The Emergence of the Temporary Migrant: Bureaucracies, Legality and Myanmar Migrants in Thailand

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The national verification process that has provided formalized guidelines to regulate the migration of Myanmar workers to Thailand permanently places migrants in a zone of temporary legality. This zone is a bureaucratic space in which legality surfaces as a flexible concept serving the interests of the Thai and Myanmar states while placing an economic burden on migrants. Legality also emerges as a commodity that does not relate to migrants’ compliance with the law, but rather to their ability to mobilize resources. Brokers not only guide migrants in navigating the transnational bureaucracies, but also mediate the emotional ties between migrants and those bureaucracies. The emotional undercurrents of the process ultimately serve as a reminder that any bureaucratic space is inherently affective.

Keywords: migration, affective bureaucracy, legality, temporality, Myanmar, Thailand.

Approximately three million Myanmar migrant workers currently reside in Thailand. An estimated 1.7 million migrant workers possess legal documents that authorize them to live and work in the country temporarily; they obtained these documents by participating in something called the “national verification process”. This process, implemented in 2009, created a transnational bureaucracy linking the Myanmar and Thai states with the goal of regulating the long-running, largely uncontrolled migration of Myanmar workers to Thailand.

The national verification process has drawn increased attention to status distinctions between legal and illegal migrants. It has thus
reinforced the essentialization of legality as an objective condition at the expense of an understanding of legality as an ever-emerging process produced by law (De Genova 2002; Garces-Mascarenas 2010, p. 78). Much of the discourse surrounding migrants and migration that emphasizes distinctions between legal and illegal migrants suggests that the violation of immigration law is the main challenge posed by undocumented migration (Ackerman 2014, p. 181). It portrays the migrant as a deliberate lawbreaker who is complicit in undermining the rule of law. Scholars have, however, pointed out that legal and illegal are idealized constructions that apply unambiguously to the lives of few migrants. More often, migrants inhabit in-between legal spaces (He 2005; Kubal 2012; Menjivar 2006; Ruhs and Anderson 2010). Bureaucratic processes, despite their portrayal as objectivity machines (Hoag 2011, p. 81), play a central role in creating these conditions of uncertainty. They also result in what are the ultimately affective relationships between bureaucratic procedures and documentation on the one hand and subjects of those procedures and documentation on the other (Navaro-Yashin 2007, p. 79). Scholars have extensively documented the uncertainty and ambiguity resulting from unpredictable legal status (Cabot 2012, p. 12; Cyrus and Vogel 2003), the ambiguous role of legal documents (Kelly 2006) or long periods of time spent waiting for documentation (Andersson 2014; Sutton et al. 2011) — each ultimately steeped in power differentials (Heyman 1995 and 2004).

Building on this work, this article focuses on what I call the zone of temporary legality. The zone of temporary legality is a bureaucratic state that Myanmar migrants in Thailand enter upon registration for the national verification process. The term describes these migrants’ position in a legal state of permanent temporariness. This phrase has been used previously, with specific reference to Indians in Dubai, to capture the fact that migrants are often barred from obtaining citizenship (Vora 2013). In contrast, its use here points to the continuous threat that documents permitting legal residence are bound to expire or that migrants will unknowingly violate regulations and thus suffer premature expiration of their
The temporary passport granted to Myanmar migrants in Thailand under the national verification process is by definition valid only for a limited time. Maintaining even its limited validity depends on migrants’ commitment to secure repeated revalidation of their documents. Even after completion of the national verification process, additional bureaucratic processes continue to control migrants’ time and to exert power over their lives (Verdery 1996, p. 40). The national verification process and these added bureaucratic requirements place a heavy financial burden on migrants. In the end, it is not migrants’ willingness to comply with the law that determines their success in becoming, and in maintaining their status as, legal migrants. It is, rather, their access to financial resources that decides whether they can complete the national verification process and remain legal aliens.

The zone of temporary legality is also an inherently emotional space. It has been shown that learning to navigate bureaucracies can be not only frustrating and anxiety-producing but also empowering, as migrants learn to navigate loopholes and manipulate the law to their advantage (Tuckett 2015, p. 114). Myanmar migrants remain largely oblivious to the workings of the transnational bureaucracy that administers the national verification process. For the involvement of brokers mediates the interactions between migrants and the transnational bureaucracy. This mediation enables migrants to maintain an emotional distance from the often anxiety-producing workings of bureaucracy and at the same time to instrumentalize the services of brokers to their own advantage. The affective dimensions between migrants and bureaucracy do not, however, disappear; they merely emerge in a different context. It is not the jungle of bureaucratic regulations that causes migrants to experience anxiety. It is instead the economic burden of obtaining legal validation that provokes apprehension and unease. The involvement of brokers thus enables migrants to remain mostly worry-free in exploring ways to game the system with the brokers’ help, but it causes distress by imposing an increased financial burden. Affective responses and relationships remain, then, integral to the bond between humans and bureaucracy.
This article also contributes to the field of bureaucracy studies by directing attention to the emergence of a transnational bureaucratic system. Transnational bureaucracies have received very little scholarly attention. A focus on migration management and its implementation illustrates the reality that national bureaucracies have at times to cross borders alongside their mobile citizens. In the context of the study of Myanmar migrants, existing scholarship has provided rich detail about the development of policies and migration management (Huguet and Apichat 2011; Pungpond 2009; Supang et al. 2007). But the present article draws on detailed ethnographic accounts to provide insights into migrants’ encounters with the transnational bureaucracy of nationality verification and with the mediators who manage their contact with that bureaucracy. I collected the data presented during eighteen months of fieldwork in Khuan Charoen, the pseudonym for a sub-district of Phang Nga province on the West Coast of Southern Thailand.

A Short History of Migration Regulation and Documentation in Thailand

The national verification process is but one moment in the history of migration regulation and documentation in Thailand. This history is in turn embedded in a larger history of population control and documentation. The Thai government has long experienced challenges in defining, documenting and controlling the population living within its national territory (Pinkaew 2013, p. 216, and 2015, p. 2). In recent times, people’s increased mobility and migration has further complicated the challenges that states experience in asserting sovereign powers over national territories (De Genova 2010; Schinkel 2009, p. 780). The history of migration regulation and documentation in Thailand reveals that the terms “legal” and “illegal” have been instrumentalized in different ways over time to achieve an evolving set of policy goals. The shifting focus, from preventing the arrival of migrants altogether to preventing the permanent settlement of migrants in Thailand (Yongyuth 2004, p. 362), illustrates the continuous
reformulation of policies and with it changing conceptualizations and understandings of legality and illegality.

