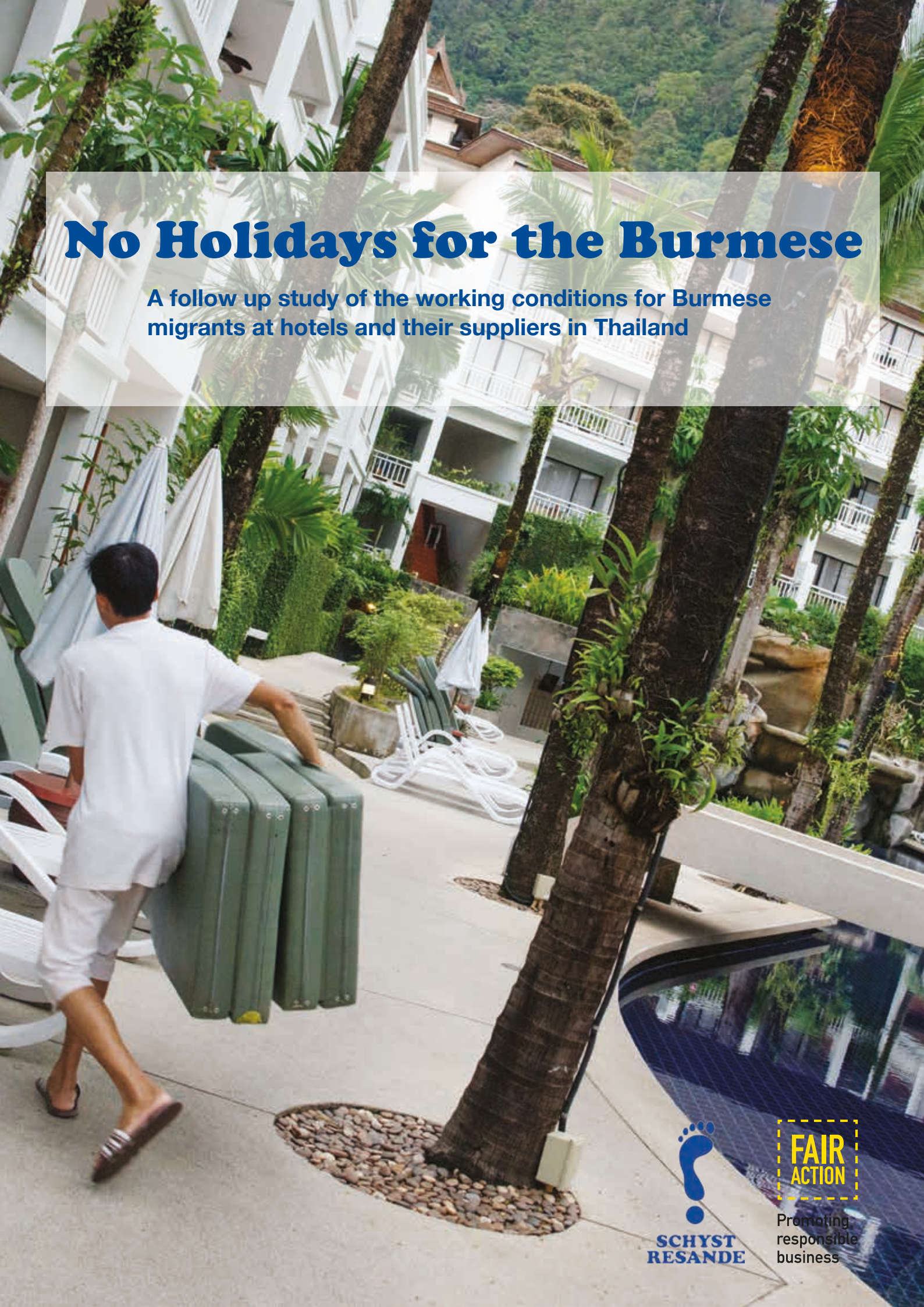


# No Holidays for the Burmese

A follow up study of the working conditions for Burmese migrants at hotels and their suppliers in Thailand



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Written by Amanda Söderlund.

Schyst resande is a network of seven organizations – Unionen, Fair Action, the Swedish Hotel and Restaurant Workers Union, the Church of Sweden, Church of Sweden Youth, Union to Union and the IOGT-NTO movement. The network believes that tourism can contribute to sustainable development, but only if travellers and the tourism industry take responsibility for their social, economic and environmental impacts.

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Fair Action is a non-profit organization pushing Swedish companies to take responsibility for their impact on people and the environment. We examine how consumer goods and services are produced and pressure companies to improve working conditions and pay living wages. Our goal is a sustainable world where human rights are respected.

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# Summary

During the cold, dark and long winter, Swedes long for sunbathing and relaxation. Thailand is one of the most popular winter destinations for Swedish tourists, with a 26 percent increase in bookings for the 2015/2016 season. While the tourists enjoy all that Thailand tourism has to offer, such as the beautiful beaches, well-made beds and expansive pool areas, there is a flip-side to tourism paradise.

This report examines the working conditions of Burmese migrants at hotels contracted by Sweden's three major tour operators Apollo (REWE Group), Fritidsresor (TUI Group) and Ving (Thomas Cook Group) in Khao Lak and Phuket, as well as hotel suppliers. The 29 interviewed migrants, who work at seven different hotels and six suppliers to the hotels, report receiving below statutory minimum wages, working overtime without compensation as well as facing discrimination. Half of the 18 hotel workers state that their salary is lower than that of the minimum wage. Moreover, only three of them receive vacation or leave according to the Thai labour law. The workers employed at the hotels' suppliers face more severe labour rights violations. Nine out of the eleven interviewees do not earn the minimum wage. Laundry staff reports working excessively long working hours, of up to 17 to 19 hours per day during peak season, with only two days off per month. Additionally, workers express that they have never had a single day of vacation. Such practices violate both the Thai labour law and international conventions, as well as the policies of the Swedish tour operators.

When practiced accordingly, the Thai labour rights legislation provides protection for migrants to a certain extent. However, with a few minor exceptions, the enforcement of migrant workers' labour rights remains substandard. In 2012, Schyst resande and Fair Action highlighted different cases of abuse of migrant workers' rights at the tour operators' contracted hotels in Thailand in the report "No place in the sun". The study identified forced labour in a laundry connected to a hotel. Also, two thirds of the interviewed migrants working at hotels were not paid the stipulated minimum wage.

Despite the tour operators' awareness of the risks for violations of migrant workers' rights in Thailand, the findings in this report reveal that they have failed to take measures to prevent abuses. The tour operators' failure to act is a clear violation of the United Nations Guiding Principles on Business and Human Rights (UNGPs), which require companies to have an ongoing process to identify, prevent and manage risks regarding violations of human rights.

Fair Action and Schyst resande recommend the tour operators to immediately make sure that all contracted hotels in Thailand as well as their suppliers comply with national labour law, as a minimum. Based on the findings in this report, special attention should be given to risks concerning wages, working hours, overtime compensation, discrimination of Burmese workers and the right to leave. Moreover, Apollo, Fritidsresor and Ving should conduct human rights due diligence to identify and address the most severe human rights abuses in their supply chain in Thailand.

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# Introduction

The tourism industry is growing steadily worldwide. In 2014, travel and tourism's contribution to the global economy rose to almost 10 percent of the total GDP, equivalent to US\$ 7.6 trillion. Nearly 277 million people are employed within the sector.<sup>1</sup> Several jobs in the labour intensive tourism industry do not require any specific qualifications, which makes the barrier of entrance low. Therefore, a lot of migrant workers are employed within the hospitality sector.

Thailand is a major tourist destination with about 25 million international visitors annually, and the number is predicted to increase further. Thailand is also among the most popular destinations for Swedes who spend their holiday outside Europe. Roughly 350 000 Swedes visit the country every year and the trend is positive even though the military took power in a coup in 2014. Bookings to Thailand for the winter season 2015/2016 have increased substantially compared to 2014.<sup>2</sup>

Albeit contributing to economic growth, employment, and a possibility to remit money to relatives, tourism is also associated with negative consequences such as abuse of workers' rights, environmental pollution and land grabbing. Among the workers within the tourism industry, migrants are particularly vulnerable and face a high risk of being exploited.

