriers, migrant workers are unable to bear registration costs, rendering many of them vulnerable to debt bondage, a form of modern slavery affecting approximately 610,000 people in Thailand.
Even though employers requesting excessive funds from migrant workers may face imprisonment and fines, employers, middleman, and brokers regularly inflate costs, leaving migrant workers with large debts, which leads to rights violations, such as harsh working conditions, wage deductions, and confiscation of personal documents. For example, while the Myanmar government estimates that registration costs amount to THB 3,550, migrant workers from Myanmar have to pay a much higher price, ranging between THB 8,000 and THB 16,000 or more.

Ultimately, given the complex procedures, as well as linguistic and financial barriers, migrant workers prefer using irregular channels to enter Thailand, which render them illegal immigrants and thereby subject to arrest and deportation. For example, in 2018, while 90% of Cambodian overseas workers worked in Thailand, only 30% of them used the official system. On top of barriers to registration, migrant workers are subject to restrictions preventing them from changing employers without authorization, rendering them vulnerable to labour rights violations and subjecting them to arrest and deportation.

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**Challenges**

**Challenge 3: Migrant workers cannot freely choose their employment**

The Royal Thai Government enforced an exhaustive list of 28 job types prescribing occupations and professions prohibited for foreign workers, which are exclusively reserved for Thai nationals.

The Government of Thailand still enforces the Royal Decree 2522 B.E. stipulating the occupations and professions that foreigners are prohibited from performing. In consequence, migrant workers or their family members who have obtained a professional certificate or degree are unable to apply for or work in these positions. Ms. Sugarnta Sookpaita, Thai BHR Migrant Worker Focal Point of the Thai BHR Network, received complaints that some companies advertised labor skill development programs for migrant employees, but that when they completed the course, they were unable to obtain a certificate and reclaim their skill fee. For those who are successful in obtaining the certificate, they have to pay a registration fee, with the conditions that one person can only register for one specific skill.

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**RECOMMENDATIONS**

**1. On challenge 1: Migrant workers and their families have been disproportionately affected by the COVID-19 outbreak**

**1.1.** In line with the UN experts call on Governments to adopt urgent measures to protect migrants in their response to COVID-19, adopt inclusive measures aimed at protecting migrants, and take steps towards the regularisation of undocumented migrants whenever necessary, in view of facilitating their access to health services during the fight against the pandemic.

**1.2.** In line with the CRC Concluding Observations to Thailand (2012), take necessary legislative and policy measures to protect children in various migration situations from exploitation and forced labour.

**1.3.** In line with the CESCR Concluding observations to Thailand (2015), step up efforts to ensure that all children under its jurisdiction effectively have access to free basic primary education; address the causes for school dropout; and improve the overall quality of education.

**1.4.** In line with the CRC Concluding observations to Thailand (2012), adopt effective policies and other measures to ensure that every child from birth to school going age has access to holistic early childhood development (ECD) with effective support of essential health, nutrition, education and protection services to ensure his or her total development.
2. On challenge 2: Migrant workers are vulnerable to labour rights violations, as they face barriers to registering themselves and obtaining legal status

2.1. In line with the CESCR Concluding observations to Thailand (2015), explore the need for additional measures to ensure that all migrant workers, regardless of legal status, are entitled to labour and social protection and can access justice for violations of their rights.

3. On challenge 3: Migrant workers cannot freely choose their employment

3.1. Amend the Royal Decree 2522 B.E. to allow migrant workers to pursue occupations that match their abilities and qualifications, and amend regulations restricting skilled labour registration.

3.2. In line with Principle 1 and 2 of the United Nations Guiding Principles on Business and Human Rights (UNGPs), protect against human rights abuse within its territory and/or jurisdiction, and take appropriate steps to prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication.

3.3. Intensify measures to ensure migrants do not suffer from discrimination and, in line with the CERD Concluding observations to Thailand (2012), explore the need for specific protections for migrant workers in addition to those provided for by the Labour Protection Act.

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NOTES

For more information, evidence and data, please refer to the References and/or contact
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