The Immigration Act of 1979 and the Foreign Employment Act of 1978 stipulated the rights of foreign professionals to work in Thailand. Valid permits, available for workers in very limited sectors, were mostly granted to migrants recognized as professionally trained and skilled. The Thai state reserved the right to deport or penalize migrants who violated these regulations, assuming that the threat of deportation would deter undocumented migrants from arriving and seeking employment in the first place (Supang et al. 2007, p. 42). Unauthorized and undocumented migrants nevertheless sought employment in Thailand. The unfavourable economic and political circumstances in Myanmar in the late 1980s accelerated the arrival of undocumented workers. In addition to the worsening political and economic climate in that country, the economic boom that Thailand experienced contributed to this acceleration. Addressing a related crisis of manpower in Thailand, the Thai government finally authorized Myanmar migrants to work in four border provinces in 1992 (Supang and Premjai 2012, p. 215). This permission, however, was only granted to migrants already resident in Thailand, as the policy focus remained on preventing the arrival of additional migrants.

In the seven years between 1987 and 1994 the estimated numbers of undocumented workers in Thailand increased exponentially, from 38,000 to 525,000 (Sevilla and Yongyuth 1996, p. 17). In the face of growing numbers of undocumented migrants, the Thai government shifted its focus to documenting their presence in order ultimately to prevent their long-term settlement. In 1996, the Thai government issued a cabinet resolution enabling the registration of foreign workers from Myanmar, Cambodia and Laos on an annual basis. The one-year validity of registration was in line with the goal to prevent long-term settlement. This registration process, however, was mostly meant to document the presence of migrants. It did not include any mechanism to actually legalize their presence. In 1996, only 293,652 workers from Myanmar were registered (Supang and Premjai 2012, p. 215). This number dropped over
the following years and, by 2000, only 99,974 migrants remained registered (Pungpond 2009, p. 2). Even bearing in mind the fact that the economic crisis of 1997 had an impact on the availability of employment for migrants, it remains unlikely that the overall number of migrants in Thailand indeed decreased by such a high percentage during this time period.

The election of Thaksin Shinawatra in 2001 marked a change in the approach to migrant regulation. The National Committee on Illegal Worker Administration was established and tasked with centralizing the management of migrant workers present on Thai soil (Yongyuth 2004, p. 364). The use of the word “illegal” worker in the title of the committee reinforces the notion that illegality is an undesirable condition and moreover buttresses the negative image of migrants by highlighting their disobedience of the law. Migrants could now register in all provinces of Thailand, and their occupations were no longer limited to specific sectors. Employers needed to pay a fee of 3,250 baht per person for the registration of migrants. They typically deducted that sum from their migrant employees’ pay. This registration was valid for six months and was renewable for another six months, after an additional payment of 1,200 baht (Pungpond 2009, p. 9).

Initially, registration spiked. Employers registered 568,000 migrant workers in 2001. In 2002, however, only 350,000 migrants were re-registered, even as the number of migrant workers in Thailand continued to increase. Although the appointment of a central authority and the broadening of opportunities for migrants represented a departure from earlier policies, the overall goal of preventing the permanent settlement of migrants in Thailand, in this case through increased monitoring, remained unchanged (ibid.).

The Thai government entered formal negotiations with the Laotian, Cambodian and Myanmar governments on the development of formalized guidelines for employment and the protection of migrant workers. Each of these governments signed memoranda of understanding with Thailand. The Thai–Myanmar memorandum of understanding was signed in June 2003. “Being concerned about the
negative social and economic impacts caused by illegal employment” (International Labour Organization 2003, p. 127), the memorandum of understanding placed the burden upon the Myanmar government to select, register and equip migrants with documents prior to their departure from Myanmar. In addition, a plan was devised for regularizing the presence of Myanmar migrant workers already living and working in Thailand. Registration and verification of their nationality during the national verification process (ပြင်သစ်နိုင်ငံစစ်အတည်ပြောက်စရိတ် in Burmese) would allow migrants to obtain temporary passports that legalized their stays in Thailand for a limited duration (Supang and Premjai 2012, p. 217).^4

Planning a Transnational Bureaucracy

The 2003 Thai–Myanmar memorandum of understanding and the resulting national verification process embodied a sea change in the regulation of migration in Thailand as they formally recognized the need for cooperation between states and established a transnational bureaucracy to achieve that cooperation. It has further significance as it marked a moment in Myanmar’s history in which many citizens made themselves legible to their country’s government, albeit outside its borders. The post-colonial history of the Myanmar state has been characterized by its mostly violent and coercive efforts to create and gain control over its citizenry (Callahan 2003; Nakanishi 2013; Smith 2007; Tin Maung Maung Than 2005). Developing an inventory of this contested citizenry has been challenging at best; the 2014 census was one of the most concerted efforts formally to document Myanmar’s population (Ferguson 2015, p. 2). The level of detail in the information that the national verification process provided to the state, including the names of and demographic and biometric information on approximately 1.7 million Myanmar citizens residing in Thailand, nevertheless remains unmatched to date.

The goal of the national verification process, one that remained opaque to most participants, was similar to earlier attempts undertaken in Thailand to register foreign migrant workers: documenting and
ultimately preventing the permanent settlement of Myanmar migrants in Thailand (Pungpond 2009, p. 9). An important difference, though, is that migrants receive benefits upon completion of the process. Legalization of their presence offers migrants the security of life as a legal alien, without the threat of arbitrary detention or deportation. They are also afforded a basic set of rights: “social security, work accident compensation, access to motorbike licences and unrestricted travel within Thailand and between Thailand and Myanmar” (Hall 2011a, p. 19). It is the latter point — unrestricted travel within Thailand — that has largely drawn the attention of migrants.

