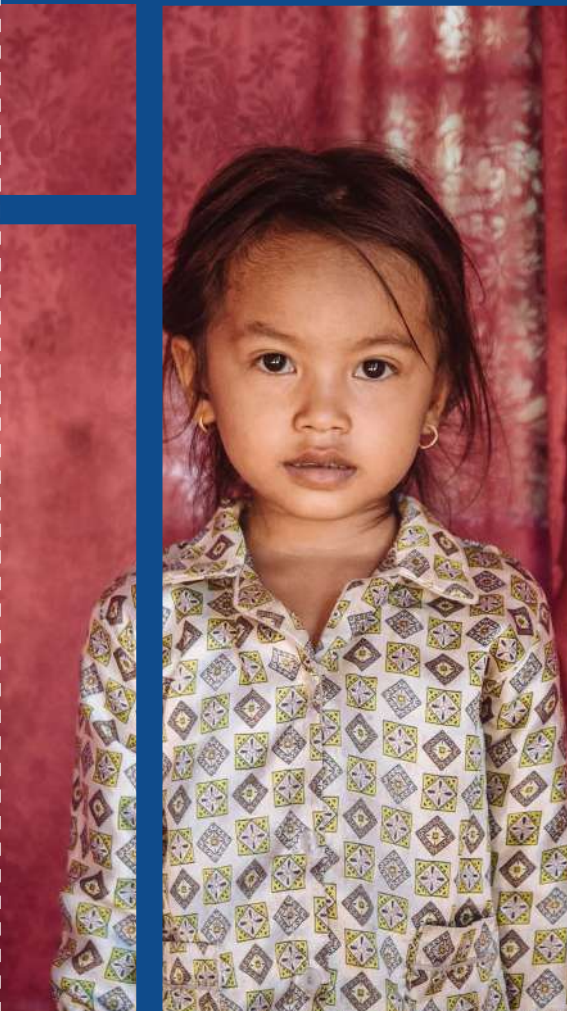




THAILAND MIGRATION REPORT 2019



Thailand Migration Report 2019

United Nations Thematic Working Group on Migration in Thailand

Edited by Benjamin Harkins



International Organization
for Migration



International
Labour
Organization

International Labour
Organization



United Nations Entity for
Gender Equality and the
Empowerment of Women



World Health Organization



United Nations Capital
Development Fund



Empowered lives.
Resilient nations.

United Nations
Development Programme



United Nations Action
for Cooperation Against
Trafficking in Persons



United Nations
Children's Fund



Bangkok Office

United Nations
Educational, Scientific and
Cultural Organization

United Nations
Educational, Scientific
and Cultural
Organization



Food and Agriculture
Organization of the
United Nations

Food and Agriculture
Organization of the
United Nations



United Nations
Population Fund



UNHCR
The UN Refugee Agency

Office of the United
Nations High
Commissioner for
Refugees



UNODC

United Nations Office on Drugs and Crime

United Nations Office on
Drugs and Crime



UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

Office of the High
Commissioner for
Human Rights



UNAIDS

Joint United Nations
Programme on HIV/AIDS



THAILAND MIGRATION R E P O R T 2 0 1 9

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Benjamin Harkins**

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FOREWORD

The Thailand Migration Report 2019 is the fifth publication that members of the United Nations Thematic Working Group on Migration have produced since 2005. Like its predecessors, the report aims to provide up-to-date information on migration trends and patterns in Thailand, as well as analysis of migration-related issues and policy developments. Drawing on the expertise of the relevant UN agencies in Thailand, the report features thematic chapters which provide evidence-based recommendations for stakeholders on the formulation and implementation of migration policy and practice.

As a key country of origin, transit and destination for migrants, displaced persons and asylum seekers, Thailand is a regional migration hub within South-East Asia. Since the report was last published in 2014, official data shows that migration to Thailand has intensified. The non-Thai population in the country now stands at an estimated 4.9 million, a substantial increase from 3.7 million in 2014.

With an ageing population, low unemployment rate and continuing economic growth, the high demand for migrant workers in Thailand is likely to continue for the foreseeable future. Migrants will play a key role in Thailand's development as it integrates into the ASEAN Economic Community and restructures its economy under the Thailand 4.0 initiative. It is important that the development of policies to ensure well-managed migration is factored into Thailand's priorities as Chair of ASEAN in 2019.

The publication of this report takes place against the backdrop of significant efforts by the Royal Thai Government to combat human trafficking and exploitative working conditions for migrants. A range of measures have recently been introduced to address these issues, including the enactment of the Royal Ordinance on the Management of Foreign Workers Employment, the establishment of Migrant Worker Assistance Centres and the ratification of the Protocol to the Forced Labour Convention, 1930 (No. 29). However, increased government regulation alone is unlikely to put an end to cases of abuse against migrants. Partnerships with other key stakeholders, such as the private sector, civil society, trade unions, international organizations and the media, will be necessary to promote safe migration and decent work for migrants.

In-line with the 2030 Agenda on Sustainable Development and the Global Compact for Safe, Orderly and Regular Migration, the United Nations is committed to supporting Thailand in its efforts to develop policies and programmes that maximize the benefits of migration for migrants and society. Through the establishment of a long-term, coherent and rights-based governance framework, migration can contribute to equitable and inclusive growth and development for all.



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Editor

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LIST OF ACRONYMS

ACE	ASEAN Confederation of Employers
ADB	Asian Development Bank
AEC	ASEAN Economic Community
ARCM	Asian Research Center for Migration
ASCC	ASEAN Socio-Cultural Community
ASEAN	Association of Southeast Asian Nations
CCCIF	Command Centre to Combat Illegal Fishing
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CLMV	Cambodia, the Lao People’s Democratic Republic, Myanmar and Viet Nam
CPMS	Colombo Process Member States
CRC	Committee on the Rights of the Child
CSMBS	Civil Servant Medical Benefit Scheme
CSO	civil society organization
DLPW	Department of Labour Protection and Welfare
DOE	Department of Employment
DOF	Department of Fisheries
EU	European Union
FAO	Food and Agriculture Organization of the United Nations
Fintech	financial technology
FSP	financial service provider
GAATW	Global Alliance Against Traffic in Women
GCM	Global Compact for Safe, Orderly and Regular Migration
GDP	gross domestic product
GFATM	Global Fund to fight AIDS, TB and Malaria
GMS	Greater Mekong Sub-region
HIV	human immunodeficiency virus
ILO	International Labour Organization
IOM	International Organization for Migration
IRIS	International Recruitment Integrity System
IUU	illegal, unreported and unregulated fishing

KYC/AML	know your customer/anti-money laundering
Lao PDR	Lao People’s Democratic Republic
MDT	multi–disciplinary team
MSDHS	Ministry of Social Development and Human Security
MHIS	Migrant Health Insurance Scheme
MLC	migrant learning centre
MOL	Ministry of Labour
MOPH	Ministry of Public Health
MOU	memorandum of understanding
MTO	mobile transfer operator
MWAC	Migrant Worker Assistance Centre
MWG	Migrant Working Group
NCPO	National Council for Peace and Order
NESDB	National Economic and Social Development Board
NFPE	Non-Formal Primary Education
NGO	non-governmental organization
NSO	National Statistical Office
NSWP	Global Network of Sex Worker Projects
NV	nationality verification
OBEC	Office of the Basic Education
ODA	Official Development Assistance
OECD	Organisation for Economic Co-operation and Development
OESPAAA	Alliance of Asian Associations of Overseas Employment Service Providers
OHCHR	Office of the United Nations High Commissioner for Human Rights
ONIE	Office of Non-Formal and Informal Education
OSH	occupational safety and health
PIPO	Port-in/Port-Out
PIS	ASEAN Framework Agreement on Priority Integration Sectors
PPE	personal protective equipment
ROK	Republic of Korea
SDG	Sustainable Development Goal
SLAPP	strategic lawsuits against public participation
SMEs	small and medium-sized enterprises
SSF	Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries
SSS	Social Security Scheme
STI	sexually transmitted infection

SWIFT	Society for Worldwide Interbank Financial Telecommunication
TB	Tuberculosis
TDRI	Thailand Development Research Institute
THB	Thai baht [currency]
UAE	United Arab Emirates
UCS	Universal Coverage Scheme
UHC	Universal Health Coverage
UK	United Kingdom
UN	United Nations
UN-ACT	United Nations Action for Cooperation against Trafficking in Persons
UNCDF	United Nations Capital Development Fund
UNDP	United Nations Development Programme
UNDESA	United Nations Department of Economic and Social Affairs
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNHCR	United Nations High Commissioner for Refugees
UNICEF	United Nations Children’s Fund
UNPAF	United Nations Partnership Framework
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
USD	United States dollar [currency]
WHO	World Health Organization



EXECUTIVE SUMMARY

Introduction

Thailand has been a crossroads for migration within South-East Asia for centuries. Long before formal systems were established to regulate cross-border movements, large numbers of people entered or were resettled into the country's territory. As a result, the population of Thailand today is more ethnically diverse than is typically acknowledged, including Chinese, Malay, Karen, Shan, Mon, Khmer, Lao, Indian and others. Nation-building efforts since the late nineteenth century led to systematic cultural and linguistic assimilation of many of these groups but the more recent arrival of millions of migrant workers from neighbouring countries has been greeted with a more mercurial policy response.

The period of large-scale labour migration to Thailand from Cambodia, the Lao People's Democratic Republic and Myanmar began in earnest during the 1990s. This coincided with a decade-long economic boom from 1987 to 1996, which greatly expanded wage differentials between Thailand and its neighbouring countries. Based upon increased exports and a major influx of foreign direct investment, the economy grew by an average rate of nearly 10 per cent per year. In less than a generation, Thailand had emerged as a middle-income country and transitioned from being a net-sending to a net-receiving nation for labour migration.

Although migrant workers from neighbouring countries constitute the vast majority of Thailand's current population of migrants, its migration flows remain heterogeneous and complex. There are a wide variety of other groups resident within the country who do not hold citizenship status, including stateless persons, asylum seekers and refugees, professional workers, foreign investors, foreigners married to Thai nationals, students and retirees. In addition, internal and international migration of Thai nationals continues to be an important phenomenon, largely motivated by uneven levels of development between the rural and urban areas of Thailand and the lack of sufficient livelihood opportunities in the former.

Purpose and content of this report

With its continued emergence as a central human rights concern within the country, there is a manifest need for accurate information and analysis on migration issues in Thailand. Under the cooperative framework of the United Nations Thematic Working Group on Migration, the Thailand Migration Report provides an independent situation analysis of migration trends and patterns. The report was first initiated in 2005 as the flagship knowledge product of the Working Group. Published approximately every three years, this edition of the series includes 11 thematic chapters produced by agencies of the United Nations System.

Each of the chapters analyses the relevant policy and legislative framework, provides an assessment of the current situation for migrants and makes recommendations for policy and

programmatic changes to improve their conditions. The report concludes with a synthesis of the report's key findings and offers a way forward in establishing a more coherent, long-term and rights-based approach to migration governance in Thailand.

This version of the Thailand Migration Report is divided into five sections that were identified as areas of critical importance by the United Nations Thematic Working Group: (1) migration policy and profile; (2) working conditions for migrants; (3) access to services for migrants; (4) migration and development; and (5) exploitation of migrants.

Migration policy and profile

Although migration patterns are capricious by nature, the broad trend of increasing labour migration to Thailand has continued for more than two and a half decades and seems unlikely to change in the coming years. The number of non-Thai residents within the country has increased from an estimated 3.7 million in 2014 to 4.9 million in 2018, which includes approximately 3.9 million migrant workers from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. This suggests that migrants currently constitute over 10 per cent of Thailand's total labour force. With the demographic profile of Thailand's population indicating there will be a sustained demand for migrant workers to fill labour shortages, it is more critical than ever that Thailand work towards the development of a long-term and coherent framework for labour migration governance. If migration is to contribute to greater labour market efficiency and decent work for migrant workers, short-term fixes that do not sustainably address the gaps in policy and implementation are likely to prove insufficient.

At the same time, the weight of evidence shows that migration cannot be wholly controlled by States. Historical experience has demonstrated that reducing irregular migration is unlikely to be achieved through increased enforcement alone. Unless coupled with efforts that address the root causes in Thailand – including the high cost, long duration and procedural complexity of the memorandum of understanding (MOU) process with countries of origin – migrant workers are likely to continue to make use of irregular channels. In addition, without greater flexibility to change employment, it will remain difficult for migrants to retain regular legal status after entering the country.

Thailand has taken a significant step forward with the recent revisions to the Royal Ordinance on the Management of Foreign Workers Employment. Exhibiting greater openness to the contributions of social partners and international organizations, the new law incorporates several critical improvements. These include the elimination of worker-borne recruitment fees, increased opportunities for mobility within the labour market, establishment of a guarantee deposit and clearer licensing requirements for in-bound recruitment, creation of a fund to assist migrant workers while employed in Thailand, prohibition on withholding of identification documents and the formation of a tripartite committee to oversee the development of migration policy. If implemented effectively, these changes could substantially improve protection of migrant workers' rights in Thailand.

The Cabinet Resolution on the establishment of Migrant Worker Assistance Centres (MWACs) in Thailand is also a positive development, providing migrants with information and assistance, particularly for labour rights violations. Allocation of government funding to setup MWACs in 10 pilot provinces helps to fill a key gap in implementation of policy, acknowledging that specialized staff, outreach and translation support are necessary to make public services

more migrant-friendly. While the International Labour Organization's (ILO) assessments of the institutional capacity of the MWACs suggest that additional guidance and training is needed to build the model's effectiveness, the collaborative approach that has been applied between government agencies and non-governmental organizations (NGOs) has shown promise in building greater trust with migrant communities.

Though migrant workers in Thailand are commonly viewed as a temporary source of labour rather than full members of society, their presence contributes to the development of Thailand socially as well as economically. Examining the extent to which migrants are practically able to be a part of Thai society shows that despite some efforts by policymakers, many challenges remain. As workers, migrants often do not receive equality of treatment with nationals in terms of wages and working conditions. As clients of the public service system, they often face difficulties in making effective use of education and health-care services. Negative public attitudes towards migrants – partially shaped by one-sided portrayals in the media – have resulted in misconceptions and xenophobia about migrant workers among many Thai nationals.

These issues are not unique to Thailand as many countries are struggling to develop effective policies that maintain social cohesion. However, there are important matters that government policy has yet to adequately address, such as whether the status of temporary migrant workers remains appropriate given the long-term need for workers in Thailand's labour market. As migrant workers have now been coming to Thailand for decades and staying for many years at a time, policies that treat them only as short-term labourers may no longer be sufficient. Supporting migrants to become more active members in the economic, social, cultural and political life of Thailand would benefit not only migrants themselves but also Thai society as a whole.

Working conditions for migrants

Applying a sectoral lens to the working conditions of migrant workers in Thailand reveals that substantial gaps continue to exist in fundamental labour rights protection. Despite some signs of progress in the fishing and seafood processing sector, persistent labour abuses against women and men migrant workers continue, including indicators of forced labour such as deceptive recruitment practices and withholding of wages. While concerted efforts have been made to amend the legislative framework and monitor compliance with these new regulations, enforcement remains uneven – especially in relation to wage protections.

Much less consideration has been given to regulating the working conditions of migrants employed in agriculture. Although year-round workers have some of the same labour rights protection as other workers, seasonal agricultural workers do not receive even the most basic protections, including the minimum wage, overtime pay, rest time, annual leave, sick leave and social security. With few regulatory standards in-place, the sector continues to be characterized by high-levels of informality, low wages, unsafe living and working conditions, and lingering problems with child labour.

The insufficient quality and scope of labour inspections carried out for agricultural workplaces is an important contributing factor to the poor working conditions for migrants within the sector, limiting effective enforcement of the applicable labour laws. In addition, insufficient provision of occupational safety and health training and personal protective equipment for migrant workers places them at an increased risk of pesticide overexposure and workplace injuries.

Due to the criminalization of their work and the implementation of anti-trafficking interventions, migrant sex workers in Thailand face the regular threat of harassment and arrest, severely damaging their ability to earn a livelihood and support their families. Employment in the sex industry is not covered by Thailand's labour laws and is instead criminalized under the Prevention and Suppression of Prostitution Act.

Because sex work is often conflated with trafficking for the purpose of sexual exploitation, police raids on workplaces to identify victims are a common occurrence. Migrant sex workers caught in such raids are typically either arrested and detained as criminals or taken to shelters as victims of trafficking, with their agency considered of little importance. In spite of this law enforcement approach, studies have found that the vast majority of people working in the Thai sex industry are employed there by choice, with the ability to earn a higher income a key motivating factor. Decriminalization and expanding recognition of sex work as a form of work is an essential first step to better protecting the labour rights of migrant workers employed within the sector.

Thailand's ratification of the Protocol to the Forced Labour Convention, 1930 (No. 29) in June 2018 may be an important step towards ameliorating exploitative working conditions for migrants across all sectors. An amendment to the Anti-Trafficking in Persons Act is expected to meet Thailand's obligations under the Protocol, which should begin to address the structural risks of exploitation for vulnerable workers within the labour market – particularly for migrants and those employed in the informal sector.

One of the most notable gaps to be filled in Thailand relates to assistance and compensation for labour rights violations by employers. The Protocol stipulates that “all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation” (Article 4). Ensuring fair compensation will provide a crucial financial deterrent to abuse and encourage more migrants to pursue justice, reducing impunity for offenders who violate their labour rights.

Access to services for migrants

Progress on providing migrant workers with fair access to public services has been substantial under law but with limitations in practice. Regular migrant workers are entitled to receive subsidized care from Thailand's public health system and irregular migrants are able to enroll for health insurance coverage by paying an annual fee. However, utilization of public health services remains relatively low among migrants due to a number of social and financial barriers. An estimated 64 per cent of regular migrants (1.97 million) are enrolled in a public health insurance scheme but the share drops to 51 per cent if irregular migrants are also included. The specialized NGO and United Nations service providers who fill many of these gaps have proven very effective in reaching migrants regardless of their legal status but the long-term sustainability of these programmes continues to be a concern.

The right of migrant children to access public services is also well-established under Thai law, particularly in relation to education. Migrant children are entitled to attend primary and secondary school free of tuition expenses. There are also options for non-formal education and migrant learning centres that provide services to migrants unable or unwilling to attend public schools. Through these educational opportunities provided by the Thai Government and NGOs, more than 164,000 migrant children are enrolled in school within Thailand. At the same time, it is estimated that 200,000 migrant children remain out of school and are not receiving any form of education.

Similar to the challenges with the public health system, informal restrictions in access keep many migrant children away. Although tuition is covered by the Government, the indirect cost of education for migrant children can still be unaffordable for migrant workers, such as the expense of travel, school uniforms and stay in dormitories. Attitudes and understanding of policy on the education of migrant children are poor among educators in some cases, with informal age, language and documentation requirements established that prevent enrollment. In addition, many migrant parents view their stay in Thailand as temporary and are reluctant for their children to study in Thai schools.

Though consultations have been held on developing an alternative, long-term detention of migrant children continues to be a significant problem in Thailand. For the children of asylum seekers who cannot be readily deported from the country, they often remain in over-crowded immigration detention centres until their cases are resolved. For some children, this has meant being detained for years under squalid conditions; without access to public education and separated from their parents based upon gender after reaching puberty. Ad hoc release of some detained children occurred during 2017 and 2018, and standard procedures for the release of children with an accompanying parent or into foster care homes are currently being finalized.

Migration and development

Remittances sent home by migrants to their countries of origin are a critically important and sometimes lone source of income for their family members. Many families who are reliant on unstable seasonal agricultural earnings use the remittances generated by labour migration as a means of ensuring that they receive a regular income. They have the potential to improve standards of living and reduce poverty at the household level, as well as contribute to economic development more broadly. In the aggregate, migrant workers in Thailand send a combined USD 2.8 billion in remittances through formal channels to Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam.

However, this amount represents only a portion of the total remittance account, as the majority of migrant workers in Thailand continue to send remittances through informal channels, such as the hundi system, brokers or hand carrying remittances home. The primary reasons for migrants using informal channels include greater trust, ease of use, flexibility and accessibility. Conversely, migrants attempting to send money through formal channels, such as banking institutions, are often discouraged by the identification documents required, large amounts of paperwork and disrespectful treatment they receive. These barriers to financial inclusion may detract from the ability of migrants to fully leverage their remittances for the long-term benefit of their households.

It can be estimated that informal remittance flows from Thailand to countries of origin are potentially double the size of formal flows and contribute between USD 6–10 billion to the economies of Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. Given the profile of the majority of remittance recipients – women in rural areas – providing migrants with access to safe and low-cost formal remittance options in Thailand would help to contribute to inclusive economic growth within the region. Research suggests that putting more resources into the hands of women would have lasting benefits, as women tend to allocate more of their remittances for the benefit of their children.

Many women are the main breadwinners for their families through their employment in

Thailand. Official data shows that about half of the migrant workers in Thailand are women (50.2 per cent), which may be an underestimate given that more women than men are employed irregularly in the informal sector and are not fully captured in labour migration statistics. In particular, women employed as domestic workers and sex workers are frequently undocumented due to protectionist policies and laws that restrict the migration of women through legal channels. As a result, women's migration to Thailand is largely invisible in comparison to men.

