Developing International and Internal Labour Migration Governance (DIILM)
Feb 2016 – June 2021

DILLM Project Outcome One

Key international labour migration legislation and policies are adopted in line with ILO standards, in particular C181 on Private Employment Agencies, the ILO Multilateral Framework on Labour Migration and the General principles and operational guidelines for fair recruitment.

BACKGROUND

International migration has long been a livelihood strategy for people all over Myanmar, providing employment and skills development for millions of young people and financial resources for their families and communities. Not all migration experiences however have been positive and many migrants have suffered exploitation, dangerous living and working conditions and discrimination. To increase the benefits of migration for all, a number of interventions are necessary including: more effective governance of migration at the national, regional and global levels; greater policy coherence; increased cooperation among stakeholders; and increased operational capacity alongside increased service provision.

The governance of migration in Myanmar is particularly complex since it must address not only recent migration movements but also migration which happened spontaneously in the decades before systems for regular migration were in place. Statistics of Myanmar migrant workers in Thailand released by the Department of Employment in Thailand reflect this situation clearly. Of the 1,903,014 Myanmar migrants registered to work in Thailand in September 2019, 71.8 per cent had entered Thailand without documents and at some later point entered into a process of regularisation (Nationality Verification).

Myanmar migrant workers in Thailand			
Status	Men	Women	Total
Nationality Verification	769,414	596,798	1,366,212
Regular migrants (MOU)	303,024	201,972	504,996
Border/seasonal	10,939	15,874	26,813
Fishers	4,993		4,993
Total	1,088,370	814,644	1,903,014

Source: https://www.doe.go.th/prd/assets/upload/files/alien_th/0f97b190eca800b5bea79107adff6897.pdf

The Myanmar government has now opened legal channels for migration to 18 different countries and is working to provide documents to the large numbers of semi-documented

workers[1] in Thailand and Malaysia. Nevertheless, the current governance of regular migration is still not comprehensive enough to guarantee that migrants following legal procedures are fully protected nor that migration can fully contribute to the development of the country.

To make migration safer and to increase the long-term benefits of migration DIILM works with the Ministry of Labour, Immigration, and Population (MOLIP); Parliamentarians, the Myanmar Overseas Employment Agencies Federation, labour organizations and CSOs to strengthen the legislative and policy framework governing international labour migration.

The strategies of the DIILM project to improve labour migration governance are:

1. Strengthening knowledge, awareness, capacity and coordination of national stakeholders for development and implementation of labour migration governance

2. Strengthening national legislation and policies

3. Enhancing bilateral and regional cooperation

4. Developing policy related documents to support evidence based policy development

Strengthening knowledge, awareness, capacity and coordination of national stakeholders

As proposed in the Global Compact on Safe, Orderly and Regular migration a whole of government and whole of society approach is necessary to improve the governance of labour migration. The DIILM project has supported capacity development through a range of trainings in different States and Regions in Myanmar as well as at the national level, bringing together critical stakeholders including government, Parliamentarians, overseas employment agencies, labour organizations, CSOs, and other national institutions to increase coordination, communication, knowledge and commitment. DIILM carried out the following:

- **A series of trainings on labour migration** for participants from the Department of Labour, Anti-Trafficking police, General Administration Department, recruitment agencies, labour organizations and CSOs in Ayeyawaddy, Mandalay and Yangon Regions, and Rakhine and Shan States, as well as in Nay Pyi Taw at union level.

Figure 1 *Labour migration stakeholders meeting, 2020*

An initial five-day training introducing participants to instruments and mechanisms for protecting migrants and their families, increased understanding of the challenges and opportunities of labour migration in a changing social, economic and political context and explored the roles of the different stakeholders and possible linkages between them throughout the migration process. These were followed by a series of shorter trainings focusing on particular aspects of migration; recruitment, return and reintegration, domestic work.

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[1] The term semi-documented migrants refers to migrants who have registered in the countries of destination under amnesties and registration processes but who do not yet have all the documents required by Myanmar.

- **A series of round table discussions with Parliamentarians** including the Amyotha Hluttaw Committee on Immigration, Local and Overseas Employment and the Pyithu Hluttaw Committee on Farmers and Workers' Affairs to introduce international standards on international labour migration and examine current governance frameworks.