This report follows up on the report "No place in the sun" that revealed poor working conditions at hotels and one laundry in Thailand 2012, especially for migrant workers. The hotels covered were attached to one or more of the tour operators Apollo (owned by REWE) Fritidsresor (TUI), and Ving (Thomas Cook). In 2014, a brief follow up was conducted at a laundry connected to a hotel showing that the working conditions had not been improved noticeably. Therefore, Fair Action and Schyst resande developed this additional study in order to examine the Burmese migrants' current working conditions at hotels contracted by Apollo, Fritidsresor, and Ving as well as the conditions at the hotels' suppliers such as laundry services, a bakery and a butchery. The purpose is to assess to what extent Burmese migrants' labour rights are respected and if Apollo, Fritidsresor and Ving act in accordance with the United Nations Guiding Principles on Business and Human Rights (UNGPs). The tour operators' management of environmental impacts in their supply chain is not included in this report.

These days an increasing number of travellers tend to arrange holiday trips independently. This means that they book their flight, reserve hotels and vehicles by themselves instead

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1. The Authority on World Travel & Tourism, *WTTC Travel & Tourism Economic Impact 2015*. <http://www.wttc.org/media/files/reports/economic%20impact%20research/regional%202015/world2015.pdf> (Accessed 2015-11-16).
  2. Axås, Elisabet. Länderna som toppar vinterns restrender [The most popular countries to visit this winter]. 2015-10-14. <http://www.expressen.se/allt-om-resor/landerna-som-toppar-vinterns-restrender/> (Accessed 2015-11-17). The article is based on statistics from Ticket on bookings made until September 24, 2015. Moreover, Apollo shows a 59 percent increase of Christmas and New Year's bookings to Thailand 2015 compared to 2014. Thailand hett när julresan ska bokas [Thailand is hot when booking the Christmas trip]. Press release. 2015-09-22. <http://www.mynewsdesk.com/se/apollo/pressreleases/thailand-hett-naer-julresan-ska-bokas-1221957> (Accessed 2015-10-13).

of referring to travel agencies for travel packages. Although this is the new trend, about every fourth Swedish tourist still travels with a tour operator.<sup>3</sup> Consequently, the major tour operators continue to have a large impact on the tourism industry, including the working conditions at the hotels and their suppliers.

## **METHODS OF DATA COLLECTION**

The field study consists of 29 interviews with Burmese migrants in Khao Lak and Phuket, carried out by the consultant Martin Gemzell in June 2015, with questions provided by Fair Action. The interviewees work at seven different hotels and six hotel suppliers. They were selected in cooperation with the non-governmental organization Foundation for Education and Development (FED) using a snowballing technique.<sup>4</sup> The interviews took place outside of the workplace without the employers' knowledge. To protect the participating workers they will not be named in the report, neither will the name of the hotels or the suppliers where they work be revealed. For the same reason, some of the photos in the report are not from the field study, but they do illustrate Burmese migrants working in the Thai hospitality sector. The interviewed workers do not constitute a representative sample of Burmese migrants at the hotels and suppliers connected to Apollo, Fritidsresor and Ving. Nevertheless, the result can be seen as an indication of their working conditions.

Out of the 29 interviewees, 18 work at hotels contracted by Apollo, Fritidsresor and Ving. One respondent works as a receptionist and one has a junior management position in a hotel restaurant. Another respondent is a desk officer working with human resources and financial management. The remaining 15 respondents who work at the hotels hold less qualified positions such as dish-washer, waiter, house keeper, cleaner, construction worker or gardener.

Additionally, eleven Burmese migrants who work for the hotel suppliers were interviewed. Six of them work in three different laundries, one is employed in a carpentry workshop making repair works on the hotel and furniture, two work in a bakery, and two in a meat processing company. By coincidence, only workers who hold a permanent position, or in two cases on probation for a permanent position, were interviewed. Altogether, the respondents consist of 17 men and 12 women.

For each of the three tour operators, the study covers at least two hotels and a minimum of six hotel workers. One of the hotels is contracted by both Ving and Fritidsresor. Five out of the seven hotels were selected because they were examined in the previous study "No place in the sun" while two hotels are new. The new hotels were randomly picked among the tour operators' contracted hotels in Thailand. None of the seven hotels is Travelife certified.

In addition, Fair Action directed a questionnaire to the tour operators in order to examine to what extent the companies' supply chain management is aligned with the UNGPs – specifically regarding workers' rights in Thailand. All three tour operators responded to the questionnaire. Apollo, Fritidsresor and Ving were also given a chance to read and comment on the parts related to their business prior publication of this report.

Moreover, a draft report was reviewed by Andy Hall, human rights defender and migrant worker specialist.

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3. Andersson, Per J. *Vagabonds Resebarometer 2014: Svenskarna sviker inte Medelhavet* [The Swedes don't let the Mediterranean down]. Published 2014-06-03. <http://www.vagabond.se/artiklar/nyheter/20140603/vagabonds-resebarometer-2014-svenskarnaviker-inte-medelhavet> (Accessed 2015-11-25).

4. A snowballing technique means that one interviewee recruits the next one from their acquaintance and so on.

## ASSESSMENT CRITERIA

The UN Guiding Principles on Business and Human Rights (UNGPs) are the basis for the research and recommendations of this report. The UNGPs were developed in order to clarify the policies and processes companies need to have in place in order to address their impact on human rights.

### Companies' responsibility for human rights

According to the UNGPs, the responsibility of businesses to respect human rights refers to, as a minimum, the rights in the International Bill of Human Rights<sup>5</sup> along with the fundamental labour rights in the core conventions of ILO. Companies are also required to pay particular attention to the rights of vulnerable groups such as migrant workers.<sup>6</sup>

A fundamental requirement of the UNGPs is that companies should identify and address negative human rights incidents that they are involved in. This responsibility also extends to human rights violations caused by suppliers. The buying company has a responsibility to use its leverage to encourage its business partner to prevent or mitigate recurrence of the violations. If the buying company has influence over the supplier, the buyer should exercise its leverage to prevent and mitigate the adverse impacts. If the company has little or no leverage it should seek to increase it, for example by collaborating with other actors. What leverage a company has on a business partner depends on for example the terms of contract between the parties, the proportion of business the enterprise represents for the business partner or the harm that would be caused to the partner's reputation if the relationship would be withdrawn.<sup>7</sup>

Moreover, "to make it possible for grievance to be addressed early and remediated directly, business enterprises should establish or participate in effective operational-level grievance mechanisms for individuals and communities who may be adversely impacted".<sup>8</sup> In order to function well, it needs to be legitimate among stakeholders. Additionally, those aimed to use the mechanism have to know about it and be able to use it.<sup>9</sup>

The importance of the UNGPs as a key standard for companies' operations is also reflected in the Swedish government's national action plan for business and human rights, launched in August 2015. The plan stresses that Swedish companies should seek to respect human rights and implement the UNGPs.<sup>10</sup>

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5. The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.

6. United Nations. *The corporate responsibility to respect human rights - An Interpretive Guide*, New York and Geneva 2012, p. 12.

7. Ibid, p. 47.

8. United Nations. *Guiding Principles on Human Rights, Implementing the United Nations "Protect, Respect and Remedy" Framework*, 2011, pp. 31-32. Principle 29 and 31.

9. Ibid, pp. 33-34.

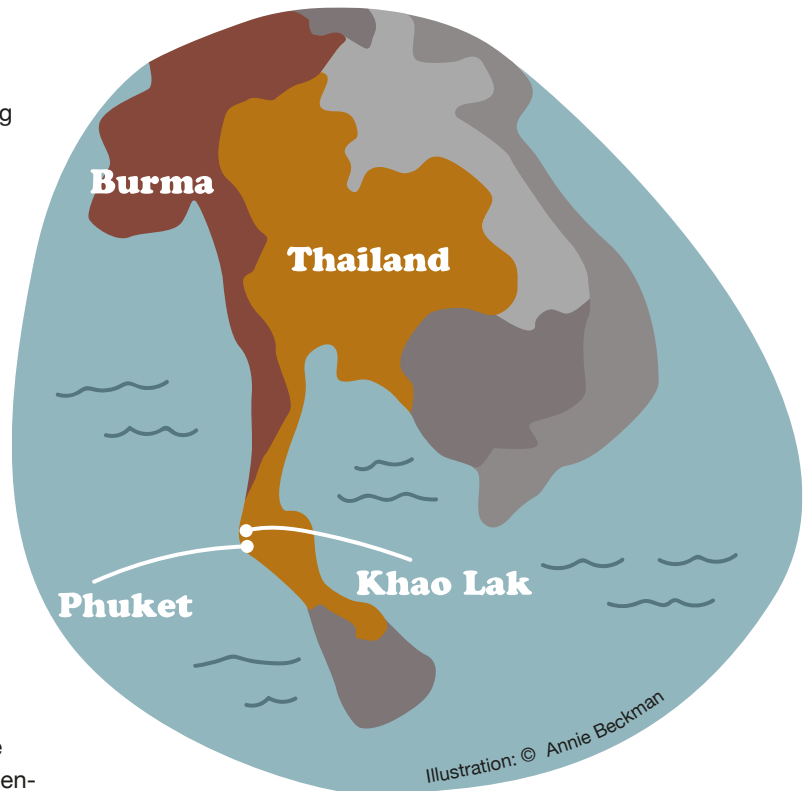
10. Ministry of foreign Affairs. Action plan for business and human rights. Stockholm August 2015.

