

URGENT

No. 52101/ 2/8



**PERMANENT MISSION OF THAILAND
GENEVA**

4 April 2012

Dear Mr. Sow, Ms. Rolnik, Ms. de Albuquerque, Mr. Beyani, Mr. Crépeau and Mr. de Schutter,

I wish to refer to the letter of the Permanent Mission, No. 52101/647 dated 24 November 2011, sending preliminary clarification in response to your joint communication dated 18 November 2011 regarding the situation of migrant workers during the most devastating flood crisis in Thailand. Our letter also informed you that the Permanent Mission had transmitted your communication to the agencies concerned and would further send any information as soon as it is available.

I now have the honour to forward herewith the additional clarification, of which the information was gathered from relevant agencies: the Royal Thai Police, the Immigration Bureau, Ministry of Labour, Ministry of Social Development and Human Security and Ministry of Public Health. In addition, we attach photographs of the efforts by the Royal Thai Government to address the plight of the affected migrant workers for your reference.

Mr. El Hadji Malick Sow,
Chair-Rapporteur of the Working Group on Arbitrary Detention;
Ms. Raquel Rolnik,
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context;
Ms. Catarina de Albuquerque,
Special Rapporteur on the human right to safe drinking water and sanitation;
Mr. Chaloka Beyani,
Special Rapporteur on the human rights of internally displaced persons;
Mr. François Crépeau,
Special Rapporteur on the human rights of migrants;
Mr. Olivier de Schutter,
Special Rapporteur on the right to food;
Office of the High Commissioner for Human Rights,
Palais des Nations, CH-1211,
GENEVA.

OHCHR REGISTRY

05 APR 2012

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G/SO 214 (106-10) Water (2008-1) THA 8/2011

Enclosure.

I wish to reiterate that the flood crisis last year was devastating to all people in the country, Thais and non-Thais alike. Despite the magnitude of the situation, the Royal Thai Government has put its best efforts to assist all persons affected without discrimination, regardless of their nationality or legal status. It is our hope that the clarification and the photographs will demonstrate our serious commitment to promoting and protecting the rights of migrant workers even in such a difficult situation.

Lastly, the Permanent Mission of Thailand stands ready to continue our engagement in this regard with all of the relevant Special Procedures mandate holders.

Sincerely yours,



(Pisanu Chanvitan)
Ambassador
Permanent Representative

**Clarification by the Royal Thai Government regarding alleged violation of
human rights
of migrants during the flooding in Thailand**

1. It is alleged that migrant workers fleeing the flooding have been arrested by law enforcement officers for not having their full paper work or for a lack of identification documents, including passports, which many may have lost or have been illegally withheld by their employers. Many of these arrests are alleged to have happened in Mae Sot, Tak Province where migrant workers have sought to return home to Myanmar even though there was an order issued by the police authorities not to arrest migrant workers.

Clarification

- Aware of the urgent need to assist migrant workers during the massive flooding, the Royal Thai Police issued an order for all officers to take prompt action to facilitate those migrant workers who wished to return to their home countries.
- Numerous migrant workers were thus facilitated in returning home. However, notwithstanding such an order, in the case of those migrant workers who wished to return to their country of origin, but could not show any identification, the authorities had no other option but to first proceed with their arrest and prosecution in accordance with the relevant laws and regulations. The order to facilitate the travel of migrant workers did not grant police officers the discretion not to proceed with their duties as required by law. But in cases where arrests did occur, the relevant processes were undertaken speedily to permit the migrant workers to return home without delay.

2. There was alleged lack of food and water for migrant workers while in detention.

Clarification

- Sufficient food and water were distributed to all migrants temporarily detained in the Immigration Detention Centre in Mae Sot, Tak Province, with the support of the Government, NGOs and other organizations.
- Water purifiers were installed in the facility, which migrant workers could access at their own leisure/convenience. In addition, migrants were allowed to retain food and drinks they had on them when they entered the centre without them being confiscated. Relatives were allowed to provide additional food and drinks for migrant detainees. Moreover, given the special circumstances, the authorities did not strictly enforce the regulation for visitation, thereby allowing visits up until 10.00 PM on a daily basis.

3. Some emergency shelters allegedly denied migrant workers access as they were reportedly open to Thai citizens only. Some shelters only accepted migrants who

possessed a recommendation document or certificate from the Ministry of Labour. Migrants without the proper documents ended up staying in unsafe places.

Clarification

- As a matter of principle, the emergency shelters provided assistance to all persons in need on a non-discriminatory basis. However, in the initial period there might have been cases where volunteers assisting in some of these shelters may have turned down migrant workers due to lack of awareness and understanding. This problem was gradually rectified.
- Moreover, in order to ensure that all migrant workers receive proper assistance, the Ministry of Labour subsequently set up an emergency shelter especially for migrant workers in Nakorn Pathom Province, which was later moved to Ratchaburi Province. The Ministry of Labour, in collaboration with the Ministry of Social Development and Human Security, dispatched mobile units to disseminate information and assist migrant workers in accessing proper care at this shelter. The units also helped employers to form self-help groups to assist one another.

4. There are alleged complaints regarding the lack of food and drinking water for migrants in certain areas, including Pathum Thani. In other areas, migrants could not receive food, medicine or other essential items which were distributed according to house registration records.