Though they play a vital role in filling labour market demands in Thailand, women migrants experience intersectional discrimination that often finds expression in less favorable working conditions. Women's work is undervalued, with wages systemically lower than those for nationals or men migrants. Moreover, the lack of formalization of several major sectors of women's employment leads to women not being afforded basic labour rights, such as the minimum wage, regular working hours, overtime pay and social security.

Because most women migrant workers are employed in low-skilled work within the informal economy in Thailand, they are largely excluded from the benefits of increased labour mobility provided by the Association of Southeast Asian Nations (ASEAN) Economic Community. Even for professional women, the highly-skilled occupations covered by the Mutual Recognition Arrangements are primarily male-dominated fields (with the exception of nursing and accounting). Gender must be more thoroughly mainstreamed into the mechanisms that form the basis for the ASEAN Economic Community for its impact on women migrants to be beneficial.

Exploitation of migrants

Human trafficking in Thailand primarily occurs in the context of large-scale labour migration from neighbouring Cambodia, Lao People's Democratic Republic and Myanmar. Because effective recruitment systems and migration governance frameworks have not been established to facilitate the movement and regulate the employment of this workforce, they remain vulnerable to exploitation at various points during the migration process.

A total of 455 individuals in Thailand were officially identified as trafficked persons in 2017. However, the real scale of the problem and whether responses have been effective in reducing its prevalence have been difficult to ascertain. There are no reliable estimates available on the total number of people trafficked in the country and most cases are not likely to be identified. Limitations in the validity and comprehensiveness of data collected on human trafficking continue to be substantial. Reports are typically based upon analysis of secondary sources or a small number of identified cases when empirical data is used. In other cases, they rely mostly upon emotionally-charged rhetoric and hyperbole.

In this regard, the Thai Government's Trafficking in Persons Country Report has become a significant contribution in recent years, bringing together the counter-trafficking efforts of all line ministries on an annual basis. Even so, more independent primary data collection – particularly critical and nuanced qualitative research – is an acute need to fill in obtaining a better understanding of the causes of exploitation and the effectiveness of anti-trafficking responses.

Increasingly, it has been recognized that the private sector in Thailand is not only chiefly responsible for the exploitation of migrants but can also be a vital partner in efforts to encourage more ethical business practices. Many private sector actors have begun promoting fair and ethical

recruitment and employment in their operations and supply chains. However, much skepticism remains about whether such voluntary initiatives lead to real improvements in the situation of migrant workers, as they often stop short of making the more difficult changes that are needed – such as paying workers a living wage.

While it is clear that initiatives to change private sector business practices are necessary if exploitation of migrant workers is to be addressed, they should not be viewed as a magic bullet. Self-regulation by the private sector must be accompanied by meaningful oversight and effective action by the Thai Government, trade unions, civil society, media and consumers if the race to the bottom on cheap labour provided by migrant workers is to be definitively reversed.

Conclusion

As documented within this report, there have been many significant developments in Thailand's migration landscape during the last few years. The situation continues to evolve at such a rapid pace that a report such as this can only hope to accurately capture the events occurring during a brief period of time. Nevertheless, it should be acknowledged that some important progress has been made on migration governance, particularly in terms of improved cooperation with NGOs and international organizations, expanding access to public services and ratification of relevant international standards.

But as much as the situation for migrants in Thailand has changed since the last Thailand Migration Report was produced in 2014, many of the biggest challenges remain the same. Despite efforts to regularize migration to Thailand, the majority of migrant workers continue to live and work in a precarious legal status that is almost entirely at the discretion of their employers. Attempts to reduce exploitation of migrants have led to enforcement of a stringent regulatory regime in the fishing sector but there are many indications that severe abuses remain entrenched within the industry. Voluntary return to Myanmar for the refugees currently in nine temporary shelters along the border continues to proceed at a halting pace, and it is unclear if the programme in its current form will prove effective as a durable solution for the situation. Hundreds of thousands of stateless persons continue to wait for decisions to be made on their citizenship applications while enduring serious restrictions on their basic rights.

Policy responses that leave migrants perennially vulnerable and unsure of their status are a common thread running through these disparate migration issues in Thailand. Moving forward, the political will to put in place lasting commitments to protecting the human rights of migrants and refugees is essential if these challenges are to be managed more effectively. The following section presents a select set of recommendations for changes to policy and practice that would help to improve conditions for migrants living and working in Thailand.

Recommendations

- 1. Establish regular migration channels that are cheaper, faster and easier to access:** To encourage regular migration to Thailand, the slow, complex and expensive bureaucratic process involved needs to be streamlined and made more affordable. One option worth considering is an open-ended admission process at borders that would allow migrants to enter with a jobseekers pass and register after finding employment.

- 2. Ensure fair and ethical recruitment of migrant workers:** Through bilateral cooperation, improve transnational regulation and oversight of recruitment agencies, and prohibit recruiters and employers from charging recruitment fees or related costs to migrant workers at origin or destination. Establish partnerships with relevant stakeholders, including employers, civil society and trade unions, to ensure effective monitoring of the recruitment process and fair access to remedy.
- 3. Provide coverage by labour and social protection laws to women and men migrants in all sectors of work:** To ensure that migrant workers receive fair wages and working conditions, labour and social protection laws should be enforced for all employment sectors, including domestic work, sex work and seasonal agriculture. Exclusion of informal sector workers – who are disproportionately women – from statutory protection makes them highly vulnerable to abuse and unduly exposes them to social and economic risks.
- 4. Allow migrant workers greater agency to change employment:** Work permits and visas in Thailand remain too firmly tied to one employer, and the lack of flexibility to change jobs contributes to increased vulnerability to abuse. Migrant workers should be able to exercise greater agency in deciding to change employers, expanding the restrictive set of conditions that are currently in place.
- 5. Expand access to complaint mechanisms for migrant workers and enforce stricter penalties for violation of their labour rights:** Continue to expand the reach and effectiveness of the migrant worker assistance centres to resolve migrant worker grievances. Reduce impunity of recruitment agencies and employers who abuse the rights of migrants through the enforcement of appropriately severe sanctions.
- 6. Decriminalize sex work and increase protection of sex workers' rights:** Decriminalizing sex work is a crucial first step to recognizing sex workers as right bearers entitled to legal and social protection by the State. By amending or repealing laws that directly and indirectly criminalize sex workers, labour protection mechanisms can be developed to eliminate recruitment and employment misconduct. It is essential to ensure that sex workers' voices are heard throughout the process of legislative reform and development of protection mechanisms.
- 7. Review anti-trafficking responses that increase the risk of exploitation and violence for migrant sex workers of all genders identities and sexual orientations:** It is vital to review and amend anti-trafficking laws, policies, and mechanisms that institutionalize harassment, racial and gender profiling and violence by state actors against women, men, and transgender sex workers. Instead, the Thai Government should explore the possibility of building cooperation with sex worker rights organizations to support the identification of genuine cases of exploitation and abuse within the sector.
- 8. Improve the capacity of the labour inspectorate to enforce the provisions of the Labour Protection Act, the Occupational Safety, Health and Environment Act and the relevant ministerial regulations in the fishing and agricultural sectors:** Strengthening enforcement of labour rights protection for migrants will require the establishment of an effective system of labour inspection for hard-to-reach sectors such as fishing and agriculture. This should include the improvement of labour inspection tools and procedures for identification of violations and data collection and analysis to inform management and planning.

- 9. Extend responsibility of employers to protect the occupational safety and health of all agricultural workers:** The Occupational Safety, Health and Environment Act should be amended to provide coverage for migrants who are employed seasonally in agriculture, including the legal responsibility of employers to prevent workplace accidents. The law should require provision of personal protective equipment to all migrant workers at no cost, as well as training on occupational safety health in migrants' native languages.
- 10. End the detention of migrant children:** As soon as possible, finalize and implement the guidance and standard operating procedures for the removal of children from immigration detention in Thailand. The policies developed should maintain a focus on the best interests of the children and maintaining family unity.
- 11. Develop bilateral recognitions for the educational credentials of migrant children and provide accreditation for migrant learning centres:** To support the educational transitions of migrant children, mutual recognition agreements should be reached between Thailand and countries of origin. In addition, accreditation should be provided for migrant learning centres so that children can continue their education beyond the primary school level in Thailand or in their home countries.
- 12. Ensure that migrant workers are able to make practical use of their entitlements to health coverage:** Providing migrants with the opportunity to enrol in health insurance as a safety net for financial risk is not automatically equivalent to health coverage. Physical, attitudinal and procedural barriers to accessing health services in Thailand have proven to be significant obstacles to translating entitlements on paper into effective service coverage. Measures to expand enrolment and utilization should be implemented, including establishing migrant-friendly health services, improving communication with migrant workers and their families, ensuring that formal sector employers comply with requirements to enroll migrant workers, and continuing multi-sectoral collaboration to insure undocumented migrants.
- 13. Provide government funding for NGO service providers to deliver health services to irregular migrants:** The Government should explore alternative financing options for providing services to irregular migrants, many of whom are likely to be uninsured and reluctant to access public services. In particular, expansion of successful NGO programmes through government grants may provide a more strategic means of delivering services to these populations.
- 14. Expand skills recognitions for the sectors of work in which women migrants are employed:** The establishment of the ASEAN Economic Community has the potential to bring positive impacts to Thailand and its countries of origin in the region. However, the eight recognition arrangements that currently exist provide only limited scope for women migrants to benefit. Expanding bilateral or regional agreements for low- and semi-skilled work in the garment, care work, domestic work and manufacturing sectors would fill labour market needs and expand the channels available for women to migrate legally, in line with the objectives of the Global Compact for Migration.
- 15. Increase understanding of the contribution of migrants among the news media:** To build more positive attitudes towards migrants in Thailand, there is a need to provide training to media who report on migration issues. Biased news reports that portray migrants in a negative light can lead to discriminatory treatment within society, creating an environment where exploitation of migrants is viewed as justifiable behaviour.

- 16. Strengthen the multi-disciplinary approach to anti-trafficking:** The limited effectiveness of stand-alone criminal justice responses to human trafficking has been made clear by the repeated failure of such initiatives in the past. A multi-disciplinary approach involving all relevant stakeholders, including civil society organizations and the private sector, is necessary to achieve progress in preventing and responding to trafficking in vulnerable sectors of work.
- 17. Build capacity to implement and independently monitor ethical codes of conduct for the private sector:** Additional training is needed for businesses to establish and effectively monitor the implementation of ethical codes of conduct. Acceptance of third-party verification is particularly critical to ensure robust oversight and that action is taken for non-compliance. Partnerships with external stakeholders, such as civil society, governments and international organizations, should be established to support their participation.



INTRODUCTION

Benjamin Harkins

Background on migration in Thailand

Thailand has been a crossroads for migration within South-East Asia for centuries. Long before formal systems were established to regulate cross-border movements, large numbers of people entered or were resettled into the country's territory. As a result, the population of Thailand today is more ethnically diverse than is typically acknowledged, including Chinese, Malay, Karen, Shan, Mon, Khmer, Lao, Indian and others. Nation-building efforts since the late nineteenth century led to systematic cultural and linguistic assimilation of many of these groups but the more recent arrival of millions of migrant workers from neighbouring countries has been greeted with a more mercurial policy response.

The period of large-scale labour migration to Thailand from Cambodia, the Lao People's Democratic Republic and Myanmar began in earnest during the 1990s. This coincided with a decade-long economic boom from 1987 to 1996, which greatly expanded wage differentials between Thailand and its neighbouring countries. Based upon increased exports and a major influx of foreign direct investment, the economy grew by an average rate of nearly 10 per cent per year. In less than a generation, Thailand had emerged as a middle-income country and transitioned from being a net-sending to a net-receiving nation for labour migration.

To respond to increasingly urgent demands from the private sector to fill labour shortages in sectors that had become undesirable to Thai workers, the first of many cabinet resolutions was initiated to register Myanmar migrant workers in 1992 (Sciortino and Punpuing, 2009). This policy was initially conceived as a short-term solution to meet immediate labour demands and did not establish a comprehensive framework governing the recruitment and employment of migrant workers. Instead, the resolution provided temporary amnesty for violation of Thailand's immigration and labour laws to irregular migrant workers already employed in Thailand. Migrants were granted a short-term reprieve from deportation based upon the request of their employers but without the right to change employment or leave the province in which they had registered.

Although the limitations of this ad hoc approach to migration policy eventually became clear as the shortage of workers did not subside, in practice, it has remained the foundation of Thailand's labour migration policy framework. The vast majority of migrants from Cambodia, the Lao People's Democratic Republic and Myanmar continue to make use of semi-annual registration windows to obtain legal status or simply work irregularly. Though the amnesties have varied somewhat in their details, they have been consistent in maintaining the precarious legal status of migrants. In some cases, migrants continue to work in this state of limbo for years; the restrictions in policy having proven ineffective in limiting the duration of their employment but instead curtailing the rights that they are provided with during their stay.

In an attempt to formalize the entire migration process to Thailand from recruitment to return, bilateral memoranda of understanding (MOUs) were developed between Thailand and its neighbouring countries. Three agreements on labour cooperation were signed with Cambodia, the Lao People's Democratic Republic and Myanmar in 2002–03 but establishing the bilateral process to implement the MOUs was delayed for many years. As a result, the deployment of migrant workers through the MOUs did not begin in Cambodia and the Lao People's Democratic Republic until 2006, and did not start in Myanmar until 2009. Due to the lengthy, complex and expensive procedures put in place, utilization of this process continues to represent just a small proportion of in-bound migration to the present day.

Although migrant workers from neighbouring countries constitute the vast majority of Thailand's current population of migrants, its migration flows remain heterogeneous and complex. There are a wide variety of other groups resident within the country who do not hold citizenship status, including stateless persons, asylum seekers and refugees, professional workers, foreign investors, foreigners married to Thai nationals, students and retirees. In addition, internal and international migration of Thai nationals continues to be an important phenomenon, largely motivated by uneven levels of development between the rural and urban areas of Thailand and the lack of sufficient livelihood opportunities in the former.

Key recent migration developments in Thailand

Measures to reduce irregular migration

The most striking recent development in migration policy has been the efforts made to assert stricter control over labour migration from neighbouring countries, particularly through the prevention and suppression of irregular labour migration.

Since the military came to power in May 2014, policy has shifted decisively towards a more restrictive migration governance approach, with security concerns taking increased precedence over labour market needs. One of the first official announcements of the National Council for Peace and Order (NCPO) was that any irregular migrant workers found in Thailand would be arrested and deported by Thai authorities. This precipitated a dramatic departure of migrants in June 2014, with more than 250,000 Cambodians fleeing Thailand over the course of three weeks due to fears of a crackdown on undocumented workers.

The exodus had a negative impact on several major industries, particularly for the booming construction sector in Bangkok. The sudden loss of the migrant workforce caused major disruption to employers and highlighted the fact that a significant portion of the Thai economy is structurally dependent on low-wage labour provided by migrant workers. With several sectors hit by a significant shortage of workers, the NCPO opened a new window for registration of irregular migrants, with nearly 1.6 million migrant workers registered.

Additional policy actions to formalize migration to Thailand were taken in 2015–16 with the signing of new MOUs with countries of origin. The main objective behind these new agreements became clearer after a National Security Council research report was released in June 2016. A consensus had been reached that ending registration policies was necessary in order to reduce irregular migration. The report expressed the point of view that migration policy in Thailand has been too lax and that migrants would continue to migrate irregularly if amnesty is periodically

provided. Negotiating the new MOUs provided a means to build greater commitment among countries of origin to implementing the process effectively, encouraging more migrants to make use of legal channels.

Further measures to limit irregular migration were enacted in June 2017 as part of a comprehensive law on labour migration, entitled the Royal Ordinance on the Management of Foreign Workers Employment B.E. 2560 (2017). Consolidating Thailand's laws on recruitment and employment of migrant workers, it was hoped that a unified law would bring greater clarity and coherency to Thailand's largely ad hoc legal framework on labour migration. However, what the law made most clear was that strict enforcement against irregular migration was to be used as the key policy approach to convince migrants to use regular channels.

Drafted with limited consultation of the key stakeholders involved, the most prominent provisions of the new ordinance were the stringent sanctions it applied for irregular migrants and their employers, including hefty fines for both and prison sentences of up to five years for migrants themselves. It also included further prohibitions on the types of work that migrants could engage in, the establishment of segregated "migrant housing zones" and application of a levy on employment of migrants in order to force economic restructuring and reduce dependence on migrant workers.

Because the stipulations of the new law were promulgated rapidly and without a clear communications strategy, the threat of severe penalties being imposed created a panic among many migrants and their employers. Once again, there were reports of tens of thousands of migrants fleeing Thailand and significant labour shortages emerging for employers. The same antithetical sequence of events that had occurred in June 2014 – a crackdown followed by an immediate amnesty – was repeated.

Under pressure from civil society and the media, the Government suspended enforcement of the penalty provisions of the law until revisions could be made and a new registration window was completed. This was ultimately accomplished over the course of a one-year period, with approximately 1.2 million migrants regularizing their status by the end of June 2018.

Since its initial promulgation, the Thai Government has made laudable efforts to adjust the provisions in the Royal Ordinance that caused migrant workers to flee the country. Consultations were held with employers, civil society and migrant workers themselves to obtain input for the revisions and technical support from the International Labour Organization (ILO) was sought and incorporated. The revised version of the Royal Ordinance Concerning Management of Foreign Workers Employment was approved by the Cabinet in March 2018, including several marked improvements that are aligned with international standards and good practices for labour migration governance. In particular, the hefty fines charged to migrants and their employers for irregular migration were reduced and prison sentences removed as a potential penalty.

Intra-ASEAN labour mobility

To date, the much-publicized Association of Southeast Asian Nations (ASEAN) Economic Community (AEC) has had limited impact on increasing the mobility of professionals in Thailand. Recognizing the potential for intra-regional migration to contribute to the economic development of the region, a freer flow of skilled labour was included as a key policy measure for the AEC initiated in 2015. To implement this initiative, mutual recognition arrangements

were developed for high-skilled jobs such as doctors, dentists, nurses, engineers, architects, surveyors, accountants and tourism professionals. However, very few professionals have made use of these policies as they represent a small fraction of the regional labour market within ASEAN and many non-legal barriers to mobility remain in place.

Another key reason why the AEC has yet to have a significant effect on expanding labour mobility is that the vast majority of the workers involved in intra-ASEAN migration are employed in low-skilled jobs that are not covered by its skills recognition arrangements. This sizeable gap in ASEAN policy on regional integration does not accurately reflect the critical importance of low-skilled migration to countries of origin and destination within the region. In Thailand, the prosperity of several significant economic sectors is heavily reliant on the output of these workers, including manufacturing, construction, fishing and seafood processing, agriculture and domestic work.

A regional instrument applicable to low-skilled migration, referred to as the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, was signed by ASEAN leaders in November 2017. The product of a decade of closed-door negotiations among the 10 ASEAN Member States, the final Consensus document produced is non-binding and makes much of its contents subject to the stipulations of national policies and legislation. It does not extend any rights to the sizeable population of undocumented migrant workers within ASEAN, unless they become so “through no fault of their own”.

Although the signing of the Consensus can be viewed as a step forward for ASEAN policy towards low-skilled migrant workers, in practical terms, adherence to its articles has been made largely optional for Member States. The inclusion of heavily qualified language in the document suggests that some of the major areas of disagreement between countries of origin and destination could not be satisfactorily resolved and that the final product is better described as a “compromise” rather than a “consensus”.

Return of refugees along the Thai–Myanmar border

Nearly 100,000 refugees continue to reside in nine “temporary shelters” along the Thai–Myanmar border, first recognized as displaced persons by the Thai Government in 1984. A slow and measured process of voluntary repatriation began in 2016 due to some improvements in the security situation for ethnic minority groups within Myanmar. This event was facilitated by the signing of a nationwide ceasefire agreement between the Myanmar military and ethnic armed organizations and a political, economic and administrative reform process, which culminated in the election of a majority civilian government in 2015.

It was agreed during a bilateral meeting between Myanmar and Thailand that the two governments would cooperate on the voluntary return of refugees twice a year, with the support of the United Nations High Commissioner for Refugees (UNHCR). As of the end of 2018, just two small groups of refugees have returned to their homes through the official return programme. Meanwhile, The Border Consortium, a group of non-governmental organizations (NGOs) providing services to the shelter populations, estimates that 18,000 refugees have returned to south-eastern Myanmar without government assistance since 2012 (2018).

Many refugees appear reluctant to participate in the official programme due to fears of being identified; while others have lingering concerns related to their safety in Myanmar. Limited

progress in establishing a long-term peace agreement with ethnic organizations, continuing armed conflicts in upland areas, large-scale displacement of the Rohingya population in Rakhine State and the lack of significant demining efforts have significantly weakened refugee confidence in the safety and security of returning home. Meanwhile, significant cuts to donor funding for service delivery have increased pressure on refugees to leave the camps in the near future.

Exploitation within Thailand's fishing sector

Human trafficking within the commercial fishing sector continues to garner a disproportionate amount of attention in comparison to other migration-related issues in Thailand. Under the threat of trade sanctions against the multi-billion dollar industry, dramatic reforms to fisheries management and labour laws have been undertaken by the Thai Government, supply-chain auditing systems by the private sector have proliferated, large amounts of funding have been channeled to United Nations and NGO assistance programs, and a long series of news stories have been produced recounting tales of slavery at sea.