# Thailand – a tourism dependent country

Thailand has experienced strong economic growth over several years. The economic development has also in some way trickled down. In 2013, the Thai government increased the minimum wage from 220 Baht to 300 Baht per day for all workers throughout the country. That equals an increase from 6.2 USD to 8.5 USD.

Nonetheless, vulnerable groups such as ethnic minorities and migrant workers have not been able to benefit from the economic development to the same extent as the rest of the population.<sup>11</sup> At the same time, Thailand has become dependent on the millions of migrants from the neighbouring countries who contribute to the economic growth, predominantly in the form of cheap manpower. The majority of the migrant workers - about two million - are from Burma, a country whose economy is boosting, though from a very low level. In Burma, one in four people still live in poverty.<sup>12</sup>

The political situation in Thailand is currently unstable with a deteriorating human rights situation. Following a military coup in May 2014, the Thai army dissolved the parliament and put democratic elections on hold. The military is increasing its control and has further postponed the promised new elections. Meanwhile, different parties are positioning themselves, seeking political influence.<sup>13</sup> The volatile political situation in Thailand led to a moderate decrease of tourists in 2014, but overall, the country has experienced a major increase in tourism over the recent years.<sup>14</sup> Nearly 25 million foreign tourists visited Thailand in 2014.



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11. UD [Swedish Ministry of foreign affairs], *Mänskliga rättigheter i Thailand 2013* [Human rights in Thailand 2013], 2013.
  12. Poverty rate of 26.5% at US\$ 2 (PPP) per day. Schmitt-Degenhardt, Stephan. *A regional perspective on poverty in Myanmar*. UNDP 2013, p. 7.
  13. Bejerot, Lena. *Thailands osäkra framtid*, [The uncertain future of Thailand], Sveriges Radio. 2015-10-08. <http://sverigesradio.se> (Accessed 2015-10-13).
  14. The Authority on World Travel & Tourism. *Travel & Tourism Economic impact 2015 Thailand*, 2015, p. 8.





The tourism industry accounts for almost twenty percent of the country's GDP and about 14 percent of the work force is directly or indirectly related to the sector. Hence, tourism is an essential source of income for the Thai economy, and Burmese manpower constitutes a corner stone.

#### **INTERNATIONAL LABOUR RIGHTS IN THAILAND**

Thailand has ratified five of the eight International Labour Organisation (ILO) core conventions on human rights in the workplace that regard child labour, forced labour, and discrimination.<sup>15</sup> The three conventions that remain to be ratified are freedom of association and collective bargaining (number 87 and 98), and number 111 on non-discrimination in employment. Neither has Thailand ratified two migrant specific ILO conventions, although the country receives millions of migrant workers, namely C.97 Migration for Employment and C.143 The Migrant Worker Convention.

However, as a member of the ILO, Thailand is bound by an obligation to promote and realize the core principles in Article 2 of the ILO Declaration on Fundamental Principles and Rights at Work, including freedom of association, the effective recognition of the right to collective bargaining, and the elimination of discrimination in respect of employment and occupation.

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15. Forced or Compulsory Labour (29), Abolition of Forced Labour (105), Minimum Age for Admission to Employment (138), Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour(182), and Equal Remuneration Convention (100).

# Burmese workers' rights in Thailand

Approximately 2.7 million migrants from the neighbouring countries Burma, Laos and Cambodia work in Thailand. The majority, about two million, are of Burmese origin. Their reason for leaving Burma is to a great extent related to the harsh economic and political conditions under the semi-military rule.<sup>16</sup>

The Thai government policy aims to reserve high skilled jobs for Thai, which limits the migrants from the neighbouring countries to so-called 3D jobs – Dangerous, Dirty and Demanding.<sup>17</sup> According to the International Trade Union Confederation Global Rights Index 2014, systematic violations of workers' rights occur in Thailand. The country's score puts them under the category where fundamental rights are put under continuous threat, together with countries like Iraq and Bahrain.<sup>18</sup> In this context, migrants are particularly susceptible. Although the Thai Constitution prohibits discrimination based upon ethnicity and the Thai labour law protect migrant workers in theory, the regulations have not been effective due to insufficient law enforcement of the authorities.<sup>19</sup> A 2010 Human Rights Watch report found that sanctions by authorities against employers abusing Burmese employees were non-existent.<sup>20</sup>

Moreover, migrant workers are not permitted to become executive members of a trade union.<sup>21</sup> Hence, they are not in a strategic position to defend their labour rights themselves. As a consequence, hardly any unions are engaged in migrant workers' rights.<sup>22</sup> In addition, trade unions in Thailand are generally weak and the unionization rate is low. There are no recent figures, but statistics from 2010 and 2013 respectively state that about 1-4 percent of the labour force is affiliated to a union.<sup>23</sup> The respect for union rights is diminished which reiterate in the hotel sector. The Phuket Federation of Hotel and Service Labour has shrunk from having established unions at 75 hotels in the Phuket area to only seven, following aggressive intimidation by employers including sacking of union members, explains Vijit Dansatad, president of the federation.<sup>24</sup>

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16. J Huguet, Jerrold W (ed.). *Thailand Migration Report 2014*, United Nations Thematic Working Group on Migration in Thailand. Bangkok, Thailand, 2014, p. 165.

17. S. Chantanvanich, and P. Vungsiriphal, Myanmar Migrants to Thailand: Economic Analysis and Implications to Myanmar Development, in H. Lim and Y. Tamada (eds.), *Economic Reforms in Myanmar*, Bangkok, Bangkok Research Center, IDE-JETRO, p. 215.

18. International Trade Union Confederation. ITUC Global Rights Index 2014 The world's worst countries for workers, Brussels, ITUC, 2014.

19. Paitoonpong Sravooth, Chalamwong Yongyuth, *Managing international labor migration in ASEAN: A case of Thailand*, Thailand Development Research Institute (TDRI), 2011.

20. Human Rights Watch. *From the tiger to the crocodile: Abuse of migrant workers in Thailand*. 2010, p. 15.

21. The current labour protection act is from 1998. *Labour Relations Act, B.E. 2518 (A.D. 1975) section 101; Labour Protection Act B.E. 2541 (1998) section 5*.

22. UD [Swedish Ministry of foreign affairs], *Mänskliga rättigheter i Thailand 2013* [Human rights in Thailand 2013], 2013.

23. S. Ayudhya, *The Thai Labor Movement – Strength through unity*, Friedrich Ebert Stiftung. Bangkok 2010, p. 4.

24. Interview with Vijit Dansatad, president of the Phuket Federation of Hotel and Service Labour, 2015-06-12.

# Tough conditions for Burmese staff



Illustration: © Annie Beckman

## A SNAPSHOT OF A HOTEL EMPLOYEE

Nwe Nwe was 15 years old when she started working as a house keeper at the hotel. Now she is 16 years old but looks much younger. At first she seems a little bit shy but then she looks at me with lively eyes. She wears a dotted dress and her long black hair is tied up in a ribbon.

Every day she cleans 16 rooms. If she manages to clean the rooms fast she has time to take half an hour lunch break. Nwe Nwe has not had any vacation since she started working seven months ago. If she makes a mistake, the employer deducts her salary.