Imagining Legality and Treading its Path

Migrants rarely see the benefit of unrestricted travel within Thailand as an invitation to tour the country at their leisure. Rather, they view it as something that enables them to move beyond the confines of their homes and workplaces without the fear of harassment. Kyaw Naing Oo, a student at an unofficial school for children of migrant workers in Khuan Charoen who also worked at a nearby hotel, expressed his conviction that the national verification process empowered migrants to move freely in public; they no longer needed to hide their presence. Moe Oo, a student at the same school, felt that legalizing the presence of migrants enabled them to assert their agency. In her eyes, undocumented migrants had breached the law and must therefore rely on Thais’ silent acquiescence to their presence. As soon as migrants were documented, however, the hierarchical relationship, in which migrants needed to be grateful to Thais for accepting their presence in the country, came to an end. Moe Oo argued that migrants were only accountable to themselves after entering a legal relationship with the Thai state. They were now free to speak their own languages and to practise their own traditions, regardless of the opinions of Thai people. For these two students, participation in the national verification process instilled a new sense of possibility and generated hopes about the lives possible upon completion of the process.
Other Myanmar migrants participated in the programme for practical reasons. It was expensive to cross the border without a passport. The closest border crossing to Khuan Charoen was between Ranong and Kawthaung. The two cities were separated by an inlet of the Andaman Sea, and anybody traversing the border needed to do so by boat. The help of a broker was thus unavoidable. Many migrants regularly crossed the border to visit family and friends, and the mounting costs of broker-assisted border crossings made a passport seem like a worthwhile investment. The most important reason to participate in the national verification process was, however, peer pressure.

The national verification process, unlike prior attempts to regulate and document the presence of migrants in Thailand, had gathered momentum and seized the attention of migrants. The participation of friends turned the attention of migrants to the process, and personal introductions to brokers’ offices facilitated a smooth initiation to the bureaucratic procedures necessary for its completion. Migrants who did not participate felt pressure mount, as more and more migrants registered and flaunted their work permits. Migrants obtained temporary work permits as a first step in the national verification process. They were valid for a year, but could be extended if migrants completed the process by the end of that period and obtained a temporary passport. When I asked why it was important to participate, many emphasized the importance of legality\(^8\) and of having papers permitting travel and work. Above all, however, legality emerged as a consideration because it was emphasized by brokers. Many migrants had lived in Thailand for decades, and documenting their presence through legal registration had not been a priority. There was in fact a difference in views of the national verification process between migrants who had lived in Thailand for many years and those who had arrived more recently.\(^9\) Long-time residents took the process with a grain of salt. They had so far resided in Thailand without legal documentation and had not faced any particular challenges. The threat of the Thais’ deporting unregistered migrants fell mostly on deaf ears among members of
this group of migrants. Migrants who had recently arrived, however, were much more attentive to this threat, which seemed the only strategy pursued by the Thai state in order to pressure migrants into participating in the national verification process. The threat of deportation thus left them feeling exposed and vulnerable and made them more likely to participate in the national verification process.

Irrespective of their reasons for participation, migrants hoped to feel newly empowered in their presence in Thailand, but navigating the national verification process was a long and arduous journey. Few migrants were familiar with the continuously changing rules and regulations governing the process or with the concrete steps that it involved, despite its great relevance to them and their situation in Thailand.

Ma Shwe had obtained a work permit, in the first step in the process, with the help of a broker. During an amnesty period, she had registered, paid a fee of 3,800 baht and received the permit, a plain piece of paper with her photo. Ma Shwe’s work permit was valid for one year, but she could extend it if she obtained a temporary passport by the end of that year.

Ma Shwe only worked incidentally as a domestic worker, as her main responsibility was taking care of her four-year-old daughter. She stayed at home on most days, and whenever she left the house she was nervous and anxious. Her anxiety was not due to first-hand encounters with law enforcement, but rather to rumours that other migrants shared with her. Rumours have long been an important source of information in Myanmar as the socio-political circumstances warranted informal, at times clandestine ways of sharing information (Tosa 2005; Skidmore 2003). Ma Shwe was particularly susceptible to the power of rumours, as she stayed at home most days and could not counterbalance rumours with her own personal experiences. As the end of this amnesty period drew near in July 2011, rumours that migrants shared with me repeatedly included speculation that any migrant without a work permit or temporary passport would be deported in July. Ma Shwe was, however, no longer affected by these rumours as she had obtained a work permit. She showed it to me proudly, a plain piece of paper with her photo, name and
additional information printed in Thai. The expiration date indicated that the permit would expire in a few months, and I asked whether she planned on pursuing the next steps in the national verification process that would result in obtaining a temporary passport. She shrugged her shoulders and was not interested in further discussing the issue.  

(In-)Significant Bureaucracies

For Ma Shwe and her mother Daw Tin May, the 3,800 baht that they had paid for Ma Shwe’s work permit was a large sum. Ma Shwe’s husband had recently died in an accident, and the family relied mainly on Daw Tin May’s income from working at a restaurant during the tourist season in Southern Thailand. They had clear financial goals — to save enough money to return to Myanmar and to build a house there — that would be delayed by the unforeseen costs of participating in the national verification process. They needed to manage their money carefully, and Ma Shwe still owed her broker the full amount that the latter had charged to secure her work permit. Worried that Ma Shwe would miss the deadline to apply for her temporary passport, I printed information from the International Organization for Migration about the national verification process and showed it to her.

My pride in having found what I considered an important piece of information was hurt when I recognized Ma Shwe’s complete lack of interest in the pieces of paper that I handed her. She took a quick look at them and immediately put them down on the floor, not paying further attention to them. I told her what they were, and said that she should read them carefully. She just shrugged her shoulders. Daw Tin May was slightly more interested in the document, picked it up, and I started explaining again what it was. What I had taken as her interest in the information printed on the sheets of paper appeared in fact to be an interest in the document as artefact. Reading materials in Burmese were not widely available in Khuan Charoen, and a Word document printed from a computer in Burmese script was a novelty to many migrants. She asked questions about where I had found the information, who had put it on the Internet, what
it looked like on my computer and finally where I had printed it. She was curious to learn more about how to use Burmese fonts on a computer, but she displayed no interest in learning more about the national verification process.