While the severity of the labour rights violations suffered in the fishing sector has been well-documented over the last decade and must continue to be addressed, the singular focus on the industry has diverted attention away from similar problems occurring elsewhere in Thailand. Research studies have found exploitative practices in many other sectors of migrant employment, such as domestic work, sex work, construction, agriculture, livestock, hospitality, garment manufacturing and others; all of which have received much less effort and investment to improve conditions (ILO, 2016a, 2016b, forthcoming; Empower Foundation, 2012; Swedwatch, 2016; Schyst Resande and Fair Action, 2015; MAP Foundation, 2014).

Although negative media coverage of the fishing industry has led to measures by large multinationals such as Costco, Walmart, Sysco, Mars and Nestlé to clean up their supply chains, a substantial portion of the abuses against migrants in Thailand are in sectors that produce goods and services for domestic consumption. For example, severe labour rights violations against migrant women involved in domestic work and sex work are known to be common but have frequently been neglected by initiatives to improve working conditions. On the contrary, the employment of sex workers is criminalized and they are frequently targeted for “rescues” as victims of human trafficking, typically with little consideration as to whether they wish to remain within the sex industry. Domestic workers routinely experience exploitative employment practices due to a lack of basic labour rights protections, such as the minimum wage, limitations on working hours and overtime pay. However, their stories are unlikely to ever make front page news within the international media.

Purpose and content of this report

With its continued emergence as a central human rights concern within the country, there is a manifest need for accurate information and analysis on migration issues in Thailand. Under the cooperative framework of the United Nations Thematic Working Group on Migration, the Thailand Migration Report provides an independent situation analysis of migration trends and patterns. The report was first initiated in 2005 as the flagship knowledge product of the Working Group. Published approximately every three years, this edition of the series includes 11 thematic chapters produced by agencies of the United Nations System.

Each of the chapters analyses the relevant policy and legislative framework, provides an assessment of the current situation for migrants and makes recommendations for policy and programmatic changes to improve their conditions. The report concludes with a synthesis of the report's key findings and offers a way forward in establishing a more coherent, long-term and rights-based approach to migration governance in Thailand.

This version of the Thailand Migration Report is divided into five sections that were identified as areas of critical importance by the United Nations Thematic Working Group: (1) migration policy and profile; (2) working conditions for migrants; (3) access to services for migrants; (4) migration and development; and (5) exploitation of migrants. As the largest population of migrants in Thailand, the content focuses primarily on the situation of migrant workers from neighbouring countries. The report does not include a separate chapter on refugees in Thailand but their circumstances are discussed within several of the thematic chapters.¹

To further strengthen inter-agency cooperation, several of the individual chapters were jointly authored by United Nations agencies, identifying key areas of intersection between their mandates. An extensive peer review was conducted among the members of the United Nations Thematic Working Group on the draft chapters of the report to ensure the validity of the analysis. In addition, the report was shared with the Thai Government and leading academics for review and comment prior to publication.

¹ There is no internationally agreed upon definition of the term "migrant". For the purposes of this report, it is used as an umbrella term for a person who changes their country of usual residence, irrespective of their reasons or legal status. However, it is important to note that UNHCR refers to "refugees" and "migrants" separately to maintain clarity about the causes of refugee movements and not to lose sight of the specific obligations towards refugees under international law. Likewise, the Global Compact for Safe, Orderly and Regular Migration specifies that migrants and refugees are distinct groups governed by separate legal frameworks.

References

The Border Consortium

2018 *Annual Report 2017*. Available at: https://www.theborderconsortium.org/media/104285/TBC-Annual-Report-2017_Final.pdf

Empower Foundation

2012 *Hit & Run: The Impact of Anti Trafficking Policy and Practice on Sex Worker's Human Rights in Thailand*. Empower Foundation, Chiang Mai.

International Labour Organization (ILO)

2016a *Worker, Helper, Auntie, Maid? Working Conditions and Attitudes Experienced by Migrant Domestic Workers in Thailand and Malaysia*. ILO, Bangkok.

2016b *High Rise, Low Pay: Experiences of Migrant Women in the Thai Construction Sector*. ILO, Bangkok.
Recruitment Practices and Working Conditions for Migrant Workers in Thailand's Agricultural Sector. ILO, Bangkok (forthcoming).

MAP Foundation

2014 *Migrant Workers in Thailand's Garment Factories*. MAP Foundation, Chiang Mai.

Schyst Resande and Fair Action

2015 *No Holidays for the Burmese: A Follow-up Study of the Working Conditions for Burmese Migrants at Hotels and Their Suppliers in Thailand*. Stockholm.

Sciortino, R. and S. Punpuing

2009 *International Migration in Thailand 2009*. IOM, Bangkok.

Swedwatch

2015 *Trapped in the Kitchen of the World: The Situation for Migrant Workers in Thailand's Poultry Industry*. Swedwatch, Stockholm.



Abstract:

This chapter collates data on migration stock and flow in Thailand, with the aim of contributing to the development of evidence-based policy and practice. As of November 2018, the statistics available place the total non-Thai population in Thailand at approximately 4.9 million, which includes 3.9 million migrant workers from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. Based upon this estimate, migrant workers constitute over 10 per cent of Thailand's labour force of 38.7 million. These figures represent a substantial increase from the 2014 Thailand Migration Report, which calculated the non-Thai population within the country to be 3.7 million, including 2.7 million migrant workers from neighbouring countries. The data has been gathered from the most credible existing sources, such as the Ministry of Labour, the Ministry of Interior and the Immigration Bureau, as well as United Nations agencies and academia. Where feasible, data has been aggregated for the entire period since the last Thailand Migration Report was published, providing figures from 2014–17 to allow for analysis of emerging trends and patterns. Limitations in the availability of data on certain groups of migrants within Thailand, particularly stateless persons and irregular migrants, should be noted in interpreting the statistics.

Introduction

Migration – both internal and international – continues to play a significant role in the social and economic development of Thailand. As a country of origin, transit and destination for large numbers of migrants from across the region, Thailand's migration flows are naturally complex and dynamic.

Situated at the centre of the Greater Mekong Sub-region, Thailand is an attractive destination for migrants from neighbouring countries and the broader Asia-Pacific region, particularly Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. Their presence is largely due to the economic growth of Thailand in recent decades, which provides higher wages and better job opportunities than are available at home.

The majority work in low-skilled occupations, though there are more than 110,000 skilled foreign workers in Thailand as well. With an ageing workforce and declining birth rate, migrants play a key role in compensating for a growing shortage of labour. They fill jobs that few Thais are willing to do. As these trends are projected to continue, it is likely that labour migration will continue to play a significant role in Thailand's development in the future.

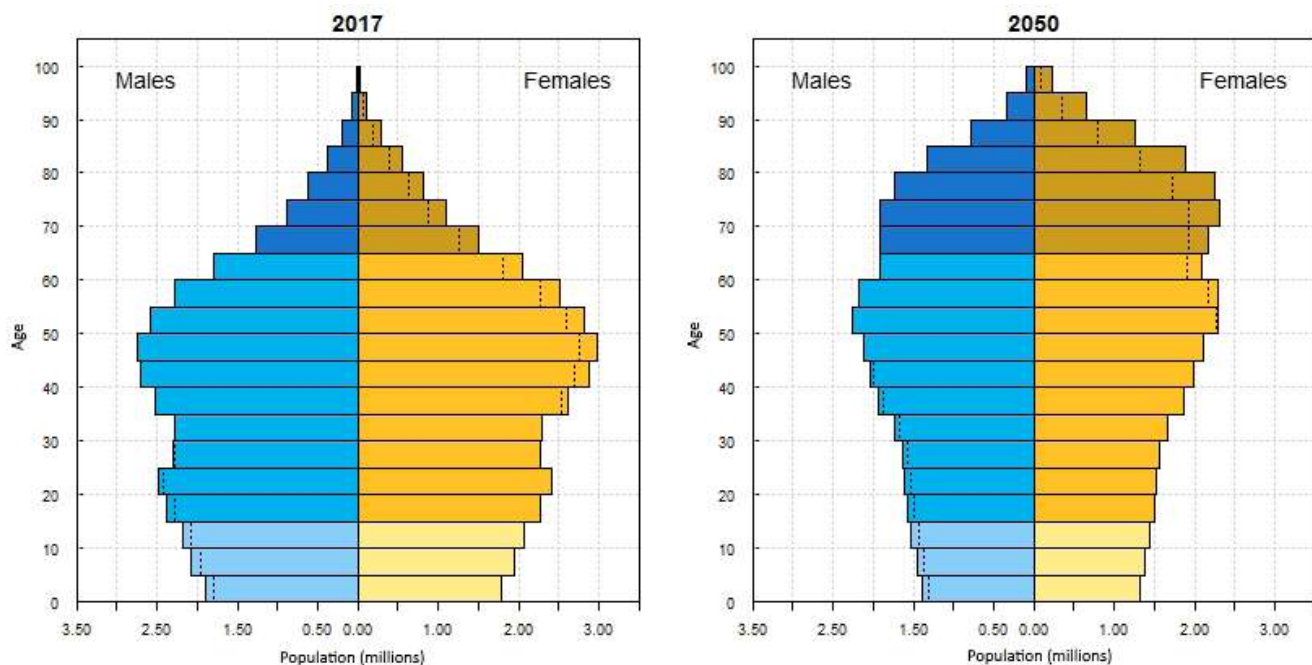
In addition to its migrant worker population, Thailand also hosts a substantial population of camp-based and urban refugees seeking asylum from conflict and persecution. Other notable migration trends in the country include the out-migration of over 100,000 Thais each year seeking employment in other countries, as well as large-scale rural-to-urban migration of a relatively mobile national population.

While efforts have been made to ensure the accuracy of the data presented in this chapter, it should be noted that some of the data is provided with significant qualifications. Estimates of the total number for certain groups, including stateless persons and irregular migrants, are subject to a large margin of error due to the limitations of the official data.

Inbound migration

The total population of Thailand, as estimated by the United Nations Department of Economic and Social Affairs in 2017, stands at over 69 million. Thailand is an ageing society with the lowest population growth rate (0.2 per cent per annum) and the second lowest total fertility rate (1.5 children per woman) in South-East Asia (UNDESA, 2017). The proportion of older persons (aged 60 years and over) in Thailand continues to grow, constituting approximately 16 per cent of the population in 2017, and is expected to increase to over 35 per cent by 2050 (figure 1.1). Pending a major restructuring of the Thai economy, this will likely contribute to a continued reliance on migrant workers within the Thai labour market.

Figure 1.1: Demographic profile of Thailand by sex and age group (2017 and 2050)



Source: United Nations Department of Economic and Social Affairs (2017)

The total number of non-Thai citizens living in the country remains difficult to determine precisely due to the presence of a large number of migrants who lack legal status. Particularly in relation to labour migration, it is important to include an estimate of the number of irregular migrants in Thailand given that they constitute a significant proportion.

A 2017 study among 1,419 migrants from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam (CLMV countries) found that only about half of the migrant workers in Thailand (48 per cent) held legal documents for work during the majority of their time within the country (Harkins, Lindgren and Suravoranon, 2017). Although not considered to be nationally representative data, this research provides a broadly indicative figure on the share of irregular migrants in Thailand.

It should be noted, however, that the Department of Employment has recently completed a registration and nationality verification process, which has regularized the status of over 1.2 million irregular migrants from Cambodia, the Lao People's Democratic Republic and Myanmar. The amnesty was carried out from July 2017 to June 2018 due to concerns about a loss of workers caused by the new penalty provisions for irregular migration within the Royal Ordinance on the Management of Foreign Workers Employment B.E. 2560. It can therefore be assumed that the number of irregular migrants has significantly declined within Thailand at the present time.

Similar challenges exist in estimating the size of the stateless population in Thailand. There are currently 486,440 people registered as stateless, meaning that they are not considered citizens of any nation for differing reasons. However, due to barriers in acquiring legal documentation in Thailand, this figure is considered to be substantially lower than the actual population. Some estimates suggest the real total may be over 2 million stateless persons (International Observatory on Statelessness, n.d.).

As of November 2018, statistics collated from various sources (table 1.1) put the total non-Thai population residing and working in Thailand at approximately 4.9 million. Among the nearly 3.9 million migrant workers from neighbouring countries, 3.1 million hold regular legal status while more than 800,000 are thought to be working in an irregular status. These figures represent a substantial increase from statistics in the 2014 Thailand Migration Report, which estimated Thailand's non-Thai population to be 3.7 million, including 2.7 million migrant workers from neighbouring countries. Given the many assumptions involved in making this estimate, it would be safer to place the total number of non-Thais living in Thailand at between 4.7–5.1 million.

Table 1.1: Estimated non-Thai population residing and working in Thailand (November 2018)

Category	Stay	Stay and Work
Professional and Skilled Workers ^a	—	112,834
Low-Skilled Workers from Cambodia, Lao PDR, Myanmar and Viet Nam		
Work permits issued to migrants entering through MOUs ^b	—	850,302
Work permits issued to migrants registered in Thailand ^c	—	2,214,298
Seasonal work permits ^d	—	21,561
Irregular status ^e	—	811,437
Subtotal	—	3,897,598
Temporary Stay ^f		
Stay with Thais	37,822	—
Stay with a resident family	23,640	—
Stay with Thai spouse	16,276	—
Retirement	72,969	—
Special Law – Investment	—	45,882
Special Law – Industrial Estates	—	2,331
Special Law – Petroleum	—	1,190
Subtotal	150,707	49,403
Tertiary Students ^g	31,571	—
Other Populations without Citizenship		
Ethnic minorities and hill tribes ^h	—	66,483
Stateless persons ⁱ	—	486,440
Subtotal	—	552,923
Refugees and Asylum Seekers		
Registered refugees in temporary shelters ^j	48,654	—
Unregistered people in a refugee-like situation in temporary shelters ^k	48,785	—
Urban refugees and asylum-seekers ^l	5,986	—
Subtotal	103,425	—
Total	285,703	4,612,758
Overall Total	4,898,461	

- ^a *Figures on foreigners holding work permits for professional and skilled work in October 2018 provided by the Office of Foreign Workers Administration, Department of Employment, Ministry of Labour.*
- ^b *Office of Foreign Workers Administration, Department of Employment, Ministry of Labour (October 2018).*
- ^c *Migrants who initially entered Thailand irregularly but had their nationalities verified and work permits issued during registration processes instituted by the Royal Thai Government. This number includes migrants who were regularized in the latest drive that ended on 30 June 2018 (1,187,803), fisheries workers granted permission to stay until 30 June 2019 (6,082) and those who completed the nationality verification process previously (1,020,413).*
- ^d *Office of Foreign Workers Administration, Department of Employment, Ministry of Labour (October 2018).*
- ^e *Estimate by the Migrant Working Group in July 2018, "Open Letter to the Prime Minister: Observations and Recommendations for the Operations of Migrant Worker Registration after 30 June 2018".*
- ^f *Figures on visas issued in 2017 were shared by the Thai Immigration Bureau upon request by the International Organization for Migration (IOM).*
- ^g *UNESCO, International Student Mobility in Tertiary Education (2016). Available at: <http://data.uis.unesco.org/Index.aspx>.*
- ^h *Bureau of Registration Administration, Department of Provincial Administration, Ministry of Interior (2018).*
- ⁱ *United Nations High Commissioner for Refugees, "Global Trends: Forced Displacement in 2017" (2018). Available at: <http://www.unhcr.org/globaltrends2017/>.*
- ^j *United Nations High Commissioner for Refugees as of November 2018.*
- ^k *United Nations High Commissioner for Refugees as of November 2018.*
- ^l *Estimate by United Nations High Commissioner for Refugees as of June 2018.*

Role of migrants in the labour force

According to the most recent labour force survey conducted in November 2018, there are 56.3 million people in Thailand who are over the age of 15, of whom 38.7 million were in the labour force (NSO, 2018). Migrant workers continue to play a significant role within the Thai economy and are most commonly employed in construction, agriculture, manufacturing, domestic work, fishing, seafood processing and the service sector. A report by the Organisation for Economic Co-operation and Development (OECD) and ILO estimated that migrants contribute between 4.3 to 6.6 per cent of gross domestic product (2017). However, the study's calculations draw upon data from the last population census in 2010 and do not account for the substantial presence or economic output of irregular migrants in Thailand.

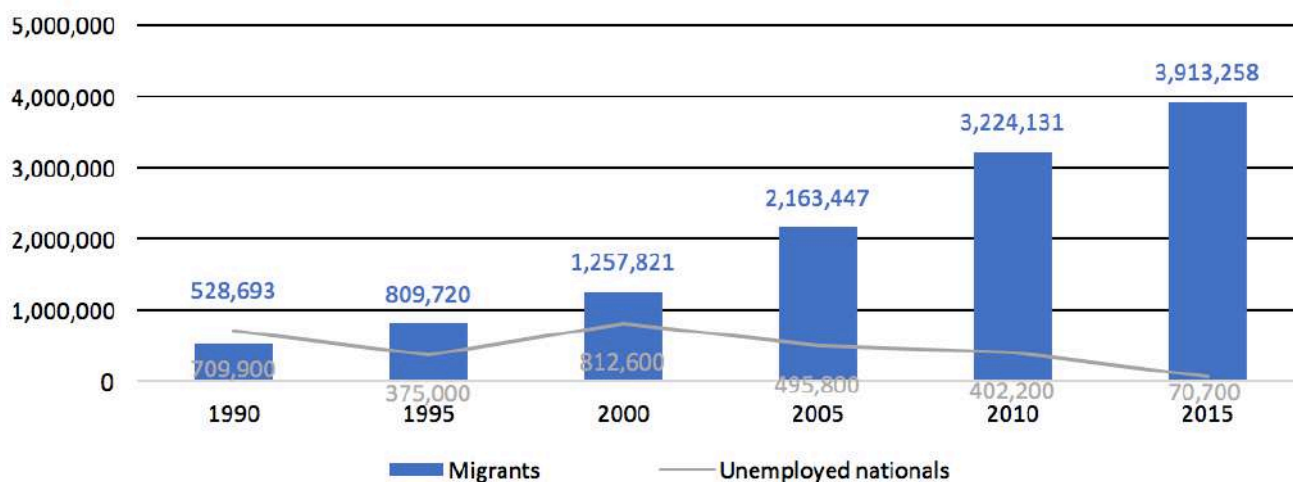
It can be estimated that migrants currently constitute over 10 per cent of Thailand's total labour force. In some economic sectors, such as construction and fishing, migrant workers represent almost 80 per cent of the total workforce (World Bank, 2016). According to the Thailand Development Research Institute (TDRI), the construction sector employs about 2.2 million workers (of whom 300,000 are registered migrant workers) but could accommodate up to 2.9 million due to ongoing growth in the property sector and public infrastructure projects (Tephaval, 2014).

In 1995, the proportion of Thai population over the age of 65 was only 5 per cent. As of 2016, this share had increased to 11 per cent. By 2040, it is projected that about 17 million Thais will be 65 years or older, representing more than a quarter of the population (World Bank, 2016). Thailand's ageing population and falling fertility rates will contribute to growing labour shortages, which are expected to create a shortfall of some 4.7 million workers by 2020 (TDRI, 2012). To meet these labour market needs, the demand for migrant workers is likely to increase, with the greatest demand projected to be for low- and medium-skilled workers (NESDB, 2014).

Thailand's need for migrant workers to fill gaps in the labour market has been described as a "revealed shortage" (Ducanes, 2013). No valid methodology has been established for conducting regular labour market assessments in Thailand and admission quotas are set primarily based upon employer requests. Therefore, the entry of millions of migrant workers to fill jobs must be used as a proxy to gauge the demand for workers. Based on migrant stock data collected by the United Nations Department of Economic and Social Affairs,¹ Thailand was the fastest growing destination country in ASEAN during 1990–2015 (UNDESA, 2017).

The case for a substantial shortage of workers in Thailand is further supported by one of the lowest unemployment rates in the world, which was found to be 0.95 per cent in the most recent labour force survey (NSO, 2018). Many factors contribute to this low rate of unemployment, including that Thais seeking work are easily absorbed into the agricultural and informal sectors (Fernquest, 2015). Nevertheless, comparison to the massive number of migrants resident in Thailand suggests that there are not enough Thai workers to fill the demand for labour and that the gap continues to widen (figure 1.2).

¹ It should be noted that the United Nations data defines a migrant as a "person living in a country or area other than that in which they were born" and therefore includes some foreign residents who are not permitted to work.

Figure 1.2: Migrant stock and unemployment of nationals in Thailand (1990–2015)

Source: United Nations Department of Social Affairs (2017) and National Statistical Office (2017)

Taking into account the ageing work force and declining birth rate in Thailand, coupled with a reluctance among Thai workers to take jobs within low-skilled sectors, it is likely that several segments of Thailand's economy will continue to be highly dependent on low- and semi-skilled migrant workers from CLMV countries. This ongoing demand for migrant workers will also be driven by factors such as skills shortages, ongoing urbanization and state infrastructure spending as part of Thailand 4.0, an ambitious economic development plan to move the country from middle to high-income status, with growth driven by innovation, technology, and creativity.