- I forgot to check the mini-bar so we did not charge the guests for what they had eaten, then I had to pay for it. Instances like this have happened many times... Once I broke a glass scale and had to pay 800 Baht.

The other day the supervisor announced that some staff soon will be laid off entirely during low season. Nwe Nwe does not know yet if she can stay or not. She and her four family members live together in one single room in a building shared with other families. Her parents keep her salary to support the family.

## **WORK PERMIT BUT NO WRITTEN EMPLOYMENT CONTRACT**

A major change and improvement compared to Fair Action's previous assessment in 2012 is that this time all the interviewed Burmese workers have a work permit including health insurance and ID. Also, it is much easier to obtain these documents compared to a couple of years ago. Since 2012, Thai authorities have implemented several amnesties, enabling Burmese workers without formal permit in Thailand to officially register. This allows them two-year renewable working visas and access to Thai Social Security.<sup>25</sup>

This new situation should allow Burmese who hold a permit to enjoy the protection of formal employment contracts. However, more than two thirds of the interviewed hotel workers did only have a verbal job agreement and no written employment contract.<sup>26</sup> Among the respondents working for hotel suppliers, none had a written employment contract.

Since employment contracts do not have to be written according to Thai law, workers may be left with vague or non-transparent oral agreements. It means that the migrant worker in practice lacks rights because she or he cannot prove the conditions of the contract.

## **DIFFICULT AND COSTLY TO GET HOLD OF THE WORK PERMIT**

The registration procedure for the work permit is bureaucratic and confined to a limited number of registration offices.<sup>27</sup> To facilitate the process, the migrant usually hires a broker. The broker can charge 12 000-15 000 Baht for the required documents, which corresponds to nearly the triple of the official cost and more than one month's earnings for a worker on minimum wage.<sup>28</sup> None of the respondents have been able to obtain their work permit on their own, and most of them hired a broker to arrange the documents.<sup>29</sup> Half of the interviewed hotel workers have paid a fee to the broker that corresponds to up to two months' salary.

Also, the work permit needs to be renewed every second year. If an employer helps the migrant to obtain a work permit, it is not uncommon that he or she keeps the formal documents as a security until the employee has paid off the debt or sometimes even longer. Two laundry workers describe how the employer kept their permits when they had borrowed money from him in order to renew the permit. He kept the permits throughout the period of repayment.<sup>30</sup> Under these circumstances, it is risky for workers to leave the work compound as they could be extorted and deported if found by the police without formal documents.

Another aspect that reduces the migrant's freedom is that the work permit is linked to the place of employment, which can make it difficult to leave an abusive employer.<sup>31</sup> A waiter believes that the employer keeps the work permit to prevent migrants from running away.<sup>32</sup>

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25. MAP Foundation. *Regular Rights. A Study on the Impact of Regularization of Migrant Workers from Myanmar (Burma) in Thailand*, 2nd edn., Chiang Mai, MAP Foundation, 2015, p. 7.

26. House keepers, interview 1, 10, 14, 15, 16, 20; receptionist, interview 2; gardeners, interview 12 and 17; cleaner, interview 13; room service, interview 5; kitchen assistant, interview 9; waiter, interview 4.

27. MAP Foundation, 2015, p. 18.

28. *Ibid.*, pp. 20, 139. The required documents are ID, health check, health insurance, visa and work permit.

29. House keepers, interview 1, 14, 15, 16, 20; receptionist, interview 2; cashier/waiter, interview 3; dishwasher/construction worker, interview 7; gardeners, interview 11 and 17; room service, interview 5; waiters, interview 4 and 6.

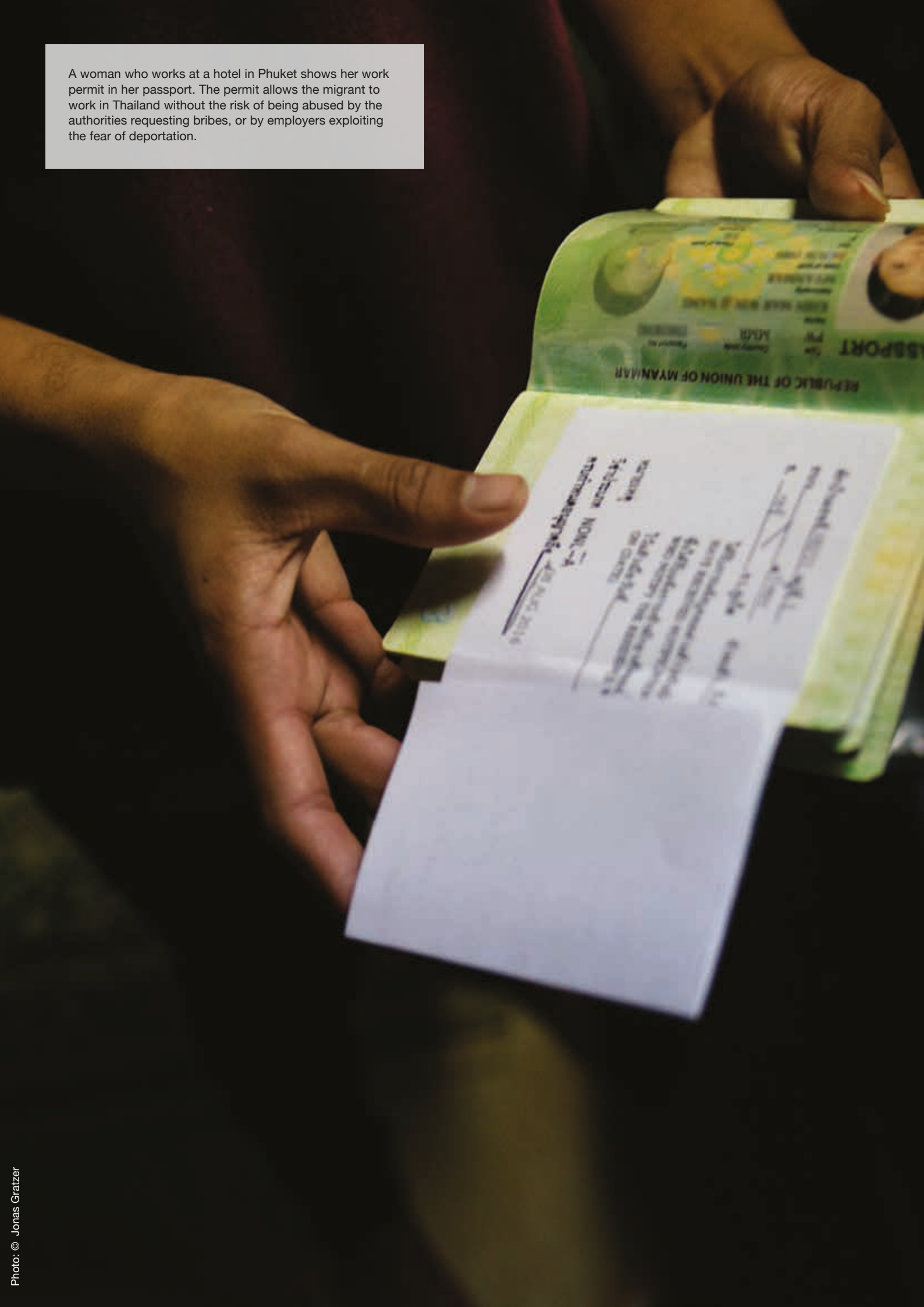
30. Interviews 21 and 22.

31. MAP Foundation, 2015, p. 16.

32. Waiter, interview 6.



A woman who works at a hotel in Phuket shows her work permit in her passport. The permit allows the migrant to work in Thailand without the risk of being abused by the authorities requesting bribes, or by employers exploiting the fear of deportation.



In contrast to the luxurious environment enjoyed by the customers at the hotels in which they work, most respondents live in small overcrowded houses covered with corrugated metal sheets. At the time of the interviews the area was flooded, infested with mosquitos and leeches. There is no access to clean water. Residents have to use the water from a lake, which is polluted from its urban surroundings.



In practice however, it seems that a broker can solve the formal arrangements when changing employment as long as the migrant worker can pay for it, according to the interviewees.

### **BURMESE ARE NOT PAID THE MINIMUM WAGE**

The Thai government introduced a uniform minimum wage of 300 Baht (USD 8.5) per day in 2013 which corresponds to a monthly minimum wage of 9 000 Baht. In Pangnga, Khao Lak, this meant an increase, while Phuket already had a minimum wage of 300 Baht since 2012. Since then, the rate remains unchanged whereas the high cost of living at tourist destinations makes it a modest income.