I was puzzled by the women’s apparent lack of interest. Above all, I was worried about the financial loss that they would experience if Ma Shwe did not further pursue the national verification process. What I perceived as a loss, however, was no such thing in Ma Shwe’s eyes. She had successfully invested in peace of mind for a year by securing her work permit. Pursuing the national verification process further would increase her debt, as she and her mother would need to borrow more money from a broker. Ma Shwe did not perceive the potential lapse of the work permit as a failed investment. Rather, she perceived completing the national verification process as an added financial burden. I was also worried that initiating participation in the national verification process, but not completing it, would jeopardize Ma Shwe’s future as a legal resident of Thailand. At the time no precedent existed to clarify the legal consequences of migrants’ failing to complete the process. But Ma Shwe and I perceived the importance of bureaucratic validation and documents in fundamentally different ways. Throughout my lifetime, I had learned that in the eyes of the state my bureaucratic paper trail constituted my personhood: from birth certificate, identification card, and secondary school and university diplomas to a passport and a marriage certificate. These documents afforded me rights, but they also enabled the state to track my whereabouts.

Ma Shwe was entirely unfamiliar with the concept of bureaucratic validation. She perceived her work permit as valuable not because it held the potential for obtaining additional documents that would legalize her presence in Thailand, but for its power to provide her with emotional comfort at this point in time. State-issued documents had played a minor role in her life; few migrants had identification cards or birth certificates. Ma Shwe’s decision to complete the national verification process was in the end precipitated above all by a phone call from her broker encouraging her to complete the legal procedures.
Seamless Mediation

Brokers have played a crucial role in introducing migrants to the bureaucratic complexities of the national verification process. They have bridged the gap between migrants unfamiliar with bureaucratic processes and the seemingly incomprehensible tangle of emerging regulations. They have also enabled migrants to maintain an emotional distance from the process by acting as proxies between migrants and the Thai and Myanmar states throughout the steps involved in national verification.

The Thai government had entered into an agreement on service fees for the national verification process with twelve firms offering brokerage services.\(^\text{17}\) These officially approved brokers in turn appointed representatives with the power to act on their behalf. Despite their affiliation with one of the twelve officially appointed agencies, these representatives, working from smaller local offices, acted largely independently. The use of broker services was not compulsory, but the complexity of the national verification process virtually required reliance on these intermediary agencies. Migrants who used brokers to initiate their participation in the national verification process in turn recommended these agents to fellow migrants interested in initiating the process.

Brokers have long been involved in migration management in the Asia-Pacific region (Spaan 1994; McKeown 2012). The centralization of migration policies has gone hand in hand with the outsourcing of migration management and solidified the importance of brokers (Lindquist 2012, p. 73). Brokers — although suffering a generally negative reputation (Afsar 2009, p. 2) — offer comprehensive services, including labour recruitment (Lindquist 2010), the management and facilitation of travel (Guevarra 2009), and providing aid in securing appropriate documentation for migrants, as is the case here.

In Khuan Charoen, two broker offices competed for the target clientele of undocumented Myanmar migrants. Thai nationals who were related to each other ran the two offices. Each office employed at least one bilingual migrant on a part-time basis, with all other employees being monolingual Thai speakers. The bilingual migrants
played a crucial role in instilling in migrants confidence that the services offered by the broker were legitimate. Moreover, interacting with a familiar face helped dispel the notion among migrants that participation in the national verification process would ultimately make them subjects of the abhorred Myanmar state bureaucracy.

The two broker offices were a mere 150 metres from each other, on opposite sides of the main road that cut through the sub-district. One office was next to a small vegetable store, the living quarters of the broker’s family visible in the back. The other office was wedged between the independent school for migrant children and a hairdresser. The two offices displayed watches and jewellery for sale in the front sections of their premises. They thus blend neatly into the rows of shophouses among which they stood. Their lack of ostentation belied the importance of these institutions; without the broker offices, migrants were unlikely to complete the national verification process successfully.

On my first visit to one of the brokers’ offices, I was accompanied by a Thai-speaking friend who mediated between the monolingual Thai broker and the Burmese-only speaking fieldworker. Most migrants relied on bilingual friends during their rare visits to brokers’ offices; despite the hefty fees they paid, migrants could not count on the presence of a bilingual employee. Ironically, bridging the language gap between migrants, who are almost all illiterate in Thai, and the national verification paperwork, which is almost exclusively in Thai, is an important responsibility of brokers. The conversation with the broker illustrated the lasting entanglement of migrants in bureaucratic procedures to which I refer as the zone of temporary legality.

The Zone of Temporary Legality

The broker explained that, formally, employers needed to prepare the initial applications on behalf of migrants and to submit these applications to provincial employment offices. In fact, however, brokers took over this responsibility. Upon verification of the
applications, provincial employment offices forwarded the information to the Department of Employment (กรมการจัดหางาน), an organ of Thailand’s Ministry of Labour. That department in turn forwarded the information to the Myanmar government. Meanwhile, migrants needed to have a medical check-up, either at local hospitals or at the office of a broker who regularly provided this service. After approval of their applications by the Myanmar government, migrants could collect their temporary passports at so-called nationality verification centres in assigned provinces of Thailand.\textsuperscript{19}

The initial red temporary passport was valid for three years. The visas were, in contrast, valid for two years, with the possibility of an extension for an additional two years. But from July 2011, migrants could, for a fee, obtain a sticker that extended the validity of their passports for two years. January 2012 saw the introduction of purple temporary passports that were valid for up to six years.\textsuperscript{20} The collection of biometric data began at the same time (Hall 2012, p. 7).

Upon receipt of their temporary passports and accompanying Thai visas, migrants needed to re-apply for work permits. They needed to maintain employment at all times for their documents to remain valid. If they lost their jobs, migrants had ninety days to find new jobs. They also needed, for a fee, to change the information on their employers given on their work permits.\textsuperscript{21} Ma Shwe’s unemployed status throughout the process highlighted the reality that in practice brokers often provided fictional employment data to accompany applications. Brokers also offered the service of providing fictional employment data to migrants unable to secure new employment within ninety days of losing their jobs.