- **Annual trainings** for potential and newly selected Labour Attachés who were to be posted to Thailand (5), Malaysia (1) and Republic of Korea (1).

- **Trainings on strengthening complaints mechanism data management**: to improve migration planning protection and policy formulation, trainings were conducted for relevant staff from seven divisions of the

Figure 2 *Labour Attaché training, 2020*

Department of Labour (DOL) on strengthening Complaints Mechanism data management, in particular data encoding, cleansing and analysis of data received by the DOL's Complaints Mechanism Centres.

Figure 3 *Training of trainers: complaints mechanism data management*

- Regular meetings and trainings with CSOs and LOs working on migration related issues. In order to better coordinate, the groups formed themselves into the CSO and LO Network for Migrants (Myanmar). The network organized events to raise awareness on International Migrants Day; provided collective feedback on policies; and shared practices and

Figure 4 *Training for CSO and LO partners*

experiences on supporting legal cases for exploited migrants. From 2019, DIILM supported member organizations to run Migrant Centres around the country to respond directly to the needs of potential and returned migrants and their families.

Strengthening national labour migration legislation and policies

The DIILM project supports the alignment of national laws, policies and practices concerning and relating to labour migration with international standards, to protect the rights of migrant workers and ensure fair, safe and effective recruitment processes. Specific laws and policies on labour migration are not the end goal: they are a tool by which a nation's short term and long term vision and goals regarding migration can be achieved through rigorous and consistent implementation.

According to the Objective Statement of the 2nd National Plan of Action on the Management of International Labour migration (2018 – 2022) Myanmar's long term vision is to provide Myanmar migrant workers with increased opportunities to migrate with dignity by accessing decent work opportunities abroad, within South East Asia and beyond. In the medium term

the vision is to help Myanmar achieve its national economic development goals to reduce poverty and to relieve pressure on the domestic labour market.

The Myanmar Sustainable Development Plan (2018 – 2030) includes the protection of the rights of both inward and outward flowing migrant workers and harnessing the skills and financial resources of returned migrants for the development of the country. Two recent Covid recovery plans[2] focus on job creation and skills development for returning migrants and include one action point on providing access to legal routes for re-migration is included.

In terms of strengthening national legislation, DIILM has focused on the following:

Law Relating to Overseas Employment (1999)

The Law Relating to Overseas Employment (LROE) provides the overall legal basis for the out-migration system in Myanmar. It establishes the Overseas Employment Central Committee for the formulation of migration policy and the Overseas Employment Supervisory committee for its implementation. A review was needed to remedy gaps in legal coverage and application which have become apparent as Myanmar adjusts to new migration situations, as well as to enhance the harmonization of Myanmar's national labour migration legislation with international standards; and to strengthen protection mechanisms for the recruitment and placement of Myanmar workers abroad. Critical to the successful implementation is the development of Rules and Regulations (by-laws) to ensure the government officials tasked with the implementation of the LROE are fully empowered in their functions and responsibilities. Currently only basic Rules and Regulations regarding the licensing and roles of the overseas employment agencies have been issued.

In preparation for a review of the LROE, DIILM convened consultations with relevant stakeholders, including Migration Division of Department of Labour, MOEAF, Parliamentarian Committee on Local and Overseas Employment, labour organizations, and CSOs, to identify gaps in the current LROE and the accompanying rules and regulations and to propose amendments to address these gaps.

In 2016, the DIILM project organized consultations between the Director of the Migration Division and the ILO Labour law specialist to review aspects of the law which could be updated and revised in line with international standards and an analysis was prepared.

At the request of MOLIP, the ILO provided Technical comments in November 2018 on the draft and provided technical assistance to MOLIP in reworking the draft bill. The completed draft bill has been through initial readings but has not progressed into the Parliamentary system. In the light of the Covid pandemic and the policy in the Myanmar Economic Recovery and Reform Plan (MERRP) to ensure legal routes for migration; the need for progress on the bill becomes ever more urgent.