The increased minimum wage has had a positive impact on the salary level in general, also for those who are still paid below the minimum wage, according to six of the hotel workers. Still, half of the responding hotel workers had a salary inferior to the minimum wage. Out of the rest, seven were paid the minimum wage, and two were paid more. The monthly expenditure for basic items is close to, or higher than their salary, says more than half of the hotel workers that Fair Action interviewed. It leaves no room for substantial savings or long-term improvement of living conditions.<sup>33</sup>

One of Thailand's major labour organisations, The Thai Labour Solidarity Committee, has called for an increase of the minimum wage from the current 300 Baht per day to 360 Baht.

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33. House keepers, interview 1, 14, 15; dishwasher/construction worker, interview 7; gardener/construction worker, interview 11; gardener, interview 12; cleaner, interview 13; room service, interview 5; waiters, interview 4 and 6; kitchen assistant, interview 9.



The Burmese workers that Fair Action has talked to live in small houses with no separate kitchen. The houses are built by themselves using scrap material including corrugated metal and pieces of wood. In contrast, Thai residents employed by the same employer are provided with housing and concrete toilets in the same vicinity.



Higher public utilities charges and rising food prices have increased the cost of living, says the president of the organisation, Wilaiwan Sae Tia.<sup>34</sup> Asia Floor Wage Alliance, a global coalition of trade unions, workers' rights and human rights organizations, calculates that a living wage in Thailand 2015 corresponds to 445 Baht per day. A living wage allows a worker to buy food for herself and her family, pay the rent, healthcare, clothing, transportation and education as well as saving a small amount for when something unexpected happens. According to this figure, the minimum wage needs to be increased by 50 percent in order to allow workers to have a decent standard of living.

Many of the workers have children and other family members in their home country. Despite barely any margins, fourteen of the eighteen hotel workers support dependants back in Burma. The frequency and size of the remittances vary greatly among the respondents, mostly depending on the size of service charge that they receive. The service charge is an additional fee paid by hotel guests for the service. The amount is often substantial in relation to the respondents' salary but it varies greatly depending on the season and the number of guests staying at the hotel.<sup>35</sup> Hence, this additional income is volatile and insecure. Additionally, service charge can be arbitrarily awarded, not only depending on the

34. Bangkok Post. *Workers ask for B360 minimum wage*. 2015-03-31. <http://www.bangkokpost.com/news/general/513659/workers-ask-for-b360-minimum-wage>. (Accessed 2015-11-17).

35. 14 of the 18 hotel workers receive service charge; House keeper, interview 1, 10 and 20; receptionist, interview 2; gardener, interview 11 and 17; cashier/waiter, interview 3; dishwasher/construction worker, interview 7; gardener/construction worker, interview 12; room service, interview 5; waiter, interview 4 and 6; HR officer, interview 16; kitchen assistant, interview 9.





In one of the laundry compounds, 23 Burmese staff share two toilets and one kitchen. They are not allowed to use other toilets reserved for their Thai colleagues. The toilets offered to Thai staff are of higher standard.

number of hotel guests, but also because it is up to the manager to subjectively decide the recipients and the amount.<sup>36</sup>

- Service charge is not paid during the first year of employment. After that it still depends on how committed they find you, says a house keeper who has worked at a hotel for seven years.<sup>37</sup>

When it comes to the eleven interviewees at the hotel suppliers, nine receive less than the minimum wage, while the two remaining interviewees earn the minimum wage. Those partly laid off during low season receive about half of the minimum wage these months. Despite low earnings, everyone remits money to dependents in Burma – however with different frequencies, and three by getting into debt.<sup>38</sup>

Another factor that influences the wage is discriminatory attitudes towards Burmese that are deep-rooted in Thai society.<sup>39</sup> Among the interviewed hotel workers, half describe that

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36. House keeper, interview 10; cashier/waiter, interview 3; kitchen assistant, interview 9; cleaner, interview 13; gardener, interview 17.

37. House keeper, interview 15.

38. Laundry workers, interview 8, 23, and 24.

39. M. Sumpuwan and S. Niyomsilpa, 'Perception and misperception: Thai public opinion on Refugees and Migrants from Myanmar', *Journal of Population and Social studies*, Volume 21 N. 1, July 2012, pp. 47-58.



Thai colleagues receive a higher salary for the same job. Thai are also reported to be offered better benefits, including better accommodation, longer holidays, access to maternity- and sick leave and more service charge.

- The Thai get service charge after working for two months while the Burmese have to wait for a year, explains another house keeper working at the same hotel.<sup>40</sup>

There are also examples of salary discrimination in the supply chain. While Thai workers receive the mandatory paid leave the Burmese do not, according to five of the six respondents who work in ethnically-mixed workplaces. A baker gives an example of how Thai bakers receive sick leave pay while the Burmese colleagues do not.<sup>41</sup> Moreover, in three cases in which Thai staff holds a similar position as the respondent, the Thai staff is paid more for the same work, according to the interviewees.<sup>42</sup> The exception is the carpenter who holds a high-skill occupation and enjoys similar conditions as his Thai colleagues.

According to the interviews, the employer can also reduce the employee's salary because of faults committed while working as a financial punishment. The deductions can be substantial. A laundry worker says that she had to pay 1 000 Baht when she burned an item of clothing while ironing – almost a quarter of her low-season monthly income.<sup>43</sup> Moreover, a baker describes that he had to pay a considerable amount because of an error.

- When I made doughnuts they did not turn out well. They did not look pretty enough, so I had to pay 720 Baht in compensation [the selling price of the doughnuts].<sup>44</sup>

### **OVERTIME NOT FAIRLY COMPENSATED**

The Thai Labour Protection Act prescribes that the overtime rate should be 150 percent of the hourly rate for work after the usual eight hours on a weekday. On a weekly day-off or on a holiday, the overtime rate is three times the normal hourly salary for work either before or after usual working hours.<sup>45</sup>

When it comes to the hotel workers, eight of the ten who work overtime were not paid the legal overtime rate.<sup>46</sup> Moreover, two laundry workers who work overtime on a regular basis do not have any specified overtime rate, and as overtime is not declared on their salary slip, it is arbitrary how much they receive each month. In total, five respondents working for the suppliers state that they do not get the correct overtime rate.

### **EXCESSIVE WORKING HOURS AND NO TIME FOR BREAKS**

Thai labour law prescribes that normal working hours must not exceed eight hours a day, or if agreed otherwise by an employer and an employee, maximum 48 hours a week. If working five or more hours per day, an employee is entitled to a minimum of one hour rest a day. Breaks can be divided into periods shorter than one hour but the total rest period must not be less than one hour. If overtime work exceeds two hours, there must be a twenty minutes break before starting the overtime work.<sup>47</sup>

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40. House keeper, interview 16.

41. Bakers, interview 25 and 26.

42. Laundry worker, interview 22; bakery workers, interview 25 and 26.

43. Laundry worker, interview 22.

44. Baker, interview 26.

45. Labour Protection Act B.E 2541 (1998) sections 53 & 61 -64.

46. House keeper, interview 1,10 and 14; receptionist, interview 2; cashier/waiter, interview 3; dishwasher/construction worker, interview 7; HR officer, interview 18; kitchen assistant, interview 9.

47. *Labour Protection Act B.E 2541 (1998)* section 23 and 27.



Hand washed smart hotel uniforms, such as the white jacket of a hotel kitchen, are draped over the clothesline under crumbling shacks to get dry.





Overtime work and work during holidays must not exceed 36 hours in total per week. Employers are prohibited to request overtime work from an employee, unless they have received the employee's prior consent. However, a hotel manager may always request that an employee work on a holiday, if compensated. The employer is prohibited from requiring overtime work when it might be harmful to the employee's health or safety.<sup>48</sup>

In practise, the working days at the hotels can be very long. Two hotel workers report that they regularly work excessive overtime, totalling 84 working hours per week or 14 hours per day during high season. One of them works as a restaurant cashier during the day and as a waiter at the same hotel restaurant during the night, occasionally working up to 17 hours without a break. Another two respondents work regular days of 10 hours, six days per week. Both cases are illegal under Thai law prescribing a maximum 36 hours of overtime work per week and a maximum regular working week of 48 hours.