The Royal Thai Government plans to invest around USD 43 billion in key priority infrastructure construction projects by 2022, with a focus on transport infrastructure and the Eastern Economic Corridor, which is expected to support economic growth and improve rail connectivity in the region. Such large-scale construction projects will likely necessitate an increase in migrant labour in the coming years.

Migrants holding work permits

According to statistics from the Ministry of Labour, there were 2,062,807 migrants who held work permits in 2017 (table 1.2).² Of those workers, 42 per cent were women while 58 per cent were men, a proportion that has maintained relatively consistent for the last few years. It should be noted, however, that the proportion of women who migrate irregularly is thought to be higher because of fewer options for employment within the formal sector (ILO and UN Women, 2015).

There were also significant differences between the six regions. Just over half of the total work permits were issued in Bangkok and the greater metropolitan area (52 per cent), which was the largest destination region for migrant workers. The fastest growing region for migrants during the last four years was the Southern Region, which more than doubled during the period, adding 229,712 additional workers.

² Note that the work permit figures do not include registrations at One Stop Service Centres. Other discrepancies between the data provided in tables 1.2 and 1.3 may be the result of limitations in the data management system.

Table 1.2: Migrants holding work permits in Thailand by sex and region (2014–17)

REGION	WOMEN				MEN				TOTAL			
	2014	2015	2016	2017	2014	2015	2016	2017	2014	2015	2016	2017
Bangkok	33,388	59,870	90,344	135,841	87,248	138,563	165,888	205,070	120,636	198,433	256,232	340,911
Greater Bangkok	151,967	189,464	224,572	317,507	214,717	268,147	306,945	420,707	366,684	457,611	531,517	738,214
Central Region	130,280	111,674	109,711	158,296	197,767	165,312	156,079	223,963	328,047	276,986	265,790	382,259
Northern Region	88,177	88,226	64,933	89,643	88,981	94,102	70,104	97,306	177,158	182,328	135,037	186,949
North-East	10,409	12,157	11,150	20,013	12,684	14,241	11,437	20,060	23,093	26,398	22,857	40,073
Southern Region	129,950	120,660	105,974	144,689	194,266	181,058	159,704	229,712	324,216	301,718	265,678	374,401
Total	544,171	582,051	606,684	865,989	795,663	861,423	870,157	1,196,818	1,339,834	1,443,474	1,476,841	2,062,807

Source: Department of Employment (2018)

Migrants admitted through the MOUs and NV processes

Two main processes to facilitate labour migration to Thailand have been developed. The first is through the memoranda of understanding (MOUs) with neighbouring Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam, which provide migrants a fully legal channel to access job opportunities in Thailand. The second approach is through the registration system known as the nationality verification (NV) process, which allows undocumented migrants to regularize their status without having to return to their countries of origin. The NV process begins for migrants by registering for an identification card at One-Stop Service Centres.

The Thai Government has sought to encourage greater employment of migrant workers through the MOUs. The number of migrant workers entering Thailand under these agreements has been increasing for a number of years, with nearly three times as many migrants in 2017 using the MOU process than was the case just four years earlier (table 1.3).

But while the numbers have increased, admission through the MOU process still represents a relatively small portion of the migrant workers from CLMV countries in Thailand. Due to the costly, time-consuming and complex procedures, most migrants enter the country through irregular channels (Harkins, Lindgren and Suravoranon, 2017). The benefits of the MOU process remain insufficient to overcome these considerations for many migrant workers. Research from the ILO concluded that there has been limited success in encouraging greater use of the MOUs partially because they do not contribute to significant changes in working conditions for migrants. Moreover, they have reinforced a system of agency-facilitated recruitment and job placement, which has led many migrants to incur sizeable debts (ILO, 2015).

The NV process has been more effective in providing documentation to migrant workers in Thailand. During the most recent registration window in June 2018, a total of 1,187,803 migrants completed the process and received work permits, according to the Department of Employment. However, the Migrant Working Group (MWG) has raised concerns that the process was not handled in

an efficient manner due to insufficient personnel and resources to process the large number of migrants seeking to register. Although One Stop Service Centres were open 24 hours per day, it was reported that many workers had to wait up to three days in the queue to complete the procedure. In addition, the 811,437 migrants who initially registered but were unable to finish NV are now thought to be without legal status in Thailand (MWG, 2018).

As is well-established, migrants from Myanmar constitute the vast majority of regular migrants in Thailand, accounting for 69 per cent of the total number of low-skilled migrant workers holding work permits in 2017. However, it is difficult to ascertain with much certainty the number of Lao migrant workers in Thailand, as they often blend into the Thai population due to cultural and linguistic similarities. Therefore, they may not feel that it is essential to obtain legal documentation to remain in Thailand.

Table 1.3: Process for obtaining documentation by nationality (2014–17)

COUNTRY	PROCESS	2014	2015	2016	2017
Cambodia	Nationality verification	107,172	95,357	99,225	134,422
	MOU	87,398	114,436	152,320	203,660
	One Stop Service Centres	147,891	439,087	738,947	385,829
	Total	342,461	648,880	990,492	723,911
Lao PDR	Nationality verification	33,054	39,261	60,926	76,141
	MOU	20,786	28,561	44,677	78,197
	One Stop Service Centres	68,597	135,150	222,839	69,489
	Total	122,437	202,972	328,442	223,827
Myanmar	Nationality verification	831,235	854,756	737,677	1,038,048
	MOU	97,984	136,314	195,752	300,869
	One Stop Service Centres	102,424	436,154	664,449	723,360
	Total	1,031,643	1,427,224	1,597,878	2,062,277
Total	Nationality verification	971,461	989,374	897,828	1,248,611
	MOU	206,168	279,311	392,749	582,726
	One Stop Service Centres	318,912	1,010,391	1,626,235	1,178,678
	Total	1,496,541	2,279,076	2,916,812	3,010,015

Source: Department of Employment (2018)

Thailand has maintained an open economy and attracts professional and high-skilled workers from a wide range of countries. As shown in table 1.4, a total of 136,542 migrants held work permits for professional occupations in 2017, with key countries of origin including Japan, China, and the Philippines. However, as highlighted in table 1.1, foreigners holding work permits for professional and skilled occupations in Thailand constitute a small proportion of the total number of foreigners in the country.

As a Member State of ASEAN, facilitating a freer flow of skilled labour within the AEC is a shared

goal of Thailand. Notably, the Philippines is the only ASEAN country to break into the top 10 countries of origin for skilled migrants in Thailand, many of whom are employed as English teachers within the country. This is yet another indication that the eight ASEAN Mutual Recognition Arrangements that are currently in place are not particularly effective at meeting labour market needs. Research has shown that the low utilization of the Mutual Recognition Arrangements is partially because the professions recognized constitute only 0.3 per cent to 1.4 per cent of total employment in Member States (ILO and ADB, 2015).

Table 1.4: Foreigners holding work permits for professional and skilled occupations by nationality (2014–17)

2014		2015		2016		2017	
Country	Total	Country	Total	Country	Total	Country	Total
Japan	37,301	Japan	36,666	Japan	36,468	Japan	36,550
China	17,860	China	18,811	China	22,162	China	23,633
Philippines	12,780	Philippines	13,416	Philippines	14,374	Philippines	15,196
UK	11,095	UK	10,784	India	12,421	India	13,550
India	11,433	India	11,964	UK	10,601	UK	10,392
USA	9,079	USA	8,775	USA	8,645	USA	8,227
Korea (ROK)	6,100	Korea (ROK)	6,065	Korea (ROK)	5,979	Korea (ROK)	6,035
France	4,445	France	4,685	France	5,011	France	5,136
Taiwan	4,956	Taiwan	5,271	Taiwan	5,463	Taiwan	5,718
Australia	3,551	Australia	3,464	Australia	3,422	Russia	2,962
Other	9,328	Other	8,046	Other	8,746	Other	9,143
Total	127,928	Total	127,947	Total	133,292	Total	136,542

Source: Department of Employment (2018)

Refugees and asylum seekers

As of November 2018, a total of 97,439 refugees have been verified by UNHCR, including unregistered people in a refugee-like situation. These refugees and asylum seekers live in nine temporary shelters along the Thai–Myanmar border (table 1.5).

Though the large majority of refugees along the Thailand–Myanmar border are Karen, many other refugees of differing ethnicities, religions and places of origin also reside in the nine temporary shelters. The recognition of these “displaced persons” within Thailand began in 1984 as a result of armed conflict within Myanmar. During the last three decades, these populations have changed considerably due to arrivals and departures during different periods of the conflict, the implementation of durable solutions and the birth of children in the temporary shelters.

Table 1.5: Registered and unregistered refugee populations in the nine temporary shelters along the Thai–Myanmar border (November 2018)

Temporary shelter	Registered population	Unregistered population	Total
Ban Don Yang	1,577	1,055	2,632
Ban Mai Nai Soi	6,595	2,589	9,184
Ban Mae Surin	673	1,522	2,195
Mae La	16,456	19,054	35,510
Mae La Oon	5,274	4,157	9,431
Mae Ra Ma Luang	4,485	6,004	10,489
Nu Po	5,183	5,280	10,463
Tham Hin	2,997	3,149	6,146
Umpiem	5,414	5,975	11,389
Total	48,654	48,785	97,439

Source: UNHCR (2018)

In light of improvements in the political and security situation within Myanmar in recent years, the Thai and Myanmar Governments, working together with UNHCR, the International Organization for Migration (IOM) and other humanitarian and development partners, have initiated a programme to support the voluntary return of refugees.

Repatriation to Myanmar from the temporary shelters has begun to take place, though the numbers returning have been minimal to date. In October 2016, a pilot group of 71 refugees (from Tham Hin and Nu Po temporary shelters) returned to Myanmar under the official programme for voluntary return. No facilitated returns took place in 2017, and a further 93 refugees (from Mae La, Umpiem, Nu Po, Ban Don Yang and Ban Mai Nai Soi) returned to Myanmar in May 2018.

A significant resettlement programme has also sent more than 100,000 of the refugees in the temporary shelters to third countries. A survey by UNHCR and the Mae Fah Luang Foundation found that most refugees prefer resettlement or remaining in Thailand, as they were unsure about returning to Myanmar. It is also notable that about 28 per cent of the refugees in the shelters were born in Thailand and may not have a strong personal connection with the idea of return (2014)

UNHCR estimates that there were 5,986 urban refugees and asylum seekers in Thailand as of June 2018. For urban refugees and asylum seekers, there is no national framework for refugee status determination. UNHCR registers persons of concern in urban areas, provides legal protection advice and supports their essential needs. In spite of this, arrest and detention of those identified as persons of concern continues to occur (Fortify Rights, 2017). Most urban refugees arrive in Bangkok with a passport and tourist visa. Once their tourist visas expire, they are considered irregular migrants under Thai law, which does not make a distinction for refugees and asylum seekers.

Outward migration

While in-migration has a much greater impact on Thailand's economy and society, out-migration continues to be significant. In 2017, 115,215 workers were deployed to other countries (table 1.6) and the Ministry of Foreign Affairs has estimated that about 1.1 million Thais are currently residing overseas. Among formal deployments, the majority (93.7 per cent) went to countries in Asia (81,992), followed by the Middle East (15,385) and Europe (10,730). Key destinations include Taiwan (China), Israel, Japan, the Republic of Korea, Malaysia and Singapore. Women constituted only about one fifth of the workers migrating.

Remittances from these workers contribute substantially towards the economic well-being of many households in Thailand. In 2018, estimated remittance inflows amounted to USD 7.5 billion and constituted 1.5 per cent of the GDP of Thailand (World Bank).

Table 1.6: Thai workers deployed by destination and channel in 2017

Country	Independently		By government		By employer		For training by employer		By recruitment agency		Total newly deployed		Renewed contracts	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
Taiwan (China)	56	30	187	96	76	2	2	—	19,499	3,596	19,820	3,724	9,753	1,902
Israel	68	1	4,475	163	—	—	—	—	—	—	4,543	164	2,676	111
Japan	199	107	284	47	455	147	2,274	1,186	1,389	1,341	4,601	2,828	1,328	439
Korea (ROK)	63	22	4,810	1,024	26	54	28	30	—	—	4,927	1,130	5,731	821
Malaysia	338	89	72	14	422	100	33	14	396	47	1,261	264	3,183	2,433
Singapore	237	29	—	55	97	9	43	10	208	—	585	103	4,541	170
Myanmar	7	1	—	—	351	2	8	1	143	2	509	6	128	4
New Zealand	492	193	—	—	—	—	—	—	—	—	492	193	132	94
Denmark	6	3	—	—	739	—	—	—	—	—	745	3	6	4
UAE	308	96	—	—	38	—	5	1	319	—	670	97	1,827	676
Others	3,777	2,684	—	2	5,517	654	299	316	1,532	428	11,125	4,084	11,536	5,846
Total	5,551	3,255	9,828	1,401	7,721	968	2,692	1,558	23,486	5,414	49,278	12,596	40,841	12,500

Source: Department of Employment (2018)

Internal migration

Thailand has long witnessed significant internal migration, historically from the North and North-Eastern regions to the Central region and Bangkok, much of which is rural to urban in nature. According to the most recent Population and Housing Census in Thailand, 9.4 per cent of the Thai population had migrated internally during the preceding five years. Overall, 21.8 per cent of the Thai population did not live in their place of birth (NSO, 2010).³

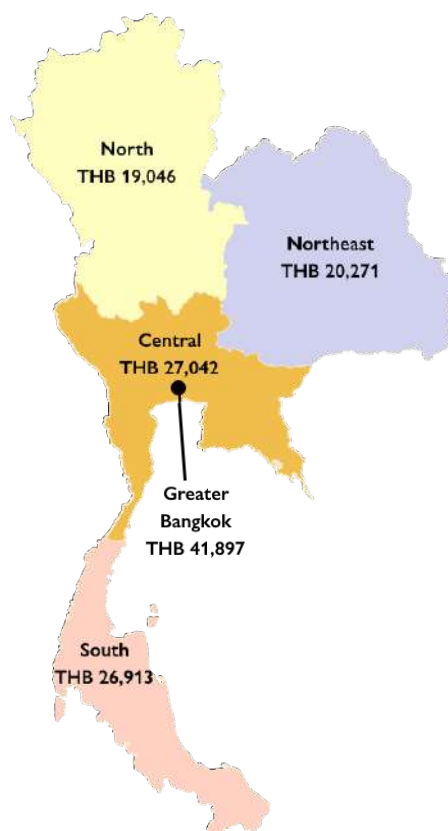
³ The population census only records movements of at least six months in duration, which excludes the high levels of seasonal migration that occur in Thailand.

Complementing the census data is the more recent Population Migration Survey, which conducted interviews with 83,880 households on a monthly basis between October and December to assess movements from one area of Thailand to another. The survey results highlight that the North and North-Eastern regions of Thailand continue to be the main regions of origin for internal migrants, while Greater Bangkok and the Central Region are the key destinations. The survey also noted that between 2014 and 2017, an average of 1.2 per cent of Thailand's population had migrated internally each year (NSO, 2017a).

It is important to consider the seasonality and circular nature of much of internal migration in Thailand, particularly with regard to movements from the North and North-East regions towards Greater Bangkok and the Central region during the dry season, and the reverse during the rainy season (NSO, 2017b). Given the large portion of the Thai labour force that is still employed in agricultural pursuits, many internal migrants seek seasonal employment elsewhere to diversify their incomes.

Another key motivation for internal migration within Thailand is the wage differentials between rural and urban areas. The Household Socio-Economic Survey conducted in 2017 highlights the disparities in income between both regions and urban/rural areas (figure 1.3). The differences are particularly pronounced between the North and North-Eastern regions and Greater Bangkok. The monthly household income in the North (THB 19,046) and Northeast (THB 20,271) is less than half of the amount in the Greater Bangkok area (THB 41,897) (NSO, 2017b). In light of the inequities, internal migration must also be considered to be a significant poverty reduction strategy for many rural households.

Figure 1.3: Average monthly household income by region in Thailand



Source: National Statistical Office (2017b)

Conclusion

Migration continues to play a crucial role in the socio-economic development of Thailand. Over the years, the non-Thai population has increased from an estimated of 3.7 million in 2014 to 4.9 million in 2018. A growing economy and low unemployment rate, coupled with demographic trends including an ageing population and declining birth rate, are key factors that drive demand for labour migration. The heavy reliance on labour provided by migrant workers, particularly those from CLMV countries who make up the bulk of the migrant population, is likely to continue.

As Thailand further integrates into the ASEAN Economic Community (AEC), the number of professional and highly skilled workers from a wide range of countries may also increase. However, the AEC framework will need to become more comprehensive, covering occupations beyond the current seven professions and one sector agreed upon under the Mutual Recognition Arrangements, if they are to meet labour market needs in Thailand.

The number of irregular migrants in Thailand remains high due to inefficiencies in the current labour migration management system. The administrative complexity, cost and time required to enter Thailand through the MOU process discourages many potential migrants from making use of this channel. As a result, large numbers continue to utilize irregular channels to enter Thailand, which makes them more vulnerable to abuse and exploitation and reduces their access to essential services.

Thailand is also host to a sizeable population of displaced persons who reside in both temporary shelters and urban centres. It is likely that Thailand will continue to attract asylum-seekers as a safe destination for those fleeing from conflict and persecution. Establishing a national framework for refugee status determination will support expanded access to education, health care, livelihoods and protection during their stay, avoiding the use of immigration detention for asylum seekers and refugees.

While in-migration has a much greater impact on Thailand's economy and society, out-migration is also significant with tens of thousands of Thai workers seeking employment in countries of Asia, Europe and the Middle East each year. The Thai population is also relatively mobile internally, with notable rural-to-urban movements within the country. Much of these movements are seasonally driven and linked to inequity of incomes and opportunities between the different regions of Thailand.

As observed within this chapter, Thailand's migration flows are complex and dynamic. It is imperative for policymakers to continue to improve the data collected on the migrant population in Thailand to provide a better understanding of the nature of these movements and inform the development of evidence-based migration policies that are comprehensive and inclusive.

References

Department of Employment

- 2015 Newsletter on statistics of foreign workers with work permits throughout the Kingdom, 2014 (in Thai). Available at: https://www.doe.go.th/prd/assets/upload/files/alien_th/66400d6719b17245655c6982f4241dfc.pdf.
- 2016 Newsletter on statistics of foreign workers with work permits throughout the Kingdom, 2015 (in Thai). Available at: http://www.mol.go.th/sites/default/files/downloads/other/saitilabour_2558_for12oct2016.zip.
- 2017 Newsletter on statistics of foreign workers with work permits throughout the Kingdom, 2016 (in Thai). Available at: http://www.mol.go.th/sites/default/files/downloads/pdf/sthitiaerngngaan_pracchampii_2559.pdf.
- 2018 Newsletter on statistics of foreign workers with work permits throughout the Kingdom, 2017 (in Thai). Available at: https://www.doe.go.th/prd/assets/upload/files/alien_th/94ec1760f83293298787bf9d0fd3496a.pdf.
- 2018 Newsletter on statistics of foreign workers with work permits throughout the Kingdom, 2018 (in Thai). Available at: https://www.doe.go.th/prd/assets/upload/files/alien_th/98802fed607243cb1c1afe248b3d29eb.pdf

Ducanes, G.

- 2013 *Labour shortages, foreign migrant recruitment and the portability of qualifications in East and South-East Asia*. Bangkok, ILO.

Fernquest, J.

- 2015 5 factors push Thailand's unemployment rate ridiculously low. Available at: <http://www.bangkokpost.com/archive/5-factors-push-thailand-unemployment-rate-ridiculously-low/465248>.

Fortify Rights

- 2017 Thailand: Release asylum seekers detained in raids last week, media release. Available at: <https://www.fortifyrights.org/publication-20171106.html>.

Harkins, B., D. Lindgren and T. Suravoranon

- 2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

International Labour Organization (ILO)

- 2015 *Review of the Effectiveness of the MOUs in Managing Labour Migration Between Thailand and Neighbouring Countries*. ILO, Bangkok.

International Labour Organization and Asian Development Bank (ILO and ADB)

- 2015 *ASEAN Community 2015: Managing Integration for Better Jobs and Shared Prosperity*. ILO and ADB, Bangkok.

International Labour Organization and Organisation for Economic Co-operation and Development (ILO and OECD)

- 2017 *How Immigrants Contribute to Thailand's Economy*. ILO and OECD, Geneva/Paris.

International Labour Organization and UN Women (ILO and UN Women)

2015 Valuing the contributions of women migrant workers in ASEAN. Policy Brief Series: Women's Labour Migrant in ASEAN, No. 1. ILO and UN Women, Bangkok.

International Observatory on Statelessness

No date Thailand. Available at: <http://www.nationalityforall.org/thailand>.

International Organization for Migration (IOM)

2014 *An Assessment of Regular Channels for the Recruitment of Migrant Workers in Cambodia and Myanmar for Employment in Thailand*. IOM, Bangkok.

Migrant Working Group (MWG)

2018 Migrant Working Group calls for emergency measures to help workers register. Statement released by the Migrant Working Group, published in Post Today, 1 April (in Thai). Available at: <https://www.posttoday.com/economy/546400>.

