

ILO: Thailand's Discrimination Against Migrant Workers Breaches International Law

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The International Labour Organisation (ILO) has strongly criticised the Royal Thai Government (RTG) for its treatment of migrant workers. Just a week after the United Nation's Special Rapporteur on the Human Rights of Migrants publically issued a statement of concern on RTG's migrant worker policies, Thailand's human rights reputation falls into question as it vies for membership of the UN's Human Rights Council.

In a report prepared for the 99th Session of the International Labour Conference in Geneva this month, the ILO's Committee of Experts on the Application of Conventions and Recommendations ruled that Thailand's denial of work accident compensation from the Social Security Office's (SSO) Workmen's Compensation Fund (WCF) to migrants from Burma breaches its obligations as a signatory to ILO Convention 19. The ILO's ruling supports a 2-year campaign by unions and human rights groups demanding revocation of this discriminatory policy.

Savit Kaewarn, General Secretary of SERC, today said: *"Migrants in Thailand continue to suffer systematic discrimination as they work hand in hand with Thai workers to develop our economy. Instead of integrating foreign workers into our society, the Thai government consistently denies them their most fundamental rights. SERC again calls on the Ministry of Labour and all other government agencies to eliminate all discriminatory policies and laws to ensure migrant workers gain the basic rights to which all 'workers,' regardless of their nationality and immigration status, are entitled to."*

Kaewarn continues: *"We again call for the immediate revocation of SSO Circular RS0711/W751 that denies migrant access to the WCF. The government has publicly committed to end all forms of discrimination in Thailand and uphold the rights of migrant workers as part of its campaign for a seat at the UN Human Rights Council. Ending this out-dated and discriminatory restriction against injured migrants should be one of the first acts the government takes to fulfil this pledge."*

The ILO's report concludes: *"The Committee notes with deep concern the situation of some 2 million workers from Myanmar, many of whom are described by SERC as being in 'a social zone of lawlessness' where they are not protected by the laws of Thailand or Myanmar.... Taking into account the gravity of the situation, the Government should instruct the SSO to take positive and urgent measures lifting restrictive conditions and facilitating access of migrant workers to the WCF irrespective of their nationality."*

To date the Ministry of Labour has refused to revoke circular RS0711/W751, despite numerous appeals by Thailand's National Human Rights Commission. Thailand's courts refused to overturn the circular in another striking example of Thailand's inability to support worker access to justice. Three test cases seeking revocation of RS0711/W751 remain pending in the Supreme Court and Labour Court after the Supreme Administrative Court refused to consider the legality of the policy in 2009. ILO's report adds: *"Noting that the legality of the SSO circular is pending before the Supreme Court as well as the Central Labour Court, the Committee hopes that these jurisdictions will take into account the present comments."*

In the meantime, more than 2 million migrants from Burma, Cambodia and Laos are unable to access work accident compensation. Workers and their families face a life of uncertainty, pain and suffering should they incur an accident at work. Under increasing pressure, plans were recently announced to set up a private insurance scheme to compensate these victims, separate from the WCF. Like most migrant policies in Thailand, this decision was taken without consultation with unions, workers or rights groups and it is still the policy based on discrimination.

P.S.

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