The working days at the hotel suppliers are also excessively long. One interviewee describes how she begins work at 7am in the morning and continues in the laundry until midnight, and on occasion until 2 am. She is not compensated with the lawful minimum wage and has only two days off per month.<sup>49</sup> In the same laundry, two other interviewees work 17-19 hours per day during high season, all but two days per month.<sup>50</sup> All the inter-

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48. *Labour Protection Act B.E. 2541* (1998) sections 24-27 & 31. Ministerial Regulation NO.3, B.E.2541 (1998). Issued under the *Labour Protection Act B.E.2541* (1998).

49. Laundry worker, interview 22

50. Laundry workers, interview 19 and 21.

viewed laundry workers and a baker bear witness of excessive and illegal working hours. In another laundry, the interviewee works 16 hour shifts, from 6pm to 10am every day, without any days off.<sup>51</sup> The two remaining laundry employees regularly work 70 hours per week, again without any days off. Some of their Burmese colleagues sometimes decline to work longer than eight hours per day. Yet, the respondents do not see it as an option due to the debts as well as their responsibility for supporting family members in Burma who depend on their income.

The two bakers work twelve hours per day during high season and receive only two days off per month. They work under time pressure and are limited to 20 minutes' break for a twelve-hour day. This is far less than the mandated breaks under Thai law. If working five or more hours an employee is entitled to a minimum one hour rest a day. In case of overtime work exceeding two hours, there must be a twenty minutes break before starting the overtime work.<sup>52</sup> The laundry workers have similar time pressure, with only short time for breaks, or none at all.

A majority of the hotel workers state that they do not have any specified breaks, nor do they enjoy the one hour of combined break time that is mandatory under Thai labour law.<sup>53</sup> - He [the supervisor] complains a lot. If I take a break he reports it to the manager, says a gardener who is scolded for taking breaks.<sup>54</sup>

### **NO HOLIDAYS FOR THE BURMESE**

According to Thai labour law employees should have at least one paid day off per week. In the hotel sector, the employee and employer may agree to accumulate and postpone



Illustration: © Annie Beckman

51. Laundry worker, interview 8.

52. *Labour Protection Act B.E. 2541 (1998)* section 27.

53. Eleven respondents; house keepers, interview 1, 10, 14, 15, 16; receptionist, interview 2; gardener, interview 17; cashier/waiter, interview 3; dishwasher/construction worker, interview 7; gardener/construction worker, interview 11; waiter, interview 4.

54. Gardener/construction worker, interview 11.



weekly holidays within a period of maximum four consecutive weeks. Employees are entitled to paid leave on 13 public holidays annually. In the hotel business, an employer may prohibit the employee from taking leave on the public holiday itself, and either substitute it with other leave days, or compensate the employee with extra holiday pay. In addition, employees are entitled to at least six days of paid annual leave, which makes the total annual leave 19 days.<sup>55</sup>

15 of the 18 interviewed hotel workers do not receive the correct quantity of legally prescribed public holidays or annual leave days that they are entitled to. Out of the remaining three, only one uses all her leave days, and the other two hotel workers do not receive any paid leave at all. These are serious violations of the right to 19 days of paid leave per year in total.

Holidays are also rare for all but one of the eleven workers Fair Action interviewed at the suppliers.

– I have never been on leave. The boss told us clearly that we are not allowed to take any leave, says a worker in a meat-processing unit, employed for more than two years.<sup>56</sup>

None of the ten have had any paid annual leave and they work through public holidays.

– Once I had holiday. Three years ago I was away from work for a week, says one laundry worker, employed for nine years.<sup>57</sup>

His colleague hadn't had a single day off during his entire year as an employee at the laundry, an experience he shares with two of the other workers interviewed.

– I only take one day, sometimes. I never asked for any leave in 2014 but I requested one day this year when my aunt was sick, he says.<sup>58</sup>

Despite Thai law establishing at least one day of rest per week, eight of the eleven supplier workers have been denied this. Generally, the approval to leave appears to be highly infrequent. However, one of the workers state that he and his colleagues are permitted to take more than one day of leave when they are going to Burma to visit relatives, but he has never tried that himself.<sup>59</sup>

Interviewees also describe how holiday entitlements can differ between Thai and Burmese staff. While Thai staff in one of the hotels enjoys the mandatory weekly paid day off, Burmese staff is only allowed two days per month without compensation. Furthermore, unlike their Thai colleagues, the Burmese staff at the same hotel reports having to wait up to three years before being entitled to paid annual leave and public holidays.<sup>60</sup>

### **LIMITED SICK LEAVE AND ARBITRARY COMPENSATION WHEN INJURED AT WORK**

According to the Thai Labour Protection Act, employees are allowed up to 30 days of paid sick leave annually. If the employee is sick for three days or more, the employer may

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55. *Labour Protection Act B.E. 2541* (1998) sections 28, 29, 39 & 56; Ministerial Regulation NO.4, B.E.2541 (1998). Issued under the Labour Protection Act B.E.2541 (1998).

56. Meat processing worker, interview 28.

57. Laundry worker, interview 19.

58. Laundry worker, interview 21.

59. Baker, interview 25.

60. Kitchen assistant, interview 9; house keeper, interview 10.

require a medical certificate. Leave caused by work injury or illness should not be considered sick leave.<sup>61</sup>

In practise, being away from work due to illness for longer than a few days can have serious consequences for Burmese staff.

-You can only stay home for four days. They have fired several people who stayed at home longer than that. I know at least three cases. They [the management] wait until high season is over and then they are fired, says a gardener.<sup>62</sup>

Other respondents state that they do not get fired if they stay at home because of illness, but that the total time of absence is deducted from their holidays.<sup>63</sup> The majority of the hotel workers report that they do not receive any paid sick leave at all. None of the workers at the hotel suppliers had been offered the 30 days of paid sick leave they are entitled to by law.

Migrant workers in Thailand generally purchase mandatory health insurance when applying for a work permit, however it is still challenging to access sufficient health care due to their vulnerable position in Thai society and their lack of family networks.<sup>64</sup>

- I had a bad fever and needed hospital care so I went to a hospital in Burma. In case I would be hospitalized, which I was, I needed someone to take care of me in the hospital. My wife could not stay away from her work, so I went to Burma where my family could be with me in the hospital, one worker explains.

Moreover, according to the Thai Workmen's Compensation Act, employers must pay medical expenses including rehabilitation for workers who have been injured at work. If an employee suffers from occupational related injury or illness for more than three consecutive days, the employer is obligated to pay 60 percent of the monthly wage until the employee is able to work again, up to a maximum period of one year.<sup>65</sup>

In reality, a worker that is involved in an accident and is injured while working at the hotel, or on the way to or from work, runs the risk of not being compensated. Altogether six hotel workers report instances of none or incorrect pay.<sup>66</sup> Whether you receive any financial compensation or not seems to be arbitrary depending on the relationship to the manager, resulting in different conditions for staff at the same hotel.

- Whether you get paid or not depends on if your team leader likes you or not and sign up for you when you are away, says a gardener.<sup>67</sup>

A dishwasher describes what happened when he had an accident in a restaurant kitchen of the hotel.

- I was on sick leave for four days after cutting myself at work. I got six stitches and could not do any dishwashing. But then they reduced my holiday time by four days.<sup>68</sup>

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61. *Labour Protection Act B.E. 2541 (1998)* sections 32, 41, 57 & 59.

62. Gardener, interview 12.

63. Cashier/waiter, interview 3; gardener/construction worker, interview 11; house keeper, interview 15; dishwasher/construction worker, interview 7; room service, interview 5; HR officer, interview 18.

64. MAP Foundation. *Regular Rights. A Study on the Impact of Regularization of Migrant Workers from Myanmar (Burma) in Thailand*, 2nd edn., Chiang Mai, MAP Foundation, 2015, pp. 22-23.

65. *Workmen's Compensation Act (1994)* sections 13, 15 & 18.

66. Dishwasher/construction worker, interview 7; gardeners, interview 11 and 12; cleaner, interview 13; kitchen assistant, interview 9; house keeper, interview 20.

67. Gardener, interview 13.

68. Dishwasher/construction worker, interview 7.

Another interviewee had an incident while cooking and shares a similar story.