Ministry of Foreign Affairs

2017 Number of Thais overseas 2017, infographic (in Thai). Available at: http://www.consular.go.th/main/contents/images/text_editor/files/img22.jpg.

Ministry of Labour

2018 Labour Statistics Yearbook 2017 (in Thai), Ministry of Labour, Bangkok. Available at: http://www.mol.go.th/academician/content/Reportstatic_labour.

National Economic and Social Development Board (NESDB)

2014 Labour demand projection in Thailand. Presentation of the Labour Market Study for the Ageing Society Project. Bangkok.

National Statistical Office (NSO)

2010 Population and Housing Census. NSO, Bangkok (in Thai). Available at: http://popcensus.nso.go.th/en/report/WholeKingdom_T.pdf

2017a Population Migration Survey. NSO, Bangkok (in Thai). Available at: <http://www.nso.go.th/sites/2014en/Survey/social/domographic/migration/2017/Full%20Report.pdf>

2017b Household Socio-Economic Survey. NSO, Bangkok (in Thai). Available at: <http://www.nso.go.th/sites/2014en/Pages/survey/Social/Household/The-2017-Household-Socio-Economic-Survey.aspx>

2018 Summary of the Labor Force Survey in Thailand. NSO, Bangkok. Available at: http://www.nso.go.th/sites/2014en/Survey/social/labour/LaborForce/2018/labour_sum_nov18.pdf

Tephaval, N.

2014 Labour demand wanes. Bangkok Post, 21 May. Available at: <https://tdri.or.th/2014/05/labour-demand-wanes/>

Thailand Development Research Institute (TDRI)

2012 *Designing Manufacturing and Labour Force Development Strategies for Industrial Sector Demand in 2015*. TDRI, Bangkok.

World Bank

2016 *Aging Society and Economy. Thailand Economic Monitor, June.* World Bank, Bangkok.

2018 Annual remittances data (updated as of Dec. 2018). Available at: <https://www.knomad.org/sites/default/files/2018-12/Remittancedatainflows%28Dec.2018%29.xls>

United Nations Department of Economic and Social Affairs (UNDESA)

2017 *World Population Prospects: The 2017 Revision.* UNDESA, New York, NY. Available at: <https://esa.un.org/unpd/wpp/>

United Nations High Commissioner for Refugees and Mae Fah Luang Foundation (UNHCR and Mae Fah Luang)

2014 *Displaced Persons in the Temporary Shelters along the Thai-Myanmar Border: Future Hopes and Aspirations.* UNHCR and Mae Fah Luang, Bangkok.



Abstract:

This chapter provides an overview of Thailand's policies for the management of low-skilled labour migration. By gathering an update on recent developments, the analysis offers a brief overview that can be used by policymakers and other relevant stakeholders working in the field. In particular, the chapter includes an appraisal of the effectiveness of the MOU and nationality verification (NV) processes. An analysis of policy challenges and gaps follows; maintaining an emphasis on lessons learned for future improvements. Good practices implemented are also documented, highlighting the establishment of migrant worker assistance centres, the elimination of recruitment fees within the Royal Ordinance on the Management of Foreign Workers Employment, and Thailand's active involvement in the Global Compact for Migration. The chapter concludes that for Thailand to better leverage the benefits of migration for socio-economic development, it should develop a comprehensive and long-term migration policy that addresses key challenges relating to ineffective admission and regularization processes, gaps in labour rights protection, employer-tied work permits, access to social protection schemes, barriers to financial inclusion and lack of social cohesion.

Introduction

During recent decades, Thailand has become an increasingly attractive destination for migrant workers hailing from neighbouring countries in the Greater Mekong Sub-Region and the broader Asia-Pacific. The World Bank reports that Thailand is the fastest growing destination country in ASEAN, with an increase in intra-ASEAN migrant stock of 3 million between 1995 and 2015, outpacing the increases experienced in Singapore, Malaysia and Brunei Darussalam (2017).

The actual number of migrant workers in Thailand is difficult to determine. Many migrants have moved across Thailand's borders irregularly and have joined informal sectors of employment. This has resulted in a continued lack of reliable official data and records proving their existence both as residents of the country and as wage earners in the local labour market. The challenge of tracking irregular migration is not unique to Thailand; rather, it is a global issue characterized by IOM in the 2015 Global Migration Trends factsheet as, "hardly quantifiable or measurable, given its clandestine nature, the lack of data sources and a universally agreed upon definition" (IOM, 2015).

The persistence of cross-border irregular migration patterns into Thailand has been fuelled by gaps and challenges in Thailand's migration policy framework. A study published by the ILO and IOM recently found that the majority of workers from Cambodia (73 per cent), the Lao People's Democratic Republic (96 per cent), Myanmar (91 per cent) and Viet Nam (91 per cent)

used irregular channels to enter Thailand. The research revealed that irregular migration was considerably quicker (by an average of 78 days) and cheaper (by an average of USD 286) than regular channels for migration (Harkins, Lindgren and Suravoranon, 2017).

Although these findings appear to justify the decision to travel irregularly, it is evident that the route of irregularity can also result in consequential problems. Unfortunately, for many migrants the current reality of migration into Thailand is making the most advantageous choice from a series of unfavourable options.

Thailand's migration policy has long been characterized by unpredictability, oscillating between amnesty and crackdown. Prior to recent legislative developments in 2017–18, including the development and introduction of the new Royal Ordinance on the Management of Foreign Workers Employment B.E. 2560, the Government had struggled to formulate a long-term migration policy, instead relying heavily on periodic regularizations of irregular migrants and a nationality verification process (World Bank, 2017).

This chapter will review and analyse Thailand's existing migration policies with a focus on Government efforts to establish improved regularization mechanisms. This policy analysis is particularly relevant in the wake of the Royal Ordinance, which came into force on 23 June 2017. When first announced, the Royal Ordinance marked a significant crackdown on irregular migration patterns and was anticipated to have notable consequences on the migration landscape in Thailand (Bylander and Reid, 2017). Although it is important to note the turbulence of the immediate reaction to the Ordinance, many of the initial restrictions and penalties outlined in the decree were amended in March 2018.

International migration landscape in Thailand: Relevant policies and recent crackdowns

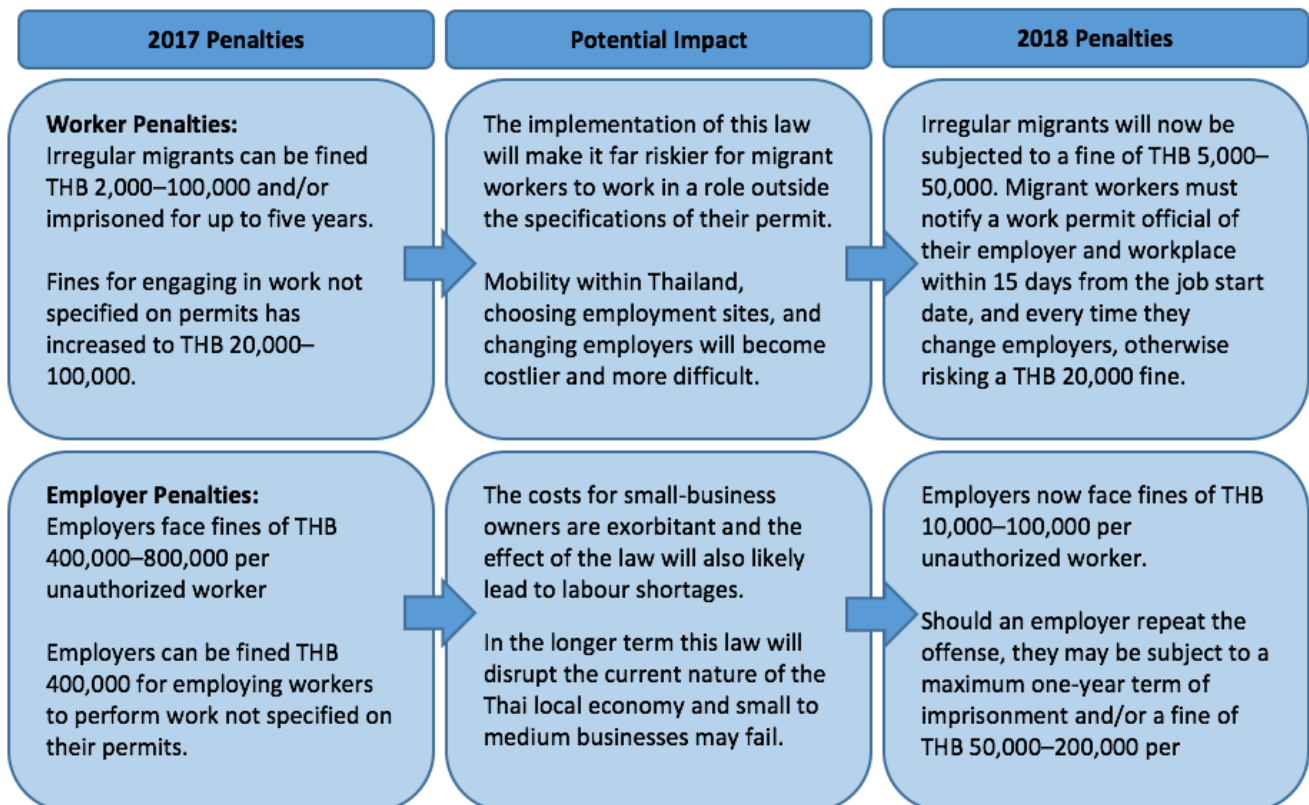
The policy structure for migrant worker registration in Thailand is a complex landscape to navigate. None of the channels provide the guarantee of a positive migration experience and each continues to encounter various implementation challenges. For inbound migrants, there are two main processes available: (1) the MOU process for regular migration from countries of origin; and (2) the registration and NV process for irregular migrant workers. As noted above, a substantial number of migrant workers continue to choose neither option and instead work without legal documentation in Thailand.

Thailand's migration policy is in an almost constant state of fluctuation, with significant shifts that can have immediate and severe impacts at ground level. Soon after the new military government came to power in 2014, it quickly announced its intent to increase enforcement against irregular migration. This precipitated a mass exodus over the course of three weeks in June of that year, including more than 250,000 Cambodian migrants (Harkins and Ali, 2017). With the impact of the exodus immediately felt in several key industrial sectors, a new window for registration of irregular migrants was opened by the military regime, allowing nearly 1.6 million workers to register during a short five-month period (Tunon and Harkins, 2017).

Similarly, the aforementioned Royal Ordinance created a sentiment of vulnerability and insecurity for migrant communities across Thailand when it was first announced in June 2017. As

a result of the severe penalty provisions included for irregular migrants, thousands of Cambodian, Lao and Myanmar workers returned home. To avoid a situation mirroring that of the exodus in 2014, the National Council for Peace and Order (NCPO) invoked section 44 of the Interim Constitution and issued an order suspending the penalty provisions in the Royal ordinance until 30 June 2018 (Baker McKenzie, 2017). An amended version of the Royal Ordinance was enacted at the end of March 2018, reducing the fine amounts and removing prison sentences as a penalty for irregular migrants (figure 2.1).

Figure 2.1: Penalty provisions in the 2017 Royal Ordinance and the 2018 amendment



The problems incurred as a result of rigorous law enforcement against irregular migrant workers in South-East Asia have been highlighted in recent research studies (Tunon and Harkins, 2017). The implementation of such stringent policies can contribute to a heightened risk of human rights abuses, as well as prolonged detention of migrant workers. Furthermore, the sudden loss of the migrant workforce in Thailand during June 2014 and July 2017 caused considerable disruptions to the operations of companies in several industries (Harkins and Ali, 2017)

Box 2.1: Rapid assessment after the announcement of the Royal Ordinance on the Management of Foreign Workers Employment

In the immediate aftermath of the Royal Ordinance announcement and during the height of the exodus it spurred, IOM conducted a rapid assessment of the situation of migrants and ascertained their immediate needs at 25 different workplaces. The pressing concerns voiced by migrants during the crackdown included:

- **Unpaid wages:** Many migrant workers reported experiencing immediate termination of employment after the Royal Ordinance became effective, leading to lost wages that may never be recovered, as there was no channel for them to redress the issue.
- **Exploitation by brokers:** Due to the high demand for transportation to the border, brokers capitalized on the situation by charging exorbitant fees (THB 2,600–5,000 per person).
- **Heightened anxiety and fear:** Out of fear of authorities and possible imprisonment, migrants reported leaving their accommodation and workplaces to hide at friends' and relatives' residences; compounding their inaccessibility to social security nets.
- **Lack of information on regular migration:** A limited amount of information on legal recruitment channels actually reaches the most vulnerable of migrant communities, while many employers also lack the appropriate information about legal requirements and recruitment processes.

Source: IOM (2017a)

A public statement published on 23 January 2018 by the Migrant Working Group (MWG) urged the government to stop broadcasting news about crackdowns on migrant workers, which have perpetuated xenophobia in broader society. The MWG also voiced their concerns and recommendations for amendments to the Royal Ordinance since its announcement in June 2017. Their advocacy letters issued to the Government detailed many areas in need of improvement, including the necessity to streamline the bureaucratic steps in the registration of workers to reduce expenses incurred, allow the registration of dependents to reduce the likelihood of forced child labour or corruption, allow registration with multiple employers to take into the account the reality of migrant workers' fluctuating employment situation, as well as to support information dissemination and awareness-raising to keep employers and migrant workers updated and well-informed.

Effectiveness of the MOUs on employment cooperation and the Nationality Verification process

The bilateral MOUs between Thailand and countries of origin were originally signed over 15 years ago for the purpose of developing formal migration channels for temporary employment

of migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar. Although in theory the MOUs enable migrants to work legally with the full protection of relevant labour laws, the process has been largely avoided by migrants due to the difficulties involved. The NV process was envisioned as a supplementary stop-gap measure to regularize all irregular migrants already living and working in Thailand. However, the cost, barriers and restricted benefits of the MOU process has resulted in the continued need for temporary registration programmes, as the vast majority of migrants still depend on irregular methods to get across the border (Bylander and Reid, 2017).

The development of the MOU agreements was managed by the Ministry of Labour, in consultation with the Ministry of Foreign Affairs. However, the initial impetus for the MOUs largely came from the National Security Council of Thailand, resulting in a heavily security-driven approach to labour migration. Priority was given to admissions procedures, prevention of irregular migration and repatriation of migrant workers rather than labour market efficiency or upholding the protection of migrant workers' labour rights (ILO, 2015). The Thai Government sought to improve upon the MOU procedures in 2015–16, signing revised MOUs with Cambodia, the Lao People's Democratic Republic, and Myanmar (as well as a new agreement with Viet Nam)¹ to broaden the scope of labour cooperation, with a new emphasis on skills development and social protection.

Many contributing factors have hindered the efficacy of regular migration through the MOU channel. Due to the complex bureaucratic requirements, regular migrants often lose their legal status after changing workplaces. There has also been a major policy gap in regulating recruitment under the MOU process. Thai private recruitment agencies are needed to facilitate the process, in cooperation with their counterparts in countries of origin. However, no clear procedures or institutional frameworks were established to regulate recruitment agencies involved in in-bound recruitment for many years (ILO, 2013). It was not until the enactment of the Royal Ordinance Concerning Rules on Bringing Migrant Workers to Work with Employers in the Kingdom in August 2016 that the legislative gap was finally filled (ILO, 2017).

In addition, although the content of the MOUs provide for equal protection of migrants' rights under Thai labour laws, the gaps in implementation experienced by migrant workers have raised concerns in countries of origin. For example, the Cambodian Government has publicly indicated that they do not support recruitment of their nationals into the fishing sector due to concerns about their working conditions (ILO, 2016a). A request was also made by the President of the Cambodian Human Rights Committee to protect the rights of Cambodian fishers in 2016. In response to this appeal, the National Human Rights Commission of Thailand indicated that further measures would be implemented to bolster protection efforts in the industry (ILO, 2016a).

The ILO, UN Women and the Migrant Working Group have also pointed out that incoherent policies exist regarding whether migrants from the Lao People's Democratic Republic and Myanmar can make use of the MOUs for employment as domestic workers in Thailand. Both countries of origin have established bans and restrictions on women migrating for domestic

¹ The MOU signed between Viet Nam and Thailand has yet to be implemented and only permits employment in the fishing and construction sectors, where a relatively small number of Vietnamese migrants (almost entirely men) are employed.

work. These bans have not been effective in preventing women from migrating to Thailand but they have limited women migrants to making use of irregular channels – potentially creating additional vulnerabilities (Napier-Moore, 2017).

Many migrant workers continue to believe that the cumbersome MOU process does not outweigh the speed, flexibility and cost-effectiveness of irregular channels. Therefore, despite the mechanisms available for regular migration (under MOU agreements) and regularization (through NV), many prospective migrants continue to migrate irregularly for practical reasons. For example, an aspirant Cambodian migrant going through the MOU process would typically be required to pay more than USD 700 for documents and other fees, and wait three to six months for approval to migrate. Relying on a broker to achieve the same goal would set a migrant worker back only USD 100–150 and the whole process can be arranged within days (Bylander and Reid, 2017).

Recent regularization processes

Following the unforeseen mass exodus of foreign workers in June 2014, the necessity to more effectively manage the registration of migrant workers in Thailand became a priority. The NCPO accordingly opened One Stop Service Centres throughout the country to provide documentation to irregular migrants (ILO, 2015).

While rebranding the registration policy, the One Stop Service Centres continue to provide only a makeshift response, failing to change the precarious legal status of migrants in Thailand. The documentation provided by the centres – the Tor Ror 38/1 or “pink card” – offers only temporary legal status while migrant workers complete the NV process (Mekong Migration Network, 2018). This measure is part of the long history of short-term amnesties for irregular migrant workers, stretching back on a semi-annual basis to 1992.

However, many migrants who register for pink cards are unable to complete the NV requirements to obtain a longer period of stay in Thailand; forcing the Thai Government to continue to regularly open opportunities to re-register for temporary documentation. The frequent changes to policy have compounded uncertainty among migrant workers attempting to maintain regular legal status. The pink cards have also been criticized for restricting the mobility of workers to the province where their employer is located until the NV process is completed (Bylander and Reid, 2017).

Similarly, economic policies recently enacted have sought to make use of the migrant workforce while keeping their movement contained to the periphery. The development of 10 Special Economic Zones in Thailand’s border regions across 10 provinces can be viewed as a measure to reconcile Thailand’s need for low-cost labour with public resistance to migrant workers visibly being a part of Thai society. While the establishment of these zones may contribute to development in border areas and increased investment through incentives for business, the policy can also be seen as compounding the social exclusion of migrants (Harkins and Ali, 2017).

Challenges and gaps in current regularization policy

Labour rights abuses

Thailand's Labour Protection Act B.E. 2541 (1998) applies to all, regardless of nationality or legal status. However, the Act protects some sectors to a lesser extent, including agriculture, fishing and domestic work, for which labour protections are prescribed in separate Ministerial Regulations. Notably, these are also some of the key sectors of employment for migrant workers in Thailand, reducing their entitlement to basic labour rights at work.

Even for migrant workers who are provided with equal protection under the law, they are often at a higher risk of experiencing labour rights violations and workplace abuses than nationals. There is an assumption that migrant workers placed via the MOU process have improved labour protection; however, several research studies have questioned whether regular migration necessarily facilitates better working conditions while migrants are employed in Thailand (ILO, 2013; MAP Foundation, 2012).

Lack of assurance of labour protection has created a migration landscape wherein migrant workers often have minimal choice or control over the outcomes of their migration. The greatest power for change therefore does not lie within the behavioural patterns of migrants but instead with duty bearers – government, employers and recruitment agencies – who are responsible for the policies and practices that make migrant workers vulnerable (Harkins, Lindgren and Suravoranon, 2017).

Employer-tied work permits

Until the recent policy developments detailed under the new Royal Ordinance, the work permits issued to foreign workers in Thailand were strictly tied to one employer. This lack of flexibility often resulted in migrant workers becoming irregular in the act of changing workplaces. In light of this, the Royal Ordinance now affords migrant workers greater opportunity to change their employment, though still only under certain conditions.

Although this is a significant development, exercising this right relies upon obtaining permission from the Registrar, which may be a difficult process for migrant workers to complete. In cases where migrant workers want to change their employment due to experiences of abuse or exploitation in the workplace, they may be reluctant to approach authorities for official approval. Additional obstacles remain, including lack of information and language barriers, and it is unclear at this stage whether implementation of the new policy will tangibly result in greater independence for migrant workers to choose their employment.

Limited access to social protection schemes

Recent research has found that workers' compensation is a major need for migrants in Thailand given that the majority are employed in 3D jobs (dirty, dangerous and difficult), whereby they are at higher risk of accidents (ILO, 2017). Even though employers are liable to pay compensation, in some instances they may try to avoid their responsibilities by delaying payment with the assumption that migrants will eventually return home. In addition, meeting all of the documentation requirements for a compensation payment, such as birth and

marriage certificates, is often extremely difficult for migrant workers, particularly for those without legal status (Harkins, 2014).