Clarification

- Due to the massive scale of the flooding, shortages of food and drinking water were a prominent problem in some severely flooded areas, such as Pathum Thani and Ayudhya Provinces. Despite efforts of the Thai Government and the private sector to provide assistance to all flood victims, admittedly there were areas which did not receive assistance during the early stages of the flooding. This situation affected both Thais and non-Thais alike, and migrants were in no way discriminated against in the provision of food and drinking water.
- At the initial stage of the flooding, the authorities had to rely on house registration records to determine the amount of items to be distributed. This was to ensure that assistance reached those in real need as there were cases where persons not affected by the flooding sought to exploit the assistance provided. However, after the initial stages when more accurate information on the affected population became available, food, medicine and other essential items were distributed to all persons in need without discrimination.

5. Migrants had difficulties in accessing assistance due to poor or little access to information regarding health care, sanitation and infectious diseases, including due to language barriers.

Clarification

- The Thai Government became fully aware of the plight of migrants and their specific vulnerabilities during the massive flooding. For this reason, specific measures and guidelines were adopted by the Immigration Bureau to protect, care for and facilitate the needs of this particular group of people. Campaigns were carried out via various forms of media to inform migrants of the services available to them during the crisis, which included health care and social services.
- During that time, the Ministry of Public Health allowed migrant workers who were outside their areas of work to benefit from services provided by all public hospitals participating in health insurance programme for migrant workers. These hospitals were also required to waive medical fees for migrant workers who were unable to pay them. Information on these measures was widely disseminated to the Ministry of Labour, Public Health Offices at the provincial level and public hospitals.
- Migrant workers also had the option of seeking assistance from the shelter set up especially for them at Nakhon Pathom Province, which was later on moved to Ratchaburi Province. The shelter provided basic services for migrant workers, including health care. Interpretation services were also provided in this shelter by the Ministry of Labour, in collaboration with NGOs, to address the problem of language barriers and facilitate migrant workers' access to various services.

6. During the night of Tuesday 25 October 2011, Immigration officials at Mae Sot border crossing picked up several hundred migrant workers and transported them in 13 crowded trucks and 2 mini-vans to Gate 10 at the Thai side on the border of Myanmar, where they were deported by being ferried across the Moei River to Myawaddy. This could be a violation to the obligation of *non-refoulement*.

Clarification

- Normally, illegal migrants arriving at the Mae Sot detention centre late afternoon will be held overnight at the centre in order to allow time for the authorities to process their documents. However, at that particular date, the large number of migrants detained at the centre exceeded the normal capacity. Thus, swift action was required on the part of the Thai authorities to address the matter as the situation could threaten to get out of control.
- The deportation of the migrants to Myanmar thus took place at around 06.00 PM of that same day. It was carried out with proper preparation and great caution and in no way jeopardized the safety and integrity of the migrants. A screening process was carried out prior to the deportation to ensure that none of these migrants were victims of trafficking or otherwise had specific protection needs. (In any case, displaced persons from Myanmar who have been accorded temporary protection by Thailand reside in the 9 temporary shelter areas along the border and would thus not have been affected by the

measures).

- Assurances were also sought from the Myanmar authorities to ensure that that these migrants would not be in any danger once they return. In addition, NGOs and other international organizations were present throughout the deportation process to ensure the safety and dignity of the migrants. The whole deportation process thus did in no way constitute *refoulement* since it was carried out in safety and upon the wish of the migrants who wanted to return home at the earliest opportunity.

Please see the attached photographs which demonstrate the assistance the Thai Government provided to migrant workers during the massive flooding. This includes the provision of shelter, food, healthcare, basic necessities, interpretation services and recreation activities as well as assistance in regard to evacuation from the flood areas, documentation and deportation process and payment of overdue wages.

Department of International Organizations
Ministry of Foreign Affairs

Assistance provided by the Thai Government for migrant workers
during the massive flooding in Thailand



Migrants being moved from the flooded areas by public buses to a relief shelter
at Rai Khing Temple, Nakorn Pathom Province .



Migrant workers waited to be registered at the relief shelter.



Migrants lining up to receive daily supplies at the relief shelter



Sleeping sets provided by Ministry of Labour at the relief shelter.



Food donation from the public for migrant workers



Staff and volunteers preparing food for migrant workers.



Staff and volunteers distributing food and water for migrant workers.



A canteen at the relief shelter.



Burmese and Cambodian interpreters were assisting migrant workers at the relief shelter.



Recreational activities of migrant workers at the relief shelter.



Recreational activities of migrant workers at the relief shelter.



Medical staff were on hand to provide health services for migrant workers.



Volunteers from a beauty school provided their services for migrant workers.



Migrant workers receiving wages overdue from their employers at the shelter.



The Ministry of Labour, in cooperation with the Embassy of Myanmar, arranged a documentation process for migrant workers who wished to return to their countries of origin.



Migrant workers showing their new temporary passports.



Migrant workers were receiving temporary passports.



Migrants celebrating after receiving the temporary passports.



The Minister of Labour inspecting the relief shelter.



Director-General of the Department of Employment visiting migrant workers at the shelter.



Due to the worsening flooding situation in the areas close to Rai Khing Temple, the Ministry of Labour decided to relocate migrants to a new shelter in Ratchaburi Province.



Migrant workers were moved to another relief shelter in Ratchaburi Province.



The new relief shelter in Ratchaburi Province.

Rescue Missions for migrant workers affected by the flooding



A mobile unit provided transportation for migrant workers.



Staffs from Flood Relieve Center for Migrant Workers relocated migrant workers from the flooding area.



Staff from the Center provided assistance for migrants workers
in Pathum Thani Province.



Migrant workers relocated from the affected area.



Migrant workers relocated from the affected area.



Officers from the Center and Soldiers from the Royal Thai Army joined force to provide transportation for migrants affected in Nakhon Pathom province.