When a broker initiated the process, the duration between application for the temporary passport and its issuance was officially no longer than forty-five days.\textsuperscript{22} Issuance of the passport required bureaucratic sanctioning by organs of the Department of Provincial Administration (กรมการปกครอง) of the Ministry of Interior, the Ministry of Commerce, the Department of Employment and the Ministry of Public Health in Thailand and the Myanmar Ministry of Home Affairs.
and embassy to Thailand in Bangkok. The broker assessed the process as, in general, positive and beneficial for migrants. According to her, it offered migrants who had snuck across the border into Thailand an opportunity to enjoy benefits such as a Thai health card. She considered the four-year period of living and working legally in Thailand that the process potentially offered a long time to enjoy such an opportunity. When asked about problems with the process, she responded that many migrants stopped upon receipt of the work permit rather than continuing with the national verification process and receiving a temporary passport and an extension of the permit. Statistical data confirmed her observation. By the end of the first official amnesty period on 28 February 2010, 1.3 million migrants had registered. However, only 930,000 had completed the national verification process within the allocated time period (Hall 2011b).

The Khuan Charoen broker also noted that migrants needed to verify their places of residence in Thailand every ninety days after completing the national verification process and receiving their temporary passports. She remarked that migrants’ failure to provide correct information about their work and the subsequent discovery through police visits that the information on their work permits did not match their actual jobs caused problems with law enforcement authorities. These remarks pointed to the tentative conceptualization of legality in the national verification process. At any time, migrants — often unknowingly — might render their status as legal residents and workers invalid. The lasting entanglement of migrants in the process was not only a way of asserting control over their time by expecting migrants to tend continuously to additional procedures but also a continuous drain on their financial resources. It thus ultimately pointed to a commodification of legality in the national verification process.

The involvement of brokers who acted as extensions of the Myanmar and Thai states blurred the boundaries between the different governments and created the appearance of a seamless bureaucracy. The fees collected from migrants participating in the national verification process were split between the brokers and the
Thai and Myanmar governments, although no information is available about the percentage of fees collected that each party received. It is standard practice in contexts like this one to charge fees for the delivery of bureaucratic services. The fees charged in the course of the national verification process, however, put an undue burden on migrants. While the involvement of brokers increased the level of fees, it was not the sole cause of the commodification of legality. The shift from an emphasis on migrants’ willingness to become law-abiding persons to one on their financial ability to become law-abiding persons perhaps proved a more significant cause. In the context of the national verification process, embracing legality is largely unrelated to the willingness of migrants to abide by the law. Of foremost importance is their access to the economic means to do so. In stressing this commodification of legality, I would like to make clear that it is distinct from the commodification of migrants’ bodies and labour that often occurs through the involvement of brokers (Vogt 2013, p. 765).

Encountering a Transnational Bureaucracy

As the broker explained to me, a visit to a nationality verification centre was compulsory for all migrants who wanted to complete the national verification process. It was at such centres that they received their temporary passports. The Myanmar government had at first insisted that all migrants participating in the national verification process return to Hpa-an, the capital of Myanmar’s Kayin State, to verify their nationality status. Few migrants were willing to make this long trip, and many worried that they might be prevented from returning to Thailand if they did. In 2009, nationality verification centres were opened in the border towns of Tachileik, Myawaddy and Kawthaung. But few migrants continued to participate in the national verification process. In July 2010, the first nationality verification centre was opened in the Thai province of Ranong. The Myanmar government officially cited the dangers of the monsoon rains when crossing the Andaman Sea as the reason for this move, but the centre
remained opened indefinitely. At the same time, political tensions led to the closure of the border crossing between Myawaddy and Mae Sot. Additional centres were opened in Bangkok, and in the Thai provinces of Chiang Mai, Samut Sakon, Samut Prakan, Tak, Chiang Rai and Surat Thani (Hall 2012, p. 7; International Organization for Migration 2012).

The trip to the nationality verification centre was one of the rare moments in which migrants encountered the bureaucratic apparatus of the transnational legal validation process face-to-face. I use an account of this event here to provide insights into the relationships between Myanmar migrants and the bureaucratic process of becoming legal residents in Thailand. I was able to accompany a group of migrants on their trip to the nationality verification centre in Ranong organized by the Khuan Charoen broker’s office that I had visited previously.  

Approximately two hundred migrants from the sub-district and its environs joined this trip. Among them were my neighbour Ma Aye and her two-year-old son. Brokers’ offices organized such trips whenever they had collected a sufficient number of applications to justify their cost. Ma Aye had waited for this trip a long time. Her husband had received his temporary passport a few months earlier, and they had not had enough money to secure one for her at the same time. But she had recently decided that she wanted to return to Myanmar to stay with her mother until her two-year-old son was weaned. She planned then to return to Thailand without her son so that she could work. Crossing the border without a passport was not a problem. Broker services were available to help with the illegal crossing. The cost for crossing the border illegally was four thousand baht, however, and adding to that the cost of the return trip led Ma Aye to conclude that getting a passport was a better investment.

Affective Distances

The visit was planned for two consecutive days. On the first day, during a short three-hour visit to the nationality verification centre, migrants only completed passport applications. On the second day, the group of migrants departed at four o’clock in the morning from
the monastery where they had stayed overnight to return to the service centre. All migrants in the group wore bright orange shirts that they had received upon registration for the trip at the brokers’ office in Khuan Charoen. The name of the broker’s company, “Kay”, was printed on the breast of each shirt. Kay Global[^31] had its main office in Ranong. The broker’s office in Khuan Charoen did not display its logo. I had, however, often seen Myanmar migrants there wearing such shirts, but I had not previously realized that they might be connected to wearers’ potential participation in the national verification process. I had, for example, seen Ma Aye wear this orange shirt often. In wearing the shirt that migrants received during their participation in the national verification process, she masked her status as an undocumented migrant.