Although migrant workers are able to buy into the Migrant Health Insurance Scheme, it is evident that the costs deter many individuals from enrolling. This finding serves to emphasize the necessity for universal coverage of health care to be afforded to all migrant workers, as many young and healthy workers are unlikely to purchase coverage up-front – not anticipating a need to draw on the benefits (see chapter 7).

Entitlement to social security benefits is determined by type of employment and legal documentation. Migrants with informal employment are not eligible, including those working in agriculture, fishing, domestic work, livestock, forestry and other sectors. In addition, migrant workers must have entered Thailand under the MOU agreements or completed NV to be eligible for social security (Harkins, 2014). Nevertheless, enrolment and utilization of benefits has been increasing in recent years. In 2017, more than THB 250 million in benefits were paid out to migrant workers, mainly for maternity benefits and the child allowance (Asian Research Center for Migration, forthcoming).

Barriers to financial inclusion

Significant barriers to financial inclusion for migrants exist due to the documentation required to open a bank account in Thailand. The Bank of Thailand requires banks to check the validity of visas before providing any services, even for existing customers. Furthermore, the isolated geographic location of many migrant workplaces means that they may not be able to easily access financial services, even if they do possess valid documentation. Migrants have also reported feeling unwelcome in banks in destination country locations, which further discourages migrant workers from using formal banking systems (Harkins, Lindgren and Suravoranon, 2017).

These barriers to financial inclusion are important because they can limit the ability of migrants to save money, access credit and send and receive remittances safely through formal channels. This restricts the opportunities for migrant workers and the recipients of their remittances, who are mostly underserved women living in rural areas, to become better economically integrated (UNCDF, 2017).

Lack of social cohesion

Although some efforts to better integrate migrants into Thai society have been made, particularly through expanding access to public services, there are still concerns that migration policy largely treats migrants as only a temporary source of labour. However, migrants coming to Thailand are increasingly staying within the country for longer periods of time and cannot really be considered “temporary” workers.

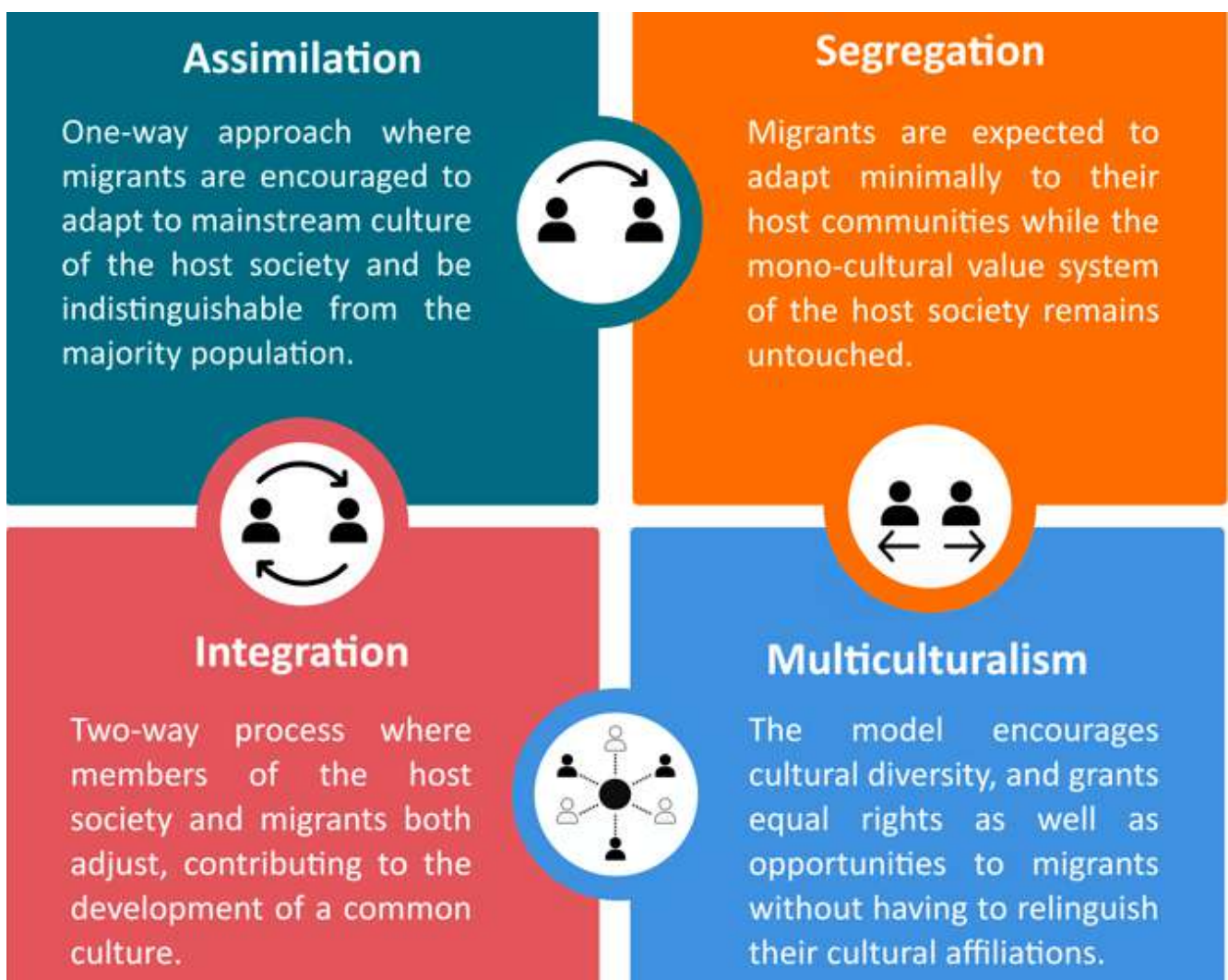
Despite the long-term need for migrants in the labour market and the major contributions they make to Thailand’s economic and social development, migrants continue to be perceived as a threat to the well-being of its population and are in many ways excluded from fully taking part in Thai society. This segregation helps to fuel misconceptions about migrants, such as their adverse impact on wages and employment, their involvement in criminal activity, the diseases they carry and the burden they pose to health and social welfare programmes. In the absence of direct interaction with migrants, the public’s views on migrants are often shaped by negative or

one-sided portrayals in the media, resulting in misperceptions of the role migrants play in Thai society (Tunon and Baruah, 2012).

Most of the issues outlined above are global challenges which are not exclusive to Thailand. Lack of social cohesion between migrants and host societies can lead to exclusion of migrant communities, as well as xenophobia and discrimination within the public sphere. Conversely, successful cohesion ensures that migrants can become active members in the economic, social, cultural and political life of their destination countries. This is beneficial not only to the host society but also to countries of origin, as migrants can more easily contribute to the development process. Political leaders and the media bear a particular responsibility in their role as public educators to actively promote a positive attitude towards migrants (IOM, 2009).

There is no one-size fits all policy for successful social cohesion, and each State has to find a solution to these challenges that best suits its needs, while respecting their obligations under international law. Although there are many different models for managing the interaction between migrants and their host societies, the four basic approaches that have been applied in countries around the world are outlined in figure 2.2.

Figure 2.2: Models for migrants' engagement with their host societies



Source: IOM (2009)

Good practices

Improvements in the regulation of the recruitment industry

As noted in the MOU and NV analysis, private recruitment agencies facilitating in-bound recruitment had been operating in a grey market under the MOU process for many years. Prior to the development of the Royal Ordinance, the services of these agencies were not regulated under any relevant labour legislation, allowing scope for exploitative practices without legal ramifications (ILO, 2017). Inclusion in the new law of requirements for licensing and payment of a THB 5 million guarantee deposit against possible regulatory violations are good practices which have helped to reduce the legal ambiguity.

Another notable development under the Royal Ordinance is the inclusion of an article establishing the requirement of zero worker-paid recruitment costs. This closely adheres to the international standards and guidelines established in the Private Employment Agencies Convention, 1997 (No. 181), as well as the ILO General Principles & Operational Guidelines for Fair Recruitment, which state that the costs of recruitment should not be borne by workers (ILO, 2016b). Thailand is currently the only destination country within ASEAN to have outlawed such fees being charged to migrant workers during their recruitment.

In addition, the Royal Ordinance stipulates that written contracts are to be provided to migrant workers in their national languages. This is aligned with the guidance provided by the ILO on fair recruitment, which stipulates that: “In the case of migrant workers, written contracts should be in a language that the worker can understand” (ILO, 2016b).

Migrant Worker Assistance Centres (MWACs)

A good practice to expand access to information and assistance for migrant workers is the creation of Migrant Worker Assistance Centres (MWACs). MWACs were setup as a result of a Cabinet Resolution on 26 July 2016, whereby government funds were allocated to the Ministry of Labour to coordinate the initiative. The Department of Employment has since established 10 pilot MWACs in Tak, Songkhla, Surat Thani, Ranong, Samut Sakhon, Samut Prakarn, Chonburi, Chiang Mai, Khon Kaen and Nakhon Ratchasima (ILO, 2017).

The centres are incorporated in the provincial employment offices and are intended to operate in conjunction with labour protection and welfare offices, as well as social security offices, social development and human security offices, and NGOs (ILO, 2017). However, the MWACs are still a relatively new initiative, and outreach activities are needed in order to increase access for migrants to utilize the services that have been made available for their support and protection.

During November and December 2017, ILO and MWG staff conducted assessments in five provinces: Chiang Mai, Tak, Nakhon Ratchasima, Samut Prakarn and Ranong to assist in identifying key areas for strengthening the operational capacities of MWACs. The recommendations include: (1) increased budgetary support for staff and outreach activities; (2) the development of standard operating procedures; (3) development of a training programme for staff; (4) establishment of a tripartite committee to oversee MWAC operations; and (5) instituting an effective monitoring and evaluation system.

Active engagement in the Global Compact for Migration

During 2017 and 2018, the Thai Government demonstrated support and dedication to the process of developing the Global Compact for Safe, Orderly and Regular Migration (GCM) by hosting three national stakeholder workshops in consultation with IOM. Thailand was among the first countries worldwide to carry out such consultations ahead of the GCM negotiations. The dialogues provided an inclusive platform to promote transparent discussion on migration management in Thailand among key government, civil society and private sector stakeholders (IOM, 2017b). By actively taking part and promoting the GCM, Thailand has demonstrated leadership within the region on the importance of adhering to international standards for migration management, which is particularly timely given that Thailand will serve as chair of ASEAN during 2019.

Conclusion

Regardless of their legal status and occupation, migrant workers have undeniably made a major contribution to Thailand's economic growth during the last several decades. These have manifested in the filling of critical labour market shortages in many sectors, continuing competitiveness in the production of exports and the creation of more employment opportunities for Thai workers.

However, the current migration policy landscape in Thailand has so far proven unable to accommodate the needs of the growing number of migrant workers within the country. Vacillating between amnesty and crackdown, the largely ineffective and ever-changing policies have kept migrants in a precarious legal status and prevented them from fully contributing as members of Thai society. Efforts to promote safe and regular migration are likely to prove unsuccessful until policies are established and implemented to ensure migrant workers' rights and dignity are fully protected.

With a growing economy, Thailand is well-positioned to take advantage of the opportunities that labour migration presents. To better leverage the benefits of migration for socio-economic development, the Thai Government should develop a comprehensive and long-term migration policy that addresses key challenges relating to ineffective admission and regularization processes, gaps in labour rights protection, employer-tied work permits, limited access to social protection schemes, barriers to financial inclusion and lack of social cohesion.

Recommendations

1. **Facilitate consultative periods with relevant stakeholders prior to the enactment of new legislation or policies:** Social dialogue provides an opportunity for actors (civil society, trade unions, private sector businesses and United Nations agencies) to identify issues within migration management, which can be promptly addressed in order to alleviate impacts on employment and the national economy, and to harness the potential of the migrant workforce to bring about sustainable development.
2. **Establish and implement regular migration channels that are cheaper, less time-consuming, more secure and user-friendly:** In line with objective 5 of the Global Compact on Safe,

Orderly and Regular Migration, the Government should create simplified processes for labour migration that are more efficient and affordable for migrant workers, creating greater incentives for migrants to engage in regular cross-border movements.

- 3. Ratify and enforce international standards to eliminate worker-borne recruitment costs in countries of origin and destination:** Such standards are outlined in the ILO Private Employment Agencies Convention, 1997 (No. 181), the ILO General Principles & Operational Guidelines for Fair Recruitment and the IOM-led International Recruitment Integrity System (IRIS), and can be applied in national-level migration policy.
- 4. Enact blanket labour and social protection laws to men and women migrant workers, irrespective of sector:** To ensure migrant workers receive fair wages, the minimum wage law passed in Thailand must be enforced in all employment sectors, including domestic work and agriculture. Laws ensuring basic labour rights, including set working hours, rest breaks, days off, overtime pay, annual leave and maternity leave should also be prioritized, as well as promoting social security coverage for all migrant workers.
- 5. Extend access to complaint mechanisms for migrant workers to seek justice and enforce stricter penalties for recruitment agencies and employers who violate migrant workers' labour rights:** Government, trade unions, employers and NGOs should work collaboratively to establish clear legal and institutional frameworks for migrant workers to utilize in instances of abuse or labour exploitation. By the same approach, ensure the implementation and enforcement of penalties for recruitment agencies and employers who disregard or abuse the rights of their employees to reduce impunity.
- 6. Monitor the implementation of the provisions under the amended Royal Ordinance to ensure that migrant workers have greater flexibility to legally change jobs:** Current working visas granted in Thailand are too stringently connected to one employer. This lack of flexibility fails to meet the needs of migrant workers and the labour market, and results in many migrants becoming irregular when they find new employment. With the amendments to the new Royal Ordinance, migrants can now change jobs under a broader range of circumstances but it is not yet clear what these provisions mean in practice. Moreover, there is still scope to advocate for greater flexibility, enabling migrants to pursue new jobs and contribute to labour market efficiency through filling labour shortages.
- 7. Engage the media to promote a more evidence-based public discourse on migration.** The news media can be influential in shaping public attitudes towards migrants and inaccurate or one-sided reports may contribute to a negative image of migrant workers that encourages discriminatory treatment. To generate more positive attitudes towards migrants in Thailand, there is a need to provide training to the media who report on migration issues.

References

Asian Development Bank Institute (ADBI), Organization for Economic Cooperation and Development (OECD), and International Labour Organization (ILO)

2015 *Building Human Capital through Labour Migration in Asia*. ADBI, OECD, and ILO, Tokyo.

Asian Research Center for Migration

Thailand Policy and Management of Labour Migration and Preparation for ASEAN Community. Asian Research Center for Migration, Bangkok (forthcoming).

Baker McKenzie

2017 NCPO order temporary suspension of penalties under the new foreign workers law. Client Alert, July. Available at: https://www.bakermckenzie.com/-/media/files/insight/publications/2017/07/al_bangkok_ncpotemporarysuspensionnfwl_jul17.pdf?la=en.

Bryant, J. andn P. Rukumnuaykitwp

2007 Does migration to Thailand reduce the wages of Thai workers? World Bank, Bangkok.

Bylander, M. and G. Reid

2017 Criminalizing irregular migrant labor: Thailand's crackdown in context. *Migration Information Source*, 11 October. Available at: <https://www.migrationpolicy.org/article/criminalizing-irregular-migrant-labor-thailands-crackdown-context>.

Charoenloet, V.

2015 *Industrialization, globalization and labour force participation in Thailand*. *Journal of the Asia Pacific Economy*, 20(1): 130–142.

Derks, A.

2010 Migrant labour and the politics of immobilisation: Cambodian fishermen in Thailand. *Asian Journal of Social Science*, 38(6): 915–932. Available at: www.jstor.org/stable/23654863.

Harkins, B.

2014 Social protection for migrant workers in Thailand. In: *Thailand Migration Report 2014* (J.W. Huguet, ed.). United Nations Thematic Working Group on Migration in Thailand, Bangkok, p. 27.

Harkins, B. and A. Ali

2017 Evidence or attitudes? Assessing the foundations of Thailand's labour migration policies. Available at: <http://un-act.org/publication/evidence-attitudes-assessing-foundations-thailands-labour-migration-policies>.

Harkins, B., D. Lindgren and T. Suravoranon

2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

Huguet, B., A. Camrathirong and C. Natali

2012 Thailand at a crossroads: Challenges and opportunities in leveraging migration for development. Issue in Brief, No. 6. IOM and MPI, Bangkok and Washington, DC.

International Labour Organization (ILO)

- 2013a *Thailand: A Labour Market Profile*. ILO, Bangkok. http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_205099.pdf.
- 2013b *Regulating Recruitment of Migrant Workers: An Assessment of Complaint Mechanisms in Thailand*. ILO, Bangkok.
- 2015 *Review of the Effectiveness of the MOUs in Managing Labour Migration between Thailand and Neighbouring Countries*. ILO, Bangkok.
- 2016a Cambodia (October – December 2016). TRIANGLE II Quarterly Briefing Note. ILO, Bangkok. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_541183.pdf.
- 2016b General Principles & Operational Guidelines for Fair Recruitment. ILO, Geneva.
- 2017 *Access to Justice for Migrant Workers in South-East Asia*. ILO, Bangkok.
- 2018 Thailand (July – September 2018). TRIANGLE in ASEAN Quarterly Briefing Note. ILO, Bangkok. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614383.pdf.

International Organization for Migration (IOM)

- 2009 *Compendium of Migrant Integration Policies and Practices*. IOM, Geneva.
- 2015 IOM global migration trends factsheet. Available at: <http://gmdac.iom.int/global-migration-trends-factsheet>.
- 2017a *Rapid Assessment on the Return of Migrants from Thailand Following the Enforcement of the Royal Ordinance on Migrant Worker Management B.E. 2560*. IOM, Bangkok.
- 2017b Thailand opens stakeholder dialogue on Global Migration Compact. Media release, 11 August. Available at: <https://www.iom.int/news/thailand-opens-stakeholder-dialogue-global-migration-compact>.
- 2018 *Migrant Employment in Thailand*. IOM, Bangkok.

Lawreniuk, S. and L. Parsons

- 2017 After the exodus: Exploring migrant attitudes to documentation, brokerage and employment following the 2014 mass withdrawal of Cambodian workers from Thailand. *Singapore Journal of Tropical Geography*, 38(3): 350–369.

Mekong Migration Network (MMN)

- 2018 Policy overview: The bilateral MOUs on cooperation in the employment of workers. Available at: http://www.mekongmigration.org/?page_id=80.

Migrant Working Group (MWG)

- 2017a Open Letter to PM concerning the amendment of royal decree (23-08).
- 2017b Open Letter to PM concerning the amendment of royal decree (24-05).

Napier-Moore, R.

- 2017 *Protected or Put in Harm's way? Bans and Restrictions on Women's Labour Migration in ASEAN Countries*. ILO and UN Women, Bangkok.

Rukumnuaykit, P.

- 2009 *A Synthesis Report on Labour Migration Policies, Management and Immigration Pressure in Thailand*. ILO, Bangkok.

Tunon, M. and B. Harkins

2017 Addressing irregular migration and violations of migrant workers' rights. In: *Safeguarding the Rights of Asian Migrant Workers from Home to the Workplace*. ADBI, OECD, and ILO, Tokyo, p. 39.

Tunon, M. and N. Baruah

2012 Public attitudes towards migrant workers in Asia, *Migration and Development*, 1(1): 149–162.

United Nations Economic and Social Commission of the Asia Pacific (UNESCAP)

2015 Asia-Pacific Migration Report 2015: *Migrants' Contributions to Development*. Asia-Pacific RCM Thematic Working Group on International Migration Including Human Trafficking, Bangkok.

United Nations Department of Economic and Social Affairs (UNDESA)

2017 *Trends in International Migrant Stock: The 2017 Revision*. Available at: <http://www.un.org/en/development/desa/population/migration/data/estimates2/estimates15.shtml>.

United Nations Capital Development Fund (UNCDF)

2017 *Remittances as a Driver of Women's Financial Inclusion in the Mekong Region*. UNCDF, Bangkok.

Vasuprasat, P.

2010 *Agenda for Labour Migration Policy in Thailand: Towards Long-Term Competitiveness*. ILO, Bangkok. Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_145130.pdf.

Wickramasekara, P.

2015 *Bilateral Agreements and Memoranda of Understanding on Migration of Low-Skilled Workers: A Review*. ILO, Geneva.

World Bank

2010 *Do Immigrants Improve Thailand's Competitiveness?* World Bank, Washington, DC.

2017 *Migrating to Opportunity: Overcoming Barriers to Labour Mobility in Southeast Asia*. World Bank, Washington DC.



Abstract:

Research into the Thai sex industry has often focused on trafficking for the purpose of sexual exploitation, rather than on the working conditions and livelihoods of sex workers. In part, this is because sex work remains illegal in Thailand. The conflation of sex work and trafficking for the purpose of sexual exploitation fails to recognize that working in the sex industry is a practical decision for many individuals, including migrants. The Thai sex industry provides migrant workers with an opportunity to earn higher wages than are available in countries of origin or in other sectors available to migrant workers in Thailand. However, migrant sex workers are currently unable to draw on the protections available to other migrant workers because of the illegality of their work and lack of regular migration channels into the sector. Criminalization of sex work increases migrant sex workers' vulnerability to exploitation. Systemic legal, policy, and social changes – including decriminalization of sex work and dedicated efforts to ensure labour protection – are necessary to protect the rights of migrant (and Thai) sex workers and enable them to increase their contribution to, and participation in, Thai society and their communities of origin.