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[2] CERP (Covid Economic Recovery Plan) MERRP (Myanmar Economic Reform and Recovery Plan)

National Plans of Action on Management of International Labour Migration in Myanmar (NPA)

DIILM contributed towards the implementation of Myanmar's first NPA (2013-2017) and was a member of the Technical Working group which developed the second five year NPA. The ILO advocated for the inclusion of key issues in line with the ILO Multilateral Framework on Migration and relevant international labour standards. For instance, the ratification of the Private Employment Agencies Convention, 1997 (No. 181) and the Domestic Workers Convention, 2011 (No. 189) the recognition of the MOEAF code of conduct and monitoring mechanism to promote more ethical recruitment practices, and a specific time frame to revise the OE Law and to develop its accompanying rules and regulations, which are reflected in the second NPA adopted by MOLIP in May 2019.

Enhancing bilateral and multi-lateral cooperation

Although DIILM focusses on national level legislation and policy, migration can never be approached purely from a national perspective and the DIILM project works with the two regional level ILO migration projects, Triangle in ASEAN and Safe and Fair project to support bilateral and multi-lateral cooperation through the following activities:

- Supporting MOLIP to convene the National Tripartite Preparatory Meetings for the 10th, 11th and 12th ASEAN Forums on Migrant Labour together with the Triangle in ASEAN project.

- Organizing for government representatives to participate in regional policy meetings. This has included support to send two Department of Labour (DOL) representatives to participate in the ASEAN Labour Migration Instrument Drafting Team Meeting in Manila, Philippines to finalize the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers; four Myanmar Labour Attachés to participate in a two-day Bilateral Network Meeting between Thailand and Myanmar on Enhancement of Recruitment and Employment Practices; three DOL officials to attend courses at the ILO Training Centre (ITC-ILO) in Turin, Italy; Labour Migration Academy, Extending Social Protection to Migrant Workers, Refugees and their Families, and Negotiating Bilateral Labour Agreements.

- Organizing a preparatory discussion with DOL and Social Security Board (SSB) on Portability of social security in line with the Cambodia, Lao PDR, Myanmar, Thailand and Vietnam (CLMTV) Labour Ministers draft declaration.

Developing policy related publications

To provide evidence-based policy recommendations and inputs into the development and review of labour migration policies and legislation, DIILM has published the following policy briefs and papers for policy makers and influencers in consultation with relevant stakeholders:

- Country of origin complaints mechanisms for overseas migrants from Myanmar (English and Myanmar)

- Building Labour Migration Policy Coherence in Myanmar (English and Myanmar)

- Migration data for policy development: An appraisal of data and statistics on international labour migration in Myanmar ([English](#) and [Myanmar](#))

- Policy Coherence: Labour Migration, gender equality and women's empowerment

- Experiences of ASEAN Migrants during Covid-19 ([English](#) and [Myanmar](#))

- COVID-19: Impact on migrant workers and country response in Myanmar ([English](#))

Upcoming Papers

- Recruitment of Migrant Workers during COVID-19: Summary of Recommendations (draft)

- Policy Coherence: Labour migration and Anti-trafficking Policies (draft)

- Social Protection Brief (draft)

- Policy Brief on Migrant Welfare Funds

- Policy Coherence: Migration, employment and skills policies

- Policy Brief on Increasing mobility of social security benefits for Myanmar migrants

Future activities

- National multi-stakeholder consultation on the OE Law and Rules and regulation

- Consultations with DOL, SSB and other constituents on social security portability

- Virtual study tour of the Philippines focusing on social security agreements and welfare funds

- Participation in NPA Technical Working Group meetings and implementation of relevant activities.

The Developing International and Internal Labour Migration Governance in Myanmar (DIILM) (2016 - 2021) project works with tripartite constituents and civil society organizations in Myanmar to strengthen the legislative and policy framework governing labour migration. The people of Myanmar have long used migration as a survival strategy; for safe refuge and for livelihood. Improving labour migration governance can ensure a migration experience that is more beneficial for women and men migrants, and better contributes to the development of Myanmar. DIILM and the tripartite partners work to 1) support development of key legislation and policy; 2) promote decent work for all migrants including in the informal sector; 3) increase the coverage and the quality of services offered to migrants and 4) strengthen policy coherence.

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