The nationality verification centres are peculiar sites, as the Myanmar Ministry of Home Affairs is assigned small areas within them that are officially Myanmar territory. Although a large sign at the centre in Ranong announced “Republic of the Union of Myanmar, Ministry of Home Affairs, Temporary Passport Center Ranong” in Burmese, Thai and English, the nationality verification centre gave the impression of being a rather makeshift facility behind its grey, concrete walls under the open sky. It reminded me of an old abandoned factory, exposed to the open sky. There were buildings to the right and left of the walled-in area, but most of the area was an open, concrete pad partly covered by roofs. Bricks, construction materials and piles of soil lay around, indicating decay and renewal at the same time. The nationality verification centre had seemingly been a wharf at some time in the past; the sea formed a natural border on the far side of the concrete area, where a boat was tied to the jetty. There was an open storefront with shops selling food and drinks and everything else one’s Myanmar heart could long for: slippers imported from Myanmar, longyis, video discs, newspapers, medicine and snacks.

Nestled among the stalls selling food and Myanmar products, the office of the Myanmar Ministry of Home Affairs was surrounded by plywood walls on two sides, the concrete outer wall of the nationality verification centre on another side, and the sea on the
remaining side. A roof covered this part of the nationality verification centre, creating the illusion of being inside a hall. Neither brokers nor visitors such as me were allowed to enter through the plywood door on to Myanmar territory. Indeed, stepping through the plywood doors would have rendered my Thai visa invalid. Only migrants entered, received their passports and then symbolically re-entered Thailand, now as legal aliens.

Despite the early hour, hundreds of migrants had already gathered at the nationality verification centre by the time that we arrived. Dozens of buses were already parked in the middle of the factory-like zone, and hundreds of migrants from many provinces of Thailand were waiting for their turn to receive passports. All Kay Global migrants lined up on the far side of the centre in their bright orange shirts. They were waiting in front of a lone copy machine out in the open, beside two old wooden tables. I looked over the shoulder of Ma Aye at the piece of paper that she held while waiting in line. It was written in Thai and I turned to another friend, May Thu, who spoke Thai. I asked her whether she knew what it said and she shrugged her shoulders. One of the papers that I could read, as it was written in English, verified a payment of 1,100 baht. I asked what the payment was for. Again, Ma Aye and May Thu shrugged their shoulders.

Few migrants asked about the meaning of the forms that they filled out. With the involvement of brokers, migrants did not need to learn about the details of the national verification process unless they wanted to do so. In this sense, brokers functioned as gatekeepers. As long as migrants paid their fees on time and signed the appropriate paperwork, there were few reasons for brokers to explain the details of the process to them. Migrants maintained a practical and emotional distance from the workings of bureaucracy, which could often be anxiety-inducing (Tuckett 2015, p. 114). In their role as gatekeepers, brokers unintentionally inhibited migrants from learning about the process and from gaining a deeper understanding of the working of bureaucratic structures. Migrants, however, perceived brokers as a crucial stepping stone in becoming a legal subject.
In general, migrants had a neutral attitude towards brokers; brokers were neither liked nor disliked. They played an integral role in helping migrants navigate the bureaucracy, and therefore their services were necessary. Some migrants begrudged the fact that there was no choice but to rely on the services of a broker. Brokers had become ubiquitous figures in the lives of migrants, arranging passports, helping them send money home, finding solutions when migrants often unknowingly failed to comply with the requirements of the national verification process, and even serving as a means to discipline children. I once had witnessed Ma Shwe’s threatening to send her daughter to Myanmar with the help of a broker if she continued to disobey her.32

Documenting Persons

The queue slowly started to move, and migrants passed a Thai worker who stamped their paperwork and gave them orders to line up in the next queue. This time, the line moved faster. It led migrants to a table where they left their fingerprints on pieces of paper. The wall behind the table was covered in smeared prints from people who had cleaned their fingers on the wall. There were sinks, and next to the sinks was a sign announcing in Burmese that cleaning one’s fingers on the wall brought a fine of a thousand baht.

I later confirmed that the fingerprints collected at this stage of the process were filed with the other personal information supplied by migrants, and that the Thai and Myanmar states shared these data (Hall 2012, p. 7). Biometric information was a recent addition to the ways in which states made their citizens or rather their bodies legible. It expanded states’ repertoire of technologies used for surveillance. While the use of biometric data has stirred controversy (see Muller 2005, p. 84), for Myanmar migrants the collection of such data was no more controversial than the collection of any other personal information.

Many migrants took the entire process of national verification rather lightly, as indicated by their fabrication of new identities. An
unusual number of Aung Sans and Aung San Suu Kyis reported their existence during the national verification process. When I asked why some migrants found it advantageous to invent new identities, I learned that many migrants retained a deep-seated suspicion about the intentions of the Myanmar government throughout the process. Although more migrants participated in the national verification after the first nationality verification service centre was moved across the border from Myanmar to Thailand, they had not wholly put their feelings of mistrust aside. By inventing new identities, migrants hoped to avoid any potentially negative consequences of being known to the state, as their true selves remained hidden from the bureaucratic machinery.

Further examples also speak to the minor importance that the migrants accorded to bureaucratic procedures. Many migrants who had children in Thailand failed to apply for birth certificates for their newborn babies. They were not aware of the importance of birth certificates and their role in giving access to the rights of citizenship. The limitations of the bureaucratic structures often viewed as crucial to the functioning of a state (Bernstein and Mertz 2011, p. 7) that Myanmar had in place help explain why scholars have long described that state as weak (for example, Englehart 2005; Pedersen et al. 2000). The encounters of people like the migrants with the bureaucracy were limited to just a few face-to-face interactions, such as the trip to the nationality verification centre at Ranong. As a result, they did not understand themselves as permanently registered bureaucratic subjects.

Nor did migrants consider the possible long-term ramifications of creating false bureaucratic records. Of course, it remains uncertain whether the bureaucratic erasure of individual pasts of migrants will have long-term consequences. The current structure of the bureaucracy in Myanmar leaves enough room for migrants who want to resume their previous lives to do so, even if they have supplied false information during the national verification process. And the creation of new identities during the process may have freed some migrants from their bureaucratic histories and enabled them to reinvent themselves.
While second-guessing the clandestine intentions of the Myanmar state was a popular pastime among migrants, few of them reflected on the power that they placed in the hands of the Thai state by participating in the national verification process. The data generated on place of work, residence in Thailand and corresponding biometric information assists the Thai state in its goal of preventing permanent settlement on the part of Myanmar migrants. For it enables the Thai state to keep individual records of migrants and to match those records to existing information.