Introduction

The term “sex work” is often misconstrued.¹ For the purpose of this chapter, sex work is defined as the provision of sexual services in exchange for economic benefit between consenting women, men and transgender adults (ILO, 1998; UNAIDS, 2015; NSWP, 2017). Sexual services constitute a wide range of activities, which include “flirtation, stripping, escort service”, as well as sexual intercourse and other sexual acts (Parreñas, 2011).

Migrants in sex work exist at the nexus of migration regimes, labour and businesses laws, criminal justice frameworks, and the counter-trafficking efforts often used to justify increased migration controls. The population of migrant sex workers are rarely recognized as agents of their own migrations or capable of choosing to enter the sector. Further, their contributions as workers in related industries – bars, restaurants and tourism venues – remain undervalued. The prevalence of anti-trafficking rhetoric, the confluence of administrative and criminal law, and discriminatory norms that ascribe little value to women's work that is considered to be low-skilled all converge in the state response to migrant sex workers.

¹ Language note: Throughout this chapter, the terms “migrant worker” and “sex worker” are used as the preferred terminology. “Migrant worker” avoids the use of othering terms such as “foreign”, “alien” or “guest”. “Sex worker” is the preferred term chosen by many of those working in the sex sector and confers agency on the individual, unlike “prostitute”. Throughout the chapter, both “migrant worker” and “sex worker” are used as inclusive terms, referring to diverse workers of all gender identities, gender expressions and sexual identities, including men, women and transgender workers.

Thailand, along with many other nations, fails to adequately protect the human and labour rights of these men, women and transgender individuals. Sex work remains criminalized, perhaps as a result of – and indeed perpetuating – stigma and discrimination about sex work and those who engage in it. Criminalization of sex work has often created further vulnerabilities for an already marginalized population of workers.

Sex work provides income to millions of workers around the world, including many in Thailand and the ASEAN region. Data on the numbers of sex workers in Thailand is not complete, as the illegality of their work and the irregularity of the migration channels used means that sex workers are unable to report it as their means of employment. An ILO study in 1998 estimated that between 0.25 and 1.5 per cent of women in Indonesia, Malaysia, the Philippines and Thailand were engaged in sex work (ILO, 1998). More recently, sex worker advocacy groups have estimated that there may be 300,000 sex workers in Thailand (Empower, 2016).

Importantly, sex work often provides a much higher wage than other low-skilled job options available in Thailand, with a recent study suggesting earnings of 2 to 10 times the minimum wage (GAATW, 2018). This allows many sex workers to support their families in rural areas, with ILO research in 1998 estimating close to USD 300 million is transferred annually by women working in the sector (ILO, 1998). Sex work also usually offers flexible hours, making it more attractive to individuals who may be required to perform other roles, including domestic work and caring for children or the elderly.

Employment in sex work is often conflated with trafficking for the purpose of sexual exploitation, especially when movement within and across borders is involved. There are numerous reasons for this conflation, and the issues involved are difficult to unravel. Many individuals, including policymakers, consider that a “choice” to enter sex work is not possible. Others argue that the choice of anyone to enter into sex work should be regarded as a practical decision (Aoyama, 2009).

Despite evidence to the contrary, it is often believed that all sex work is the result of coercion; thus sex workers are more likely to be identified as victims of trafficking. The “choice” is considered an incomplete expression of agency where economic circumstance is the main driver for entering into sex work. When individual agency is removed from sex workers, trafficking can easily be inferred, often to the detriment of those identified as victims (ILO, 1998; IWRAP-AP and NSWP, 2017; GAATW, 2018).

Given the social and economic inequalities that pervade Thailand and the region, sex work is a rational livelihood strategy for many workers. Studies by the ILO and Empower Foundation have found that the vast majority of people working in the Thai sex industry are there by choice and are not coerced or forced (ILO, unpublished; Empower, 2012).

Sex workers who are migrants often go abroad irregularly, or lose their legal status. Brokers who facilitate the movement of migrants across borders may be interpreted as “traffickers” despite the willingness of many migrants and the voluntariness of the movement. Given international pressure to report on action to counter trafficking in persons, it can be expedient to assume all sex workers are victims. While this conflation may be due to misunderstanding, it may also be a conscious – or subconscious – effort to stigmatize sex work and prevent people, especially women, from migrating for the purpose of sex work (NSWP, 2011). It is necessary to understand

that while trafficking for the purpose of sexual exploitation is a serious issue that needs to be addressed, it is distinct from sex work.

International and civil society organizations in Thailand have been actively advocating to bring sex worker voices and issues into mainstream human rights discussions. In 2016, the Committee on the Elimination of Discrimination Against Women (CEDAW Committee) expressed concerns about the exploitation of sex workers and the enforcement of Thailand's Suppression and Prevention of Prostitution Act of 1996. Their recommendations included decriminalizing women in sex work, which would allow sex workers and entertainment businesses to operate within the regulatory framework of Thailand's labour laws (CEDAW Committee, 2017).

The Government of Thailand has yet to publically respond to this recommendation (GAATW, 2018), but public platforms for sex workers to contribute to this discourse are increasing. In July 2017, during the Sixty-Seventh Session of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Empower Foundation submitted a shadow report highlighting the negative consequences of raids on entertainment establishments in Thailand, which are fuelled by and perpetuating the conflation of sex work and trafficking (Empower, 2017). In February 2018, the Global Alliance Against Traffic in Women (GAATW) released a seminal report on sex worker representation, mobilization and working conditions, which includes a chapter highlighting the impact of anti-trafficking policies and practices from the perspective of women sex workers in Thailand (GAATW, 2018).

Though sex workers, civil society groups and United Nations agencies in Thailand have produced substantial research advocating for sex workers' rights, development attention and funding around the nexus between migration and sex work has, for the most part, continued to conflate sex work and trafficking. In order to add nuance to this debate, this chapter explores the working conditions of migrant sex workers in Thailand from a labour migration and labour rights perspective.

International human rights standards

Despite little specific guidance within international law, the rights of sex workers, including migrant sex workers, are already included in existing human rights instruments by the principle of universality. The fundamental human and labour rights of sex workers are protected in numerous key human rights instruments including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social, and Cultural Rights.

Sex worker rights are also reflected in several ILO Conventions and Recommendations. The Occupational Safety and Health Convention, 1981 (No. 155) covers the sex and entertainment industries under Article 3(a): "*the term branches of economic activity covers all branches in which workers are employed*". The ILO Recommendations concerning HIV/AIDS in the world of work (No. 200) and the transition from informal to formal economy (No. 204) are particularly relevant for sex workers in terms of accessing sexual and reproductive health services and participating in the formal economy.

While the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons

(Trafficking Protocol) address exploitation in the context of prostitution, “exploitation of prostitution” is not clearly defined in either instrument. “Exploitation” has no agreed definition within international law and is often considered to be an ambiguous concept (IWRAW-AP and NSWP, 2017). It may therefore be interpreted to serve diverse agendas, including to impose restrictions on the right to choose sex work as a livelihood option.

Sex work and migration in Thailand

In the past few decades, tourism-focused economic development in Thailand has interacted with existing social norms in such a way as to set the conditions for an expansive sex industry (ILO, 1998). The Thai sex industry became well known internationally from the 1950s to 1970s, particularly during the Viet Nam War when Pattaya was used as a rest and recreation centre for American soldiers. However, after the withdrawal of military troops, the sex industry expanded to cater to tourists. As this occurred, many women and transgender women from the rural areas of the north and northeast of Thailand migrated to urban centres in search of opportunities to earn a higher income.

During the 1980s and 1990s, foreign investment increased and tourism became a key driver for Thailand’s economic development. With the promise of more jobs and increased income due to tourism, internal migrant sex workers were joined by workers from Cambodia, the Lao People’s Democratic Republic, Myanmar, Viet Nam and China (ILO, 1998). Migrant sex workers often hold irregular and precarious legal status in Thailand, in part due to the lack of regular migration channels available for sex workers. At present, anecdotal evidence suggests that migrant sex workers from Thailand’s neighbouring countries often initially work in towns and cities close to the border before moving on to urban centres like Bangkok and Pattaya (ILO, unpublished).

Although use of sexual services by non-Thai customers is commonly seen as the key driver for sex work in Thailand, there is also a large local demand. Nonetheless, tourism arguably benefits from the international reputation of the Thai sex industry (ILO, 1998). The high visibility of sex work in tourist areas illustrates the vital role of tourists in patronizing the sex industry (ILO, 1998; Phongpaichit, 1982; Truong 1983, 1990; Lee, 1991; Leheny, 1995). Despite criminalization of sex work and denial of the scale and economic importance of the sector, the strategy of Thai tourism authorities to promote the “exotic” appeal of the Thai people – including Thai women and transgender women – has likely contributed to the expansion of the sex sector and concurrent economic benefits (ILO, 1998; Villar, 2017).

The Thai sex industry mostly employs workers from within Thailand and the region, but also from Central Asia, Europe and Africa. Pattaya is typically the destination for women from European countries engaged in sex work but others travel from Uzbekistan, Uganda and Madagascar. In Phuket, some a-go-go bars have specifically been set up for sex workers from Russia, with working conditions and employment contracts published online in Russian (Empower, 2016).

Migrant sex workers are often highly mobile, moving across borders within South-East and East Asia. For some, this is due to the limitations posed by short-term visas and visa exemptions. Other migrant sex workers choose to travel around the region between Singapore, Malaysia and Hong Kong (Chin, 2013). While the patterns of mobility by sex workers vary considerably, the cross-border movement of some is based on the seasonal influx of tourists into Thailand (Villar, 2017).

Sex workers generally rely on brokers and intermediaries to migrate due to the legal and financial barriers involved, including the criminalization of sex work in most countries and the high costs associated with regular migration (Chin, 2013; Villar, 2017). In some cases, reliance on unfamiliar brokers may increase the risk of exploitation for migrants (Parreñas, 2011; ILO, 2017; Harkins, 2014; Natali, McDougall and Stubbington, 2014).

In February 2018, the Global Network of Sex Worker Projects (NSWP) released a briefing paper exploring the intersection between migration and sex work. The report highlights several interrelated reasons for migration into sex work that are evident in Thailand. Some sex workers migrate to find more lenient conditions in which to sell sexual services, attempting to avoid harassment and violence at the hands of authorities. Other sex workers migrate to escape stigma and discrimination where misogyny, transphobia and homophobia are prominent. Access to gender-appropriate health care – including HIV treatment, gender-affirming surgery and hormone therapy – may also be a reason for migration (NSWP, 2018). Thailand is well-recognized as being more accepting of transgender individuals than many of its neighbours. It also provides relatively easy access to HIV treatment and is a hub for inexpensive gender-affirming surgery, providing several “pull” factors for migration of sex workers to Thailand (Aizura, 2011).

However, media treatment of transgender sex workers in Thailand continues to propagate negative stereotypes (Burapha University, 2017). A large number of news stories written about transgender sex workers depict them as violent attackers and thieves. Some transgender women have reported being stopped, assaulted and jailed by the police under false charges, as well as being regularly harassed by volunteer tourist “police” in Pattaya (Yongcharoenchai, 2017). Transgender women, regardless of whether they are sex workers, are often presumed to be doing sex work, which puts them at great risk of violence and abuse from police and further entrenches social stigma (Villar, 2017).

Despite these challenges, the higher incomes earned by sex workers remain the key motivation for migrating to Thailand to engage in sex work (Panyasuppakun, 2018). An unpublished ILO study found that while respondents were acutely aware of the risks involved with the industry, the potential gains were seen as outweighing the negatives. Fewer than half of respondents interviewed in the study had plans to leave sex work at a specific point in time. Sex work in Thailand was also viewed as more relaxed than other jobs and afforded sex workers with ancillary benefits such as learning a foreign language (ILO, unpublished).

For women migrant workers, the sector is especially attractive as they have fewer opportunities than men to migrate regularly into formal sector jobs. Gender-based restrictions on labour migration limit the options available to seek employment through legal channels (ILO, 2017). Moreover, women migrant workers frequently experience gender-based discrimination in the workplace, resulting in systematically lower wages in comparison to men migrant workers (Harkins, Lindgren and Suravoranon, 2017). Consequently, sex work remains one of the few sectors in Thailand where women migrants have the opportunity to earn substantially more than the minimum wage.

Criminalization and anti-trafficking responses

There are policy options available beyond the criminalization of sex work and the restriction of migration into the sector. In 2003, New Zealand passed the Prostitution Reform Act and became the first country in the world to fully decriminalize sex work. Since the passing of the Act, sex

workers have been in a better position to challenge those who seek to exploit them – as illustrated in a 2014 case in which a sex worker brought a brothel operator to court for sexual harassment and won NZD 25,000 in compensation (Armstrong, 2018; Crichton, 2015). However, the New Zealand model has also been criticized for prohibiting migrants from being granted temporary permits for sex work. This prohibition puts migrant workers at an increased risk of exploitation, such as being blackmailed by clients and being forced to work long and inflexible hours by brothel operators (Roguski, 2013; GAATW, 2018). Despite these flaws, the New Zealand model illustrates that decriminalization can be effective in protecting sex workers from exploitation.

In Thailand, however, criminalization and anti-trafficking efforts have often resulted in harassment and detention of sex workers (Empower, 2012). The Thai Government should be recognized for its efforts to reduce trafficking, but the outcomes for sex workers have often been challenged by advocates. Anti-trafficking responses have largely been shaped by the “3Ps” (prevention, protection and prosecution) framework articulated in the United Nations Trafficking Protocol. Although the framework recommends the holistic implementation of prosecution, protection and prevention activities to curb human trafficking, prosecution figures are often emphasized. This has led to a pattern of authorities prioritizing “raids and rescues” leading to prosecution and conviction over protecting the human rights of sex workers, who may be either mistakenly identified as, or working alongside, victims of trafficking.

Thailand has received substantial pressure from the international community to address trafficking in persons, particularly through the US Department of State’s Trafficking in Persons Report. US anti-trafficking policies have historically been focused on trafficking in the sex sector (Chuang, 2014), which has had a considerable influence on the Thai Government’s approach. In 2014 and 2015, Thailand dropped to the lowest rating of Tier 3 within the report’s ranking system. The Thai Government began increasing their response to human trafficking, which led to an improved ranking of Tier 2 in June 2018. However, much of the action taken has been related to improving the legal framework and law enforcement in the fishing and seafood sectors.

In the sex industry, raids on entertainment establishments have been one of the Government’s common anti-trafficking responses, often leading to the arrest and detention of sex workers. In their aftermath, sex workers are frequently labelled either as criminals under the Penal Code and the Prevention and Suppression of Prostitution Act, or as victims of trafficking under the Prevention and Suppression of Human Trafficking Act (Empower, 2012, 2016, 2017). The result is that the majority of those affected by raids lose their livelihoods and their support systems; ending in deportation back to a situation of poverty for many migrants.

The Penal Code punishes those engaged in prostitution as well as in trafficking of persons for the purpose of sexual exploitation. It also penalizes persons who are habitually associated with a sex worker or receive money or other benefits arranged for by a sex worker. Especially concerning in relation to increasing access to justice is the prohibition against assisting a sex worker in a dispute with a customer.

The Prostitution Act also criminalizes acts of solicitation for the purpose of prostitution and prohibits persons associating with one another in a “prostitution establishment”. The prohibition on associating with a sex worker has the effect of disrupting peer networks, which are often the only support system available to sex workers (NSWP, 2018; Villar, 2017). Penalizing association with a sex worker also threatens migrant sex workers’ housing rights, as landlords may refuse to

provide lodging for fear of incrimination (NSWP, 2018).

In some cases, the Prostitution Act is used by authorities to justify activities that may be considered extortionate. It has long been reported that sex establishments pay police to operate (ILO, 1998). More recently, a study by Empower Foundation found that women migrant workers in border areas spent over a quarter of their salary on “informal payments”. Sex workers report that authorities also sometimes extort free sexual services (Empower, 2012). In another study, transgender sex workers in Pattaya were found to pay bribes directly to police, as well as local mafia, “in order to remain safe” (Villar, 2017).

The mandate of the State and law enforcement officials under the Anti-Trafficking Act opens up the risk of harassment and human rights violations. Although designed with the intention to provide trafficking victims with assistance and protection, the Act has been used to trigger raids on venues where sex work is suspected to take place. Sex workers are routinely arrested in these raids and labelled as victims of trafficking, even when they are not trafficked or in need of being rescued (Empower, 2012; 2017). Moreover, migrant workers are often unaware of their rights and do not understand the purpose of interviews conducted by police (Empower, 2016). In these “rescue operations”, migrant sex workers who appear over 18 and can produce documentation are often charged with violating the Prostitution Act, the Immigration Act or the Alien Employment Act. Those not able to provide proof of age are regularly disbelieved and few attempts are made to secure evidence through family members (Empower, 2012).

During police raids, wages due, savings and belongings of sex workers may be lost or confiscated. Compensation for damages and loss of livelihood is difficult to obtain due to the illegality of sex work and the irregular legal status of many migrant sex workers (Empower, 2017).

Exemplifying the “raid and rescue” approach to counter-trafficking, a raid was conducted at Nataree massage parlour in Bangkok on 7 June 2016 by police, local administration officials and soldiers, with an international NGO. Following a three-month long investigation, the raid resulted in the detention of 121 women. Of those detained, 15 sex workers under the age of 18 were identified as victims of trafficking, resulting in their compulsory placement under the care of the Department of Social Welfare. The last to be released from the Government’s shelter left after 281 days. The women identified as victims of trafficking who were found to also be migrants were deported. The women not considered victims of trafficking were fined for violating the Prostitution Act and/or Immigration Act, detained, and for 73 migrant women, deported. Twenty-one women were also classified as “witnesses” but were nonetheless held in detention for 34 days. Empower made a formal request for an investigation by the National Human Rights Commission of Thailand (Empower, 2017). After visiting the women in the detention centre, the Commission issued a public statement that the women had been detained without legal authority (GAATW, 2018).

Irregular migrant workers are most vulnerable in these raids as they face being deported and fined for providing sexual services. As in the Nataree raid, migrant sex workers not considered to be victims or witnesses are usually sent to detention centres to await deportation. Those identified as victims of trafficking are taken to shelters to await court hearings that may also result in deportation (GAATW, 2007). While victims of trafficking are offered vocational training in rehabilitation centres, the training often perpetuates gender stereotypes and provides them with skills that they are not interested in and which do not provide for a livelihood. There is also

differential treatment between men and women victims of trafficking. While men are allowed to seek work outside the shelter, women are not as regularly given permission as it is considered impractical or dangerous for them to leave the shelter (Arora, 2017; Empower, 2017; GAATW, 2018).

The lengthy process prior to deportation can take its toll on those detained. Time wasted in these residential centres without an income or freedom of movement is frustrating for many (Surtees, 2013) and critical for others whose families, including children, depend on their income for survival. Women detained prior to their return home are likely to leave without any income or savings and may potentially still be in debt to the brokers they used to facilitate their initial migration. As a result, the survival of these women and their families often relies on their return to Thailand or another country, often to return to sex work (GAATW, 2007).

Beyond the impact on individuals, raids also perpetuate stigmatization of sex workers and gender minorities through sensationalized reports in the media (Empower, 2016). This stigma, which disproportionately affects women, can become particularly problematic when migrant workers return to an unwelcoming or discriminatory community. The media's focus on human trafficking as primarily an issue of sexual exploitation has also contributed to the conflation of sex work and trafficking by creating and disseminating the image of an "ideal victim", used to elicit emotive reactions rather than engage with the deeper complexities of their situations. (Uy, 2011; Lopez, 2018).

In spite of the pervasive social stigma that remains in relation to employment in the sex industry, sex workers have reported that public attitudes in Thailand have become more open and tolerant in recent years. Public discourse on sex work has increased, with sex workers' dreams highlighted at the 2018 Bangkok Art Biennale, and new academic research focusing on the sector (Chandran, 2018; Panyasuppakun, 2018). Likewise, the working environment in the sex industry can be positive: sex workers have pointed out that there is a strong sense of friendship and family among peers, who are often sources of information and mutual support (ILO, unpublished).

Labour protection and occupational safety and health

Sex work takes place in a range of venues. Massage parlours provide traditional massage, with some sex workers providing sexual services within or outside some of these establishments. There are also bathhouses or saunas equipped with bathtubs, with some sexual services taking place at the venue. Various other types of venues are also common, including a-go-go bars, pubs, coyote bars, beer bars, and karaoke bars (ILO, unpublished). However, it should be noted that sex work often takes place outside of entertainment venues, and it can be difficult to clearly differentiate between sex work and affective relations (Empower, 2017). The lack of a traditional "workplace" is another challenge to the recognition of sex work as work.

Entertainment places such as massage parlours, nightclubs, a-go-go bars, karaoke bars and similar establishments where sex workers are often employed are registered under the Entertainment Place Act. While the Act imposes licensing requirements on entertainment venues, it does not offer protection for the labour rights or occupational safety and health of entertainment workers. Owners and managers may implement harsh wage deduction practices for lateness, weight gain, dress code infringements, minimum drinks orders and arguments with customers

(Empower, 2017; ILO, unpublished). Workers are commonly fined for absences and are required to either work seven days a week or lose out on pay to take days off (ILO, unpublished). Unfair wage deductions and workplace rules can pressure sex workers into actions they are not comfortable with, increasing their vulnerability to exploitation by employers, clients and other parties.

