



## RESPONSES TO INFORMATION REQUESTS (RIRs)

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06 August 2008

### MMR102913.E

Myanmar: Treatment of Burmese Seafarers who have returned to Myanmar (Burma) after having jumped ship and contacted the International Transport Workers' Federation (ITF) to complain about working conditions while outside of Myanmar

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An article in an International Transport Workers' Federation (ITF) online publication called *ITF Seafarers* states that "[s]eafarers are among the most exploited and abused groups of workers in the world" and may find themselves in a complex legal situation when confronted by abuse, insufficient food or accommodation or unpaid wages, especially while under the employment of foreign flag ships (flags of convenience) (ITF 2007).

The Seafarers' Union of Burma (SUB), an organization that seeks protection for and offers assistance to Burmese seafarers employed by foreign ships, is considered illegal by the State Peace and Development Council (SPDC) military regime of Myanmar (Burma) (ITUC 2007). The SUB is affiliated with the ITF and the Federation of Trade Unions - Burma (FTUB), a Burmese labour organization that has operated underground since 1991 and is classified as an "unlawful association" under the Unlawful Associations Act (ibid.; see also US 11 Mar. 2008, Sec. 6). Notification No. 3/2005, issued by the SPDC Ministry of Home Affairs on 28 August 2005 declares that the "FTUB, its members, and other related groups and individuals" are a threat to the country (ITUC 2007). The SPDC regime considers the FTUB to be a "terrorist organization" (ibid.; US 11 Mar. 2008, Sec. 6).

As a condition of employment, seafarers must join the Myanmar Overseas Seafarers' Association (MOSA), a state-linked seafarer's organization launched in 2002 (ITUC 2007; *Irrawaddy* Jan. 2003), which is not affiliated with the ITF (ibid.) despite claims to the contrary by Myanmar's military regime (ITUC 2007; ILO Mar. 2006, Sec. 1097). The *340th Report of the Committee on Freedom of Association* published by the International Labour Organization (ILO) notes that membership in MOSA "explicitly limits seafarers' right to establish and join associations of their own choosing" (ILO Mar. 2006, Sec. 1099). The International Trade Union Confederation (ITUC), an international organization that encourages global cooperation among trade unions to promote the rights of workers around the world (ITUC n.d.), states that when MOSA was launched, then Prime Minister General Khin Nyunt urged seafarers to "refrain by their words and actions from harming the State" (ITUC 2007).

Another state-controlled organization, the Seaman's Employment Control Division (SECD), charges a fee for issuing the documents required for employment as a seafarer (ibid.; *Irrawaddy* Jan. 2003) and gives mandatory lectures in which prospective seafarers are warned not to complain about working conditions aboard ship and to stay away from the SUB and the ITF (ITUC 2007).

Although sources indicate that the SPDC has abolished a requirement for seafarers to sign an affidavit prohibiting contact with the ITF (ILO Mar. 2006, Sec. 1099; *Irrawaddy* Jan. 2003), the United States (US) Department of State's *Country Reports on Human Rights Practices for 2007* maintains that seafarers are forbidden contact with the organization (US 11 Mar. 2008, Sec. 6). A 2008 document published by the ILO

states that Burmese seafarers are denied the right to be represented by the SUB (ILO June 2008).

The ITUC's *2007 Annual Survey of Violations of Trade Union Rights* reports that recruitment agents for seafarers may insert restrictions into contracts prohibiting contact with the SUB, ITF or any ITF-affiliated unions (ITUC 2007). Corroborating information was received by the Research Directorate from the Manager of the International Seafarers Assistance Network (ISAN), a registered charity based in the United Kingdom (UK) that provides free assistance to seafarers (ISAN n.d.), who stated that ISAN has come across employment contracts stipulating that seafarers are forbidden to contact outside agencies for assistance, including the ITF and other unions (ISAN 30 July 2008). The Manager added that if found in breach of contract, the seafarer could be forced to pay for their repatriation expenses in addition to those incurred for any replacement hired (ibid.). A "cash penalty" could also be administered (ibid.).

The ITUC maintains that state authorities have reportedly retaliated against seafarers who have contacted the SUB or the ITF for assistance, imposing a range of penalties including seizure of wages and imprisonment (ITUC 2007). In 2005, the ITF reported that a SUB activist was arrested, tortured and killed by the armed forces for his role in organizing fishermen and migrant workers (ITF Oct.-Dec. 2005, 20; ibid. 24 May 2005).

The ILO's *340th Report of the Committee on Freedom of Association* lists complaints against the Government of Myanmar presented by the International Confederation of Free Trade Unions (ICFTU), a confederation of 241 organizations from 156 countries that addressed labour issues (ICFTU n.d.), including the "murder, detention and torture of trade unionists" and the "continuing repression of seafarers for the exercise of their trade union rights" (ILO Mar. 2006, Case No. 2268). The ITUC and the ILO provide details on several cases of arrest, imprisonment and torture for trade union activities, including that of eight family members of an FTUB activist in August 2006 (ITUC 2007; ILO June 2008). The ILO notes that punishment may be administered for the "mere sending of information to the FTUB" (ibid.).

In March 2008, an article by Mizzima News, a news organization established in 1998 by Burmese journalists in exile (Mizzima 23 Jan. 2008), reported that six human rights and trade rights activists associated with the FTUB had been charged with "membership in a terrorist organization" and given sentences of over 20 years (Mizzima 20 Mar. 2008).

The ITUC indicates that there are no legally registered workers' organizations in Myanmar (ITUC 2007). *Country Reports 2007* corroborates this information stating that there are "no free trade unions" in Myanmar (US 11 Mar. 2008, Sec. 6).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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#### Additional Sources Consulted

**Oral sources:** Representatives of the Federation of Trade Unions - Burma (FTUB), International Labour Organization (ILO), International Transport Workers' Federation (ITF) and Seafarers International Union of Canada did not respond within the time constraints of this Response.

**Internet sources, including:** Amnesty International (AI), Human Rights Solidarity, Human Rights Watch (HRW), International Center for Labor Solidarity (ICLS), International Christian Maritime Association, International Collective in Support of Fishworkers (ICSF), International Sailors Society, Online Burma/Myanmar Library, *Pattaya Daily News*, Seafarers International Research Centre, Shipwrecked Mariners Society, United Nations (UN) Refugee Agency (UNHCR).

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