- I worked in the kitchen and burned my hand with hot oil. I had to stay home for seven days but they did not pay me my salary.<sup>69</sup>

The same respondent says that Thai staff at the hotel is given safety trainings but the Burmese are not, which is confirmed by other respondents. Two thirds of the interviewees affirm that they have never attended any occupational health and safety trainings, nor fire drills or Tsunami training.

- Fire drills are only for Thai staff... I don't know how to use the fire extinguisher, says one of the hotel workers.<sup>70</sup>

In this context it is relevant to point out that Phuket and Khao Lak, where the interviewees work, were among the hardest hit areas by the 2004 tsunami. Up to two thousand Burmese workers passed away along Thailand's South-western coastline together with Thai nationals and tourists.<sup>71</sup>

Stress, exhaustion and lack of safety precautions are also part of the daily work at the hotel suppliers. Two laundry workers experienced occupational illness or occupational accidents without receiving support from their employers. One laundry worker suffered from deteriorating health for four years because of heavy work and lifting, yet her employer ignored repeated instructions from the doctor.

- My stomach and back pain continued to grow worse. She [the employer] joined me to the doctor several times, but she did not listen when he said that I could not continue to carry heavy loads, says one worker who works 16 hours per day.<sup>72</sup>

According to her, the laundry facility used to employ Thai workers as well, but they all quit after a short period, due to the work being too strenuous and physically demanding. Another worker in the second laundry facility became ill from not eating during the work-day. This was a result of high pressure to perform and complete tasks, making it challenging to find time to eat.

- Once I stayed at home ill for two weeks. I had bad stomach pain because I never had time to eat, she says.

After five days she lost her salary for the rest of her sick leave and her employer refused to cover the medical costs, despite receiving her medical record. Presently, she works 17-19 hours per day during the high season, all but two days per month. Both cases violate the law. By law, employees are allowed up to 30 days of paid sick leave annually, and the employers should cover medical expenses including rehabilitation for workers who have been injured at work.

In contrast to the previous report "No place in the sun" from 2012 that disclosed one case of forced labour and child labour at a laundry, no child labour or forced labour were revealed in the interviews made for this report.

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69. Gardener, interview 12. He used to work in the kitchen.

70. Gardener, interview 13.

71. Hakoda, Tetz. Invisible Victims of the Tsunami - Burmese Migrant Workers in Thailand, Focus, Vol. 39, March 2005.

72. Laundry worker, interview 8.

A migrant-dense neighborhood in Phuket by night. Most Burmese who live here work in Thailand's multi-billion dollar tourism industry on the Phuket Island.





# The tour operators' sustainability work

The table briefly presents the tour operators and summarizes their supply chain management. Thereafter, the Travelife certification is shortly discussed, followed by a description of each tour operators' social responsibility policies that regard suppliers as well as their supervision of the supply chain.

## THE TOUR OPERATORS AND THEIR SUPPLY CHAIN MANAGEMENT

	<b>Apollo</b>	<b>Fritidsresor</b>	<b>Ving</b>
Parent company	REWE Group	TUI Group	Thomas Cook Group
Market share of the Swedish package tour market	20 percent	35 percent	30 percent
No. of Swedish clients going to Thailand 2015/2016	6 000	40 000	22 000
The company has a public supplier CoC*	Yes	Yes	No**
The company has a supplier CoC that refers to the ILO core conventions	Only one out of eight is mentioned	Only one out of eight is mentioned	No
The suppliers of the contracted hotels are bound to comply with the CoC	No but hotels are encouraged to promote the code to their suppliers	No but hotels are encouraged to promote the code to their suppliers	No
The company has a follow up procedure in place for monitoring working conditions at hotels' suppliers	No	No	No
The company has mapped the existence of independent unions at their contracted hotels in Thailand	No	No	No
The company has assessed the wage levels at contracted hotels in Thailand	Yes, only Travelife certified hotels and minimum wage is paid according to the audit	Yes, audited hotels state that they pay at least the minimum wage	Yes, on the concept hotels. Ving found that the hotels pay at least the minimum wage
The company has measurable targets that directly relate to the hotel workers' conditions and rights	No	No	No
Share of customers staying at hotels in Thailand certified by Travelife or other certification approved by GSTC***	No figures available	Around 25 percent	50 percent

\* CoC=Code of Conduct

\*\* Ving has its code of operations available at <http://hallbartresande.ving.se/principer-och-riktlinjer/> However, it does not fulfil the UNGPs criteria for policy commitment. The criteria require that the whole policy is public and that it is approved at the most senior level of the enterprise.

\*\*\* GSTC= Global Sustainable Tourism Council

Source: Questionnaire and the tour operators' websites

All three tour operators refer to Travelife certification as a central part of their sustainability work. Travelife is a certification with standards for environmental management, fair working conditions and community integration, owned by the British travel association ABTA. Travelife audits hotels that seek certification and the certified hotels are re-audited every second year.

While it is positive that the tour operators collaborate and use the same standard vis-à-vis suppliers, Schyst resande and Fair Action recently revealed major flaws in the Travelife criteria as well as in its implementation at certified hotels.<sup>73</sup> For example, the criteria do not contain core labour standards such as freedom of association and the right to collective bargaining. In addition, a field study in Turkey showed that workers at Travelife certified hotels were hindered from joining a union, deprived of overtime compensation and did not earn enough to be able to afford basic living expenses.<sup>74</sup>

## APOLLO

Apollo was previously owned by the Swiss travel group Kuoni but on September 11th 2015, it was bought by the German company REWE Group. Nonetheless, Apollo's sustainability work is still governed by Kuoni's policies.

The Kuoni Supplier Code of Conduct stipulates that the supplier, in this case the hotel, must follow international law as well as the national law. Among other things, the supplier must pay a minimum wage, working hours must be according to the law, and the employee shall be granted their annual leave. The code mentions international conventions only when referring to child labour and sexual exploitation of children.<sup>75</sup>

An additional document titled "Statement of Commitment on Human Rights" specifies the company's commitment further. This statement applies both to the entire Kuoni Group, and to the counterparts within the tourism supply chain. The company commits to respect labour rights such as non-discrimination, health and safety as well as fair wages and the document refers to the core conventions of ILO.

Kuoni states that the company conducts due diligence regarding human rights in selected sensitive destinations.<sup>76</sup> The risk of human rights violations is assessed in the different countries based on a number of criteria. The result is a list of high-risk countries that could be subject to a human rights audit and Thailand is one of the high-risk countries.<sup>77</sup> So far, Kuoni has conducted human rights impacts assessments for its operations in Kenya and India.

No external third party audits are made at the hotels, but the parent company does conduct controls in order to make sure that the hotels comply with the code of conduct. Kuoni states that 326 suppliers were assessed in 2013, and no significant negative human rights impact was found.<sup>78</sup> Audits are also carried out by Travelife at certified hotels. The hotel suppliers on the other hand, are not monitored by the company or by Travelife.<sup>79</sup>

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73. Schyst resande, *Travelife's broken promises to hotel workers A study of labour rights at hotels in Turkey contracted by Apollo (Kuoni), Fritidsresor (TUI) and Ving* (Thomas Cook), 2015.

74. Ibid.

75. Kuoni Group Supplier code of conduct, published in August 2014.

76. Kuoni, Statement of Commitment on Human Rights, first edition from 5 March 2012, revised in January 2014.

77. E-mail from Kajsa Moström, communication and CSR manager at Apollo, 2015-10-26.

78. Kuoni sustainability report 2014.

79. Answer questionnaire. Have you investigated the working conditions of the suppliers to the contracted hotels in Thailand since Schyst resande and Fair Action's review in 2012?

Moreover, Kuoni offers the hotel management an e-learning course about the content of the supplier code of conduct according to Kajsa Moström, communication and CSR manager at Apollo.<sup>80</sup>

## **FRITIDSRESOR**

Fritidsresor expects hotels to comply with the parent company TUI Travel Supplier Code of Conduct. The code stipulates that applicable law regarding working hours, salary, and antidiscrimination should be followed. Moreover, the supplier should ensure that written contracts for both direct and contracted workers exist, which clearly convey the conditions of employment in a language understood by the worker. The code also states that the suppliers should actively promote the code to their sub-contractors and suppliers. However, the TUI Travel Supplier Code of Conduct is only a guideline and not a contractual agreement.<sup>81</sup>

While TUI expects the suppliers to adhere to the Supplier Code of Conduct although it is not compulsory, there is another binding policy document that suppliers are bound to sign as part of the partnership agreement with TUI, namely a Sustainable Development Contract Addendum. According to the addendum, suppliers agree to comply with local employment legislation, at least pay the minimum wage and have some kind of evidence that no less than the minimum wage has been paid. The policy document only refers to ILO conventions concerning child labour.