The Labour Protection Act is the key legislative instrument outlining workers' rights in Thailand. In the concluding observations on Thailand, the CEDAW Committee heard a statement from the Inspector-General from the Ministry of Labour affirming its application to protecting the rights of workers in the entertainment sector.

"[We] regard women working in entertainment ... the rights and general conditions ... [to be] protected by the Labour Protection Act, the Social Security Act, the Workers Compensation Act and other related labour laws the same as workers in other businesses. ...Regarding the employment of migrant workers in the entertainment sector ...employers in the entertainment sector can legally employ unskilled migrant workers, both male and female for legal activities in the establishment" (Empower, 2017; CEDAW/C/THA/CO/6-7).

Sex workers are not explicitly excluded from mechanisms providing access to justice, however, in practice they are unable to report exploitation and abuse without facing the possibility of arrest, deportation and public shaming (Empower, 2016). These deterrents prevent sex workers from lodging grievances when they do not receive their basic labour rights in their legal employment, including holiday pay, overtime pay, severance pay, regular days off, and occupational safety and health protections.

Aside from restrictions in their ability to use labour protection mechanisms, access to sexual and reproductive health care is also difficult for migrant sex workers. Migrant sex workers are often not free to leave their work establishments to seek health services. Physical accessibility can be limited as many state-funded health clinics are not open during hours that are convenient for migrant sex workers or are located in areas far away from where they are working. In addition, health-care providers may hold biases against sex workers, affecting the way they are treated as patients (ILO, unpublished). Police have been reported to use the possession of condoms as evidence against sex workers, thus discouraging condom use and increasing sex workers' vulnerability to HIV infections (NSWP, 2017).

HIV remains the overarching health concern for employers in the sex industry. Some impose weekly mandatory HIV and sexually transmitted infection (STI) testing, while others will only take migrant sex workers to access treatment when they are ill (ILO, unpublished). Although HIV prevention and treatment has been used as an entry point to address sex workers' rights, migrant sex workers themselves have emphasized that their health needs go beyond HIV and include mental health, drug and alcohol abuse, and nutrition. The importance of maintaining their psychosocial well-being and the need for safe spaces to rest and relax with peers has also been expressed by migrant sex workers (NSWP, 2018).

There have been efforts to increase access to health services for migrant workers, though not targeted specifically for migrant sex workers. In 2001, the Ministry of Public Health announced the Migrant Health Insurance Scheme, which provides health coverage, including antiretroviral treatment, for registered and unregistered migrants from Cambodia, the Lao People's Democratic Republic and Myanmar (Tangcharoensathin, Thwin, and Patcharanarumol, 2017). One Stop

Service Centres and reduced health insurance fees have enabled more migrants to register and enrol in the programme. However, many migrant workers have not enrolled in the MHIS due to the upfront costs (IOM and WHO, 2009; Tangcharoensathin, Thwin, and Patcharanarumol, 2017). Many migrant workers are young and healthy, which contributes to them not seeing the value in investing in health insurance (Harkins, 2014). Additionally, migrant workers are not always aware of what can be claimed under the scheme, as some information is only available in Thai (Fisher, 2017; IOM and WHO, 2009).

Migrant workers who are enrolled in the MHIS and do not have services provided by their employers have no other option than to visit private doctors, clinics or pharmacies (Barmania, 2013). Many undocumented migrant sex workers, particularly in border areas, have reported having to pay for HIV testing and treatment out-of-pocket (ILO, unpublished). The lack of accessible and affordable health-care services can discourage migrant sex workers from seeking necessary care.

Sex workers in Thailand often have to work in conditions that put their safety at risk. These risks include being required to drink while working, a lack of safe transportation options to and from the workplace due to the hours of work, no private changing rooms, no separation between employees' accommodation and the workplace, inadequate emergency exits, poor bathroom facilities and unclean venues (ILO, unpublished).

To counteract these conditions, some sex workers in Thailand have turned to organizing to increase occupational health and safety standards. In 2006, sex workers, under the banner of Empower Foundation, created a working model for a fair and just workplace for sex workers – the Can Do Bar. Unlike some entertainment venues, the Can Do Bar's physical environment complies with the Thai Labour Protection Act. The bar also provides opportunities for skill advancement and training on first aid, safe sex, safe lifting, emergency procedures, managing difficult or violent situations, and English language training (Empower 2016, 2018).

Conclusion

Recognizing sex work as work is crucial in protecting the rights of migrant sex workers and differentiating sex work from trafficking for the purpose of sexual exploitation. Criminalization of sex work institutes a structural barrier that prevents sex workers, especially migrants, from seeking legal protection and accessing justice. Other factors that prevent sex workers from lodging complaints about rights violations include the lack and/or high cost of legal aid; and the lack of safe, confidential and non-judgmental avenues for reporting abuse.

Due to various intersecting social and legal barriers and constraints, migrant sex workers are currently unable to maximize their labour market outcomes. While some migrant workers are able to earn high wages, gain skills, and live with a level of autonomy not available in other sectors, a majority still face exploitative working conditions.

The current focus on prosecution within the anti-trafficking response in Thailand enables raids on entertainment venues that place migrant sex workers at heightened risk of being unlawfully detained and deported, severely damaging their livelihoods. Moreover, raids propagate stigma against those working in the sex industry, which can increase discriminatory treatment against them within Thai society.

In order to better protect the rights of migrant sex workers, efforts must be made to provide them with legal status, ensure safe and secure workplaces and expand access to remedy for abusive employment practices. Little progress will be made on reducing their exploitation until they are viewed not as victims or criminals but as workers who are entitled to labour rights.

Recommendations

1. **Decriminalize sex work and protect sex workers' rights through labour protection and migration laws:** Decriminalizing sex work is an essential first step to recognizing sex workers as right bearers entitled to legal and social protection by the State. By amending or repealing laws that directly and indirectly criminalize sex workers, labour protection mechanisms can be developed to eliminate recruitment and employment malpractice. For example, allowing sex workers to register as migrant workers at One Stop Service Centres for the service sector. It is essential to ensure migrant sex workers' voices are appropriately represented throughout the process of legislative reform and the development of protection mechanisms, through social dialogue that also engages with national sex worker organizations.
2. **Review anti-trafficking responses that increase the risk of exploitation and violence for migrant sex workers of all genders:** It is vital to review the implementation of and amend where necessary anti-trafficking laws, policies and mechanisms that institutionalize harassment, racial and gender profiling, and violence by State actors (including the police and immigration officials) against women, men, and transgender sex workers. The Thai Government should explore the potential of coordinating with sex worker organizations to adequately screen for victims of trafficking. Migration governance regimes should recognize that sex workers can assist in anti-trafficking efforts by accurately identifying persons affected by trafficking. The review and amendment of such anti-trafficking responses must include consultations with sex worker organizations and relevant human rights organizations.
3. **Improve working conditions of sex workers to meet decent work standards:** Sex workers, including migrants, should be protected by labour laws that enshrine decent work principles. Minimum standards should protect all workers in this sector. Standards should include minimum wage, regular days off, access to social protection, and improved occupational health and safety, including prohibiting violence in the world of work. Unfair wage deductions and other employment malpractices should be prohibited. Employer compliance to minimum standards should be ensured through proper implementation of labour inspections. Additionally, the labour inspectorate mandate should be expanded to include entertainment venues and reviewed with the rights of all migrant and non-migrant entertainment workers in mind. In this light, the Department of Labour Protection and Welfare may hold discussions with relevant sex worker organizations, with technical support from relevant international organizations, to design a decent work framework that can update Thai labour and migration systems with respect to sex workers' rights.
4. **Improve access to health services:** Ensure all sex workers have access to quality condoms free of charge. Maintain public campaigns for safe sex and for HIV and STI prevention. Ensure that migrant sex workers can access health-care services that provide reproductive health-care advice; voluntary testing services, treatment including for HIV; access to psychosocial counselling; and specialized services. It is equally important to sensitize health service providers on sex work issues and ensure the delivery of non-judgmental and

confidential health-care service.

5. **Improve access to legal services:** Sex workers, especially migrants, have stressed the need for legal information, including what their rights are and what protections they are entitled to, and how to protect themselves from harassment. Sex workers should also have access to safe, non-judgmental and confidential avenues for reporting labour complaints and human rights violations, and lawyers with familiarity with sex work and migration issues should be made available. Legal aid services should be available free or at a low cost to remain accessible. Migrants pursuing a legal case should be provided dispensation to stay in Thailand during the proceedings.
6. **Reduce stigma and discrimination against sex workers:** Stigma and discrimination against sex work compound the social and economic disadvantages that sex workers face. Reducing stigma against sex workers would also begin to undo the conflation of sex work and trafficking by respecting and emphasizing the ability of individuals to choose sex work. It is crucial to work with policymakers, media and law enforcement to tackle misconceptions about migrant sex workers and increase understanding of migrant and sex worker issues. Finally, ongoing efforts to displace stereotypical and harmful traditional gender norms and roles – particularly regarding women and the negative stereotypes of transgender women – must continue.

References

Aizura, A.

2011 The romance of the amazing scalpel: Race, labour, and affect in Thai gender reassignment clinics. In: *Queer Bangkok: 21st Century Markets, Media, and Rights* (P.A. Jackson, ed.). Hong Kong University Press, Hong Kong, p. 143.

Aoyama, K.

2009 *Thai Migrant Sex Workers: From Modernisation to Globalisation* Palgrave MacMillan, London.

Armstrong, L.

2018 Almost legal: migrant sex work in New Zealand. Open Democracy, 6 June. Available at: <https://www.opendemocracy.net/beyondslavery/lynzi-armstrong/almost-legal-migrant-sex-work-in-new-zealand>.

Arora, R.

2017 Female migration and labor in Thailand: When law and society continue to exclude you. *UCLA Journal of International Law and Foreign Affairs*, 21(1): 73–97.

Barmania, S.

2013 Thailand's migrant sex workers struggle to access health care. *The Lancet*, 382(9891): 493–494.

Burapha University

2017 *A Tool for Change: Working with the Media on Issues Relating to Sexual Orientation, Gender Identity, Expression and Sex Characteristics in Thailand*, Burapha University, Saen Suk.

Chandran, R.

2018 Migrants, sex workers take pride of place in Bangkok art festival. Reuters, 25 October. Available at: <https://www.reuters.com/article/us-thailand-art-rights/migrants-sex-workers-take-pride-of-place-in-bangkok-art-festival-idUSKCN1MZ10D>.

Chin, C.

2013 *Cosmopolitan Sex Workers*. Oxford University Press, Oxford.

Chuang, J.

2014 Exploitation creep and the unmaking of human trafficking law. *The American Journal of International Law*, 18(4): 609–649.

Convention on the Elimination of All Forms of Discrimination (CEDAW) Committee

2017 Concluding observations on the combined sixth and seventh periodic reports of Thailand, CEDAW/C/THA/CO/6-7, 21 July. Available at: https://www.fidh.org/IMG/pdf/cedaw_c_tha_co_6-7_25136_e.pdf.

Crichton, F.

2015 Decriminalising sex work in New Zealand: Its history and impact. Open Democracy, 21 August. Available at: <https://www.opendemocracy.net/beyondslavery/fraser-crichton/decriminalising-sex-work-in-new-zealand-its-history-and-impact>.

Doezema, J.

2005 Now you see her, now you don't: Sex workers at the UN Trafficking Protocol negotiation. *Social & Legal Studies*, 14(1): 61–89.

Empower Foundation

2012 *Hit & Run: The Impact of Anti-Trafficking Policy and Practice on Sex Worker's Human Rights in Thailand*. Empower Foundation, Chiang Mai.

2016 *Moving Toward Decent Sex Work*. Empower Foundation, Chiang Mai.

2017 Sex workers and the Thai wntertainment Industry. Submission to the Committee on the Elimination of Discrimination Against Women, Sixty-seventh Session, 3–21 July. Available at: <http://www.nswp.org/resource/empower-thailand-cedaw-shadow-report>.

2018 Bar Can Do. Available at: http://www.empowerfoundation.org/barcando_en.html.

Fernquest, J.

2018 Pattaya: Las Vegas of sex seeks family friendliness. Bangkok Post, 27 March. Available at: <http://www.bangkokpost.com/learning/advanced/1222153/pattaya-las-vegas-of-sex-seeks-family-friendliness>.

Fisher, O.

2017 Hard hats, soft protection: Barriers to accessing social protection schemes for Cambodian migrant workers in the Thai construction sector – a constructivist grounded theory approach. Lund University, Lund.

Global Alliance Against Traffic in Women (GAATW)

2007 *Collateral Damage: The Impact of Anti-Trafficking Measures on Human Rights around the World*. GAATW, Bangkok.

2018 *Sex Workers Organizing for Change: Self-representation, Community Mobilisation, and Working Conditions*. GAATW, Bangkok.

Global Network of Sex Work Projects (NSWP)

- 2011 Sex work is not trafficking. Briefing Paper, No. 3. NSWP, Edinburgh. Available at: <http://www.nswp.org/resource/sex-work-not-trafficking>.
- 2017 SWING (Service Workers in Group). Available at: <http://www.nswp.org/members/asia-and-the-pacific/swing-service-workers-group>.
- 2018 Migrant sex workers. Briefing Paper. Available at: <http://www.nswp.org/resource/briefing-paper-migrant-sex-workers> (accessed 13 March 2018).

Harkins, B.

- 2014 Social protection for migrant workers in Thailand. In: *Thailand Migration Report 2014* (J.W. Huguet, ed.). United Nations Thematic Working Group on Migration in Thailand, Bangkok, p. 27.

Harkins, B., D. Lindgren and T. Suravoranon

- 2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

International Labour Organization (ILO)

- 1998 *The Sex Sector: The Economic and Social Bases of Prostitution in Southeast Asia*. ILO, Geneva.
- 2016 *Worker, Helper, Auntie, Maid? Working Conditions and Attitudes Experienced by Migrant Domestic Workers in Thailand and Malaysia*. ILO, Bangkok.
- 2017 *Protected or Put in Harm's Way? Bans and Restrictions on Women's Labour Migration in ASEAN Countries*. ILO, Bangkok
- 2018 *Ship to Shore Rights: Baseline Research Findings on Fishers and Seafood Workers in Thailand*. ILO, Bangkok.
- Work and Employment Conditions in Sex Work in Thailand*. ILO, Bangkok (unpublished).

International Organization for Migration and World Health Organization (IOM and WHO)

- 2009 *Financing Healthcare for Migrants: A Case Study from Thailand*. IOM and WHO, Bangkok.

International Women's Rights Action Watch Asia Pacific and Global Network of Sex Work Projects (IWRAP-AP and NSWP)

- 2017 *Framework on Rights of Sex Workers & CEDAW*. International Women's Rights Action Watch Asia Pacific and Global Network of Sex Work Projects, Kuala Lumpur.

Lee, W.

- 1991 Prostitution and tourism in South-East Asia. In: *Working Women: International Perspectives on Labour and Gender Ideology* (N. Redclift and M.T. Sinclair, eds). Routledge, New York, NY, 79.

Leheny, D.

- 1995 A political economy of Asian sex tourism. *Annals of Tourism Research*, 22(2): 367–384.

Natali, C., E. Mcdougall and S. Stubbington

- 2014 International migration policy in Thailand. In: *Thailand Migration Report 2014* (J.W. Huguet, ed.). United Nations Thematic Working Group on Migration in Thailand, Bangkok, p. 13.

National AIDS Committee

- 2015 *Thailand AIDS Response Progress Report 2015*. National AIDS Committee, Bangkok. Available at: http://www.unaids.org/sites/default/files/country/documents/THA_narrative_report_2015.pdf.

Panyasuppakun, K.

- 2018 Time to rethink prostitution ban, say experts. *The Nation*, 1 September. Available at <http://www.nationmultimedia.com/detail/national/30353452>.

Parreñas, R.

2011 *Illicit Flirtations: Labor, Migration, and Sex Trafficking in Tokyo*. Stanford University Press, Palo Alto, CA.

Phongpaichit, P.

1982 *Rural Women of Thailand: From Peasant to Bangkok Masseuses*. ILO. Geneva.

Rodriguez-Lopez, S.

2018 (De)constructing stereotypes: Media representations, social perceptions, and legal responses to human trafficking. *Journal of Human Trafficking*, 4(1): 61–72.

Roguski, M.

2013 *The Occupational Safety and Health of Migrant Sex Workers in New Zealand*. New Zealand Prostitutes Collective, Wellington.

Simpkins, D.

1998 Rethinking the sex industry: Thailand's Sex Workers, the State, and Changing Cultures of Consumption. *Michigan Feminist Studies*, Issue 12. University of Michigan, Ann Arbor.

Surtees, R.

2013 *After Trafficking: Experiences and Challenges in the (Re)integration of Trafficked Persons in the Greater Mekong Sub-region*. UNIAP/NEXUS Institute, Bangkok.

Tangcharoensathien, V., A. Thwin and W. Patcharanarumol

2017 Implementing health insurance for migrants, Thailand. *Bulletin of the World Health Organization*. 95: 146–151.

Tostevin, M.

2017 Sex in Thai city frustrates junta, Reuters, 26 March. Available at: <http://www.reuters.com/article/us-thailand-pattaya-image-idUSKBN16X090>.

Truong, T.

1983 The dynamics of sex tourism: The case of Southeast Asia. *Development and Change*. 14: 533–553.

1990 *Sex, Money and Morality: Prostitution and Tourism in Southeast Asia*. Zed, London.

Uy, R.

2011 Blinded by the red lights: Why trafficking discourse should shift away from sex and the perfect victim paradigm", *Berkley Journal of Gender, Law & Justice*, 26(1): 204–219.

Villar, L.

2017 *Sisters, Boyfriends, and the Big City: Trans Entertainers and Sex Workers in Globalized Thailand*. Chulalongkorn University, Bangkok.

Yongcharoenchai, C.

2017 Law cops out on transgender rights in Pattaya. Bangkok Post, 20 August. Available at: <https://www.bangkokpost.com/news/special-reports/1309607/law-cops-out-on-transgender-rights-in-pattaya>.



Abstract:

The transition from an agricultural to an industrialized economy has led many Thai workers to seek higher paying employment in urban areas. Historically the backbone of the Thai economy, the agricultural sector has in recent years become increasingly reliant on migrant workers to fill labour shortages. Migrants within the sector work in a number of different employment situations, including as year-round, seasonal and daily workers. This distinction influences the labour rights they are entitled to, as well as their social security benefits and occupational safety and health (OSH) protection. The sector is currently underserved by the Thai labour inspectorate, limiting enforcement of the regulations governing migrants' working conditions. Findings from a forthcoming ILO study of recruitment practices and working conditions for over 500 migrants employed in the agricultural sector revealed a number of serious concerns relating to wages below the legal minimum, inadequate housing and living conditions, child labour, workplace injuries and exposure to pesticides. Working conditions for agricultural migrant workers would benefit from the introduction of reforms to expand coverage by labour and social protection, provide safe housing facilities and improve the quality and scope of labour inspection.

Introduction

Globally, over 1 billion people are employed in the agricultural sector, which accounts for nearly one third of the world's workforce (ILO, 2017). The total agricultural workforce has, however, been decreasing over the past two decades as a result of industrialization. Many countries are therefore coming to rely on migrant workers to sustain their agricultural sectors. In 2013, it was estimated that slightly more than 11 per cent of international migrant workers are employed as agricultural workers (ILO, 2015).

As a country with a declining agricultural workforce, Thailand exemplifies the pattern of export-led industrial development within Asia. A total of 34 per cent of the economically active population is currently employed in the agriculture sector, a major decrease from 1980, when the share was 71 per cent (NSO, 2018). In order to sustain the sector, which accounts for 7.1 per cent of Thailand's GDP (NESDB, 2018), employers have increasingly recruited migrant workers from neighbouring countries to fill labour shortages.

Agriculture is considered one of the most hazardous sectors of work (ILO, 2017). The informality and unpredictability of agricultural employment often contributes to challenging working conditions. Steady incomes are not always guaranteed and many workers are exposed to poor health, safety and environmental conditions (ILO, 2017). Drawing from the results of a forthcoming ILO survey, this chapter will provide an analysis of the recruitment and working

conditions for migrants in Thailand's agricultural sector, as well as recommendations for improving their employment within the sector.¹

Development of Thailand's agricultural sector

Historically, the agricultural sector has been considered the “backbone” of the Thai economy, and for decades it was the main source of income for the majority of the Thai population (Singhapreecha, 2014). Since the 1960s, the Thai Government has implemented national development plans that have included policies dedicated to enhancing the agricultural sector (Mahathanaseth and Pensupar, 2014). Thailand's current 20-year National Strategy and the Twelfth National Economic and Social Development Plan continue this tradition. A central aspect of these policies focuses on strengthening Thailand's long-term agricultural competitiveness through investments in agricultural technology (NESDB, 2017).

Although Thailand has transitioned from an agricultural to an industrialized nation, agriculture remains an important