The Costs of Legality

The group of orange-shirted migrants moved over to the other end of the area covered by a roof and took seats outside the plywood partitions that defined the office of the Myanmar Ministry of Interior Affairs. Benches stood to the right and left of the door that provided entry on to what was officially considered Myanmar territory. In walking through the door in the plywood wall migrants left Thailand, to re-enter the country through the same door as legal residents soon thereafter. The group of migrants with whom I had arrived with left Thai territory and moved through the door on to symbolic Myanmar territory.

In conversation with a married couple living and working in the large Southern Thai commercial centre of Hat Yai, close to the Malaysian border, I learned that they had travelled for twelve hours to reach Ranong. Their broker had charged 9,000 baht per person for completing the process — 2,500 baht more than migrants in Khuan Charoen paid. Aung Moe Hein, a migrant living in Khuan Charoen and working at the office of the broker who had arranged the trip that I had joined, asked about my passport. He was curious to know how much I had paid for it. The three migrants were surprised when they found out that I had paid approximately 2,400 baht for my passport. The costs associated with securing a temporary Myanmar passport for migrants in Khuan Charoen were 6,500 baht, more than ten times the officially stipulated cost of 600 baht. Aung Moe Hein also wanted to know for how long my passport was valid. He found it staggering that it was valid for ten years. Temporary
Myanmar passports were valid for no longer than four or at most six years. Asking which countries I could visit with my passport, I responded that I could travel anywhere, assuming that I was able to obtain relevant visas. His face took on an expression of anger and disbelief as he realized that his passport, highly valued and important to him, was barely more than a scam.

A temporary passport bore all the characteristics of an international passport, except that it was only valid for travel from Myanmar to Thailand by land. The advantages of the temporary passport, including exemption from paying taxes to the Myanmar government and eligibility to purchase Thai health insurance, paled in comparison to the privileges that it did not afford its holders, at least in comparison with other international passports. The national verification process has, however, created official bureaucratic channels for the Thai and Myanmar states to earn revenue that would otherwise often have ended up in the pockets of those assisting with undocumented border crossings. Under the umbrella of legalization, the Thai and Myanmar governments had secured what amounted to a monopoly on the business of servicing the border-crossing activities of Myanmar citizens.

Aung Moe Hein showed me his passport. The words “Temporary Passport” were printed in English and Burmese on the cover, but there was no Burmese writing anywhere on the inside of the passport. While most migrants were able to read Latin letters, few migrants possessed literacy in English. It was thus difficult for them to understand the information given in the passport. Following Aung Moe Hein’s Burmese name, an additional name appeared in his passport, written in Latin letters. I looked up at him, pointing to the name that followed the name that I knew him by and asked what it was. He said that it was the Thai name that he had adopted a few years before.

Bureaucratic Pragmatism

Together with Ma Aye, her son and other migrants from Khuan Charoen, I waited for another five hours before departing Ranong for Khuan Charoen. Ma Aye had already received her Myanmar identity
The Emergence of the Temporary Migrant

Our departure for Khuan Charoen was further delayed, as we still had to wait for the Myanmar migrants of Nepali descent. Aung Moe Hein explained that the Myanmar officials always dragged their feet in processing the applications of citizens whose ancestors had come from South Asia. He explained that the Ministry of Home Affairs always rejected their initial applications, asking for additional proof of citizenship. In lieu of such proof, by the end of the day at the centre, payment of an additional fee sufficed. Laughing, he added that any problem could be solved with money. He shared with me that in his opinion anybody could get a Myanmar passport. In the past, I had been refused entry into Myanmar, and Aung Moe Hein suggested that I should obtain a temporary passport to circumvent the problem in the future. He was certain that I would be able to obtain a passport, pending my willingness to pay the right amount of money. We left Ranong without the migrants of Nepali descent, as they would follow us later in a smaller vehicle. At ten o’clock in the evening, we finally arrived in Khuan Charoen.

Controlling Time, Controlling Resources, Controlling Lives?

For decades, the Thai state has attempted to instrumentalize its migration policies to deter migrants from entering and residing in Thailand. In July 2016, the Thai state announced that it ruled out any further amnesty periods for the registration of migrants (Frontier Myanmar 2016). An official of the Ministry of Labour
also announced that migrants residing in Thailand illegally would be deported and that employers hiring undocumented workers would face fines. Such threats perpetuate stereotypes of migrants as people who purposefully break the law, and they reinforce notions of the law and legality as written in stone.

In this article, I have documented migrants’ relationships with legal procedures and shown that Myanmar migrants often remain uninformed about legal regulations affecting them. The involvement of brokers who act as mediators between migrants and the bureaucracy has enabled migrants to navigate the Thai–Myanmar national verification process without understanding its rules and regulations. While some migrants do bend bureaucratic regulations, brokers are complicit in this process. The temporary legal zone into which the process places migrants also serves as a reminder of the fact that it is not the primary goal of the Thai state to enable migrants to work and live legally in Thailand. Rather, the temporary legal space that the process creates is meant to discourage migrants from settling in Thailand. It also is a space of commodification in which the Myanmar and Thai states offer temporary legality to those who can afford to pay. This commodification further undermines the notion of legality as an objective, essentialized condition.

Illegality as a coercive tool for controlling the lives of migrants has, however, its limitations. In 2013, migrant workers who had completed the national verification process in 2009 faced the expiration of their documents, as they had completed four years of legal residence and employment in Thailand. According to official stipulations, migrants then needed to return to Myanmar for at least three years before being able to re-apply for temporary Myanmar passports and Thai work permits and visas. But few migrants returned; knowingly or unknowingly, the majority of them overstayed their visas. In 2013, the Thai government finally announced that migrants whose documents had expired in 2013 were able to extend their work permits and visas for an additional two years (Migrant Workers Rights Network 2015). The Thai–Myanmar national verification process had drawn criticism from the outset (Hall 2011b and 2012), and the initial
lack of a comprehensive policy response to migrants’ remaining in Thailand after the expiration of their temporary passports further sharpened this criticism (Migrant Workers Rights Network 2015).