According to Fritidsresor, the company follows up on the working conditions at the contracted hotels in Thailand within the sustainability part of their Health Safety & Sustainability Audits. Fredrik Lindblom, Manager of Sustainable Development at TUI Nordic, states that about 90 percent of the hotels in Thailand have been audited. The audits have found most discrepancies concerning the hotel workers' possibility to join a union.

- When we follow up, we get the answer that there is no union represented at the hotel. It reflects the general situation in Thailand of very few unionized employees in the private sector, says Fredrik Lindblom. Furthermore, Lindblom adds that the results of the audit suggest that all hotels state that they pay at least the stipulated minimum wage.

Fritidsresor's hotel suppliers are covered by the TUI Supplier Code of Conduct. However, the TUI Supplier Code of Conduct is not binding but rather a guideline and Fritidsresor does not systematically follow up whether the hotel suppliers comply with the code. When audited, the hotels state that they intend to promote the code of conduct or similar ethical guideline to their suppliers, but Fritidsresor does not conduct any follow up.<sup>82</sup>

## **VING**

Ving does not have a public supplier code of conduct. Instead, Ving states that it includes clauses concerning workers' rights, a code of operation, in the hotel contracts signed by the hotel management. The 2014 sustainability report from the parent company Thomas Cook states that the hotels should comply with national law.<sup>83</sup>

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80. Answer questionnaire. Have you followed up on the situation of Burmese migrant workers at your contracted hotels in Thailand since Schyst resande and Fair Action's review in 2012?

81. Supplier Code of Conduct, Guidance for suppliers ("Suppliers") to the TUI AG Group ("TUI").

82. Answer questionnaire. Do the suppliers of the hotels also have to follow the code of conduct? Regarding the contracted hotels in Thailand that Travelife does not control, do you or anyone else conduct an external audit of these hotels' compliance with the code of conduct?

83. Thomas Cook Group. *Transforming for a better future, year 2*, Sustainability report 2014.

Ving monitors the hotels' compliance with the code of operation when the company follows up the hotel contract, according to Magdalena Öhrn, Director of Communications at Ving.<sup>84</sup> Moreover, if Ving for some reason suspects abuses at a hotel, it is inspected, she explains. The company has monitored the situation on their Sunwing and Sunprime hotels in Thailand.

- We have made sure that the working conditions stipulated by national law also are complied with regardless of whether the staff is from Thailand, the Philippines or Burma for example.<sup>85</sup>

Ving does not publish any information on the website or in the annual report about how the assessment is carried out, nor any results from the follow-ups. If a hotel holds a Travelife certification, it is monitored by Travelife based on its standards. Apart from Travelife audits, no external audits are conducted at Ving's contracted hotels.<sup>86</sup>

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84. Answer questionnaire.

85. Magdalena Öhrn, Director of Communications at Ving.

86. Answer questionnaire. Regarding the contracted hotels in Thailand that Travelife does not control, do you or anyone else conduct an external audit of these hotels' compliance with the code of conduct?



# Analysis and conclusions

This report uncovers fundamental weaknesses of the featured tour operators' supply chain management in Thailand. According to the United Nations Guiding Principles on Business and Human Rights (UNGPs), companies should have an ongoing process to identify, prevent and manage the risks regarding violations of human rights. Despite the fact that the tour operators are aware of the risks for violations of migrant workers' rights in Thailand, the findings reveal that they have failed to take measures to prevent abuses.

Out of the 18 interviewed Burmese hotel workers, half of them stated that their salary is lower than the minimum wage. Working hours can also be very long, in one case up to 17 hours per day without overtime compensation.<sup>87</sup> Only three of the interviewees get vacation or leave according to the Thai labour law. Additionally, discrimination is common. Half of the interviewed hotel workers describe that Thai colleagues receive a higher salary for the same job. Thai are also reported to be offered better accommodation, longer holidays, access to sick leave and higher service charge.

While the Burmese hotel workers describe harsh working conditions, their compatriots working in the supply chain of the hotels are even worse off. All but one of the eleven interviewees working for the suppliers report that they have no paid holiday at all. Additionally, all but two do not receive the minimum wage. Three laundry workers describe how they always works overtime during high season, often up to 17-19 hours per day.

These practices at the hotels and their suppliers violate Thai labour law and international conventions, as well as the policies of the Swedish tour operators. While the tour operators state that they monitor contracted hotels in Thailand, there is a noticeable difference between the companies' findings and the interviewed workers' stories. For example, according to Fritidsresor's audits covering about 90 percent of their hotels in Thailand, all responding hotels state that they pay at least the minimum wage. Ving has also investigated the salary levels at its concept hotels in Thailand and found no deviations. Likewise, Travelife audits at hotels contracted by Apollo found nothing but that minimum wages are paid. Conversely, half of the Burmese hotel staff that Fair Action interviewed state that they receive a salary lower than the stipulated minimum wage. This indicates reasons to doubt if the tour operators system for monitoring the supply chain is reliable.

Schyst resande and Fair Action documented violations of migrant workers' rights linked to the tour operators already in 2012, but the issued recommendations have not been implemented. For example, the companies have not investigated the working conditions at the suppliers of the hotels. Fritidsresor and Apollo expect the hotels to encourage its suppliers to follow its parent company's code of conduct. Nonetheless, the companies do not monitor the hotel suppliers' compliance with the code of conduct. In practice, this means that neither of the three tour operators conduct due diligence in line with the UNGPs beyond their first tier suppliers.

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87. Eight of the ten interviewed hotel workers who work overtime were not paid the legal overtime rate.

Although Burmese working conditions remain poor, the situation has improved in comparison to 2012. The wages have increased, it is easier to obtain official papers and work permits, and there are signs of less discrimination. However, these improvements are based on reforms and action by the Thai authorities, not the tour operators.

In order to prevent violations of labour rights in the supply chain, a company needs to work directly with suppliers and workers, as well as on a structural level to address the root causes of the violations. A first step to work directly with suppliers and workers is to offer training about labour rights and processes for worker participation in decision-making.

On a structural level, the minor unionization rate and the legal prohibition for migrant workers to be executive members of a trade union are key barriers to ensure decent working conditions at the hotels and their suppliers. Freedom of association is often referred to as an “enabling right” that makes it possible for workers to negotiate improvements of for example wages and working hours. A dialogue with freely chosen workers’ representatives enables both workers and employers to understand each other’s problems better and to seek solutions. At the moment, none of the three companies promote freedom of association in their supply chains in Thailand and they have no knowledge about if any hotel has a collective bargaining agreement in place.

# Recommendations to Apollo, Fritidsresor and Ving

Based on the findings in this report and the UN Guiding Principles on Business and Human Rights, Fair Action and Schyst resande recommend Apollo, Fritidsresor and Ving to:

- Urgently make sure that all contracted hotels and their suppliers in Thailand comply with national labour law, as a minimum. Based on the findings of this report, special attention should be given to risks concerning wages, working hours, overtime compensation, discrimination of Burmese workers and the right to leave.
- Ensure that all hotel staff receive and sign written employment contracts with their employer.
- Take measures to increase hotel workers' wages and set a time-bound goal for reaching a living wage.
- Conduct due diligence to identify and address the most severe human rights impacts at hotels and their suppliers in Thailand, and publicly report on findings and actions taken.
- Offer training regarding labour rights and social dialogue to hotel management and hotel workers. The purpose of the training is to empower workers and send a clear signal about the importance of respecting workers' rights.
- Set up a strategy followed by an action plan for strengthening freedom of association and collective bargaining in the supply chain in Thailand. The strategy should be developed in consultation with suppliers, workers and unions, civil society and experts.
- Establish a grievance mechanism for hotel workers. This could be a hotline through which the hotel workers can contact the tour operators directly without informing their employer. The workers should be sufficiently informed and educated about the grievance mechanism.
- Consider the use of commercial incentives such as price premiums or extended contract duration to encourage hotels to improve working conditions.



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