These policy revisions reflected the reality that daily practices often influence state policies (Molland 2012, p. 135), even those of states that seek to instrumentalize those policies to achieve their respective agendas. It is still unclear whether migrants holding temporary Myanmar passports, work permits and visas returned to Myanmar after their documents expired once again in 2015. Reportedly, some migrants abandoned their temporary passports and entered the latest scheme introduced by the Thai government, in which migrants receive “pink cards” that allow them to work for two years without the right to travel within Thailand or to receive benefits such as social security and pensions (Migrant Workers Rights Network 2015; IANS 2016). Charged discourses about legal and illegal migrants in this case ignore the reality that most migrants do hope eventually to return to Myanmar, albeit on a different timeline to that envisioned by the Thai state. If the Thai state considers six years a reasonable period after which legal documents granted to migrants are no longer valid, migrants find this period unduly short to achieve the goals — above all economic — that they set for their stays.

The Thai–Myanmar national verification process is ultimately unlikely to fulfil the shared hopes of Kyaw Naing Oo and Moe Oo who wished for an emotionally secure existence in Thailand. At the same time, Ma Shwe’s initial participation in that process ended her fears that she would become the victim of a systematic deportation effort. But the economic burden of completing the national verification process and maintaining official residency, paying for extensions or changes in information weighed heavily on her and other migrants. Bureaucratic relationships, despite their persistent portrayal as orderly, predictable and reproducible, are inherently emotional.

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**NOTES**

1. These estimates were provided by Migrants Workers Rights Network (2015).
2. Estimates suggest that there were between 10,000 and 22,000 officially registered migrants from Myanmar in Phang Nga province in 2012 (Htoo Htoo Kyaw Soe et al. 2012; Veerman and Reid 2011). Unofficial estimates by migration experts suggested in contrast that 45,000–80,000 Myanmar migrants lived in Phang Nga province; personal conversation with migrants’ advocate, Khuan Charoen, 29 June 2011. The total population of Phang Nga province is estimated at 260,000 people.
3. Migrants usually earned between 2,500 and 6,000 baht per month in Khuan Charoen.
5. Field notes, Khuan Charoen, Phang Nga province, Thailand, 1 September 2011. The names of all people mentioned in this article are pseudonyms.
7. See Nuijten 2003, p. 16.
8. The Burmese term “တရားကြိုး”, used for indicating one’s legal status more directly, can be translated as “official”. Legal or documented migrants are “official” migrants while undocumented/illega migrants are “unofficial”.


9. Many migrants returned to Myanmar after the 2004 Boxing Day tsunami, fearing the sea and the ghosts of the departed. Even more migrants, however, arrived to participate in reconstruction work in Phang Nga province, thus tipping the balance between long-term resident migrants and migrants who had stayed for fewer than five years in favour of the latter.

10. The Centre to Suppress, Arrest and Prosecute Alien Workers Underground was tasked with the responsibility for cracking down on undocumented workers. It also initiated legal cases against undocumented migrants. The Department of Employment regularly reported on these crackdowns (International Organization for Migration 2011).

11. This was the standard rate charged by the two brokers in Khuan Charoen. The fees differed from province to province. Officially, the fees are stipulated at between 900 and 1,800 baht. The fees for the temporary passport (6,500 baht), the renewal of the work permit upon receipt of the temporary passport (1,900 baht) and health card (not mandatory, 1,900 baht) needed to be paid separately; Field notes, conversation with migrant advocate, Khuan Charoen, 29 June 2011.


15. The complete costs for completing the national verification process for migrants in Khuan Charoen amounted to approximately 14,000 baht, including the fees for the optional health card. In 2010, the officially participating brokerage companies had signed an agreement with the Thai government specifying the service fees for completing the process would not be more than 5,000 baht per person (International Organization for Migration 2010).

16. Field notes, Khuan Charoen, 1 July 2011.

17. Officials, any broker charging a service fee of more than 5,000 baht could be removed from the list of official brokerage companies (International Organization for Migration 2010).


19. Ibid.

20. In October 2013 migrants were eligible to exchange their purple, temporary passports for international passports at the Myanmar embassy in Bangkok if they were able to produce their Myanmar household registration certificates and Myanmar identity cards. This exchange did not affect the validity of their Thai work permits or visas, but it enabled them to travel to countries other than Thailand for employment (The Nation, 26 November 2013).

22. These terms applied to migrants who already had work permits. It was unknown how long the process would take if pursued without the help of a broker. During my field research, I did not meet a single migrant who had initiated an individual application without the help of a broker.

23. In 2001, a national health care scheme from which migrants were able to benefit had been introduced (Harris 2013, p. 116). After purchasing a health card, one could obtain health care for a payment of 30 baht per visit to the healthcare provider.


25. She charged 300 baht for this service; Field notes, Khuan Charoen, 1 April 2012.

26. The temporary zone of legality has come even further to the fore since the introduction of “pink cards” on 1 April 2016. In a seeming reversal of the policies of the national verification process, migrants now must apply for these cards, valid for two years. With these documents, migrants are no longer eligible to apply for a temporary passport, are not allowed to travel, and do not receive benefits such as pensions or social security (IANS, 5 April 2016).

27. The broker stated that she earned 500–600 baht for each migrant who registered through her office and completed the national verification process. Migrants in Khuan Charoen paid 6,500 baht to the broker’s office for assistance in completing the national verification process.

28. The trip took place on 11–12 June 2012. For migrants, the costs for the trip were included in the 6,500 baht charged by the broker for completing the national verification process. I was asked to pay 200 baht to accompany the migrants to Ranong. Of this sum, according to the broker, 100 baht would be donated to the monastery where we stayed overnight and received free meals, and 100 baht covered the cost of my transportation.

29. Field notes, Khuan Charoen, 1 June 2012.


31. The name of the company is a pseudonym.

32. Field notes, Khuan Charoen, 13 March 2012.

33. Aung San is widely credited with being the founder of the Myanmar military and is revered as the father of modern Myanmar. Aung San Suu Kyi is his daughter, a Nobel Peace Prize laureate and currently Myanmar’s “State Counsellor”; she also is admired for representing democratic values.

34. Holders of such passports were permitted to travel by air between Thailand and Myanmar starting in late 2011.

35. At the time of publication, temporary passports are no longer available. Migrants are still expected to return to Myanmar for three years.
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Inga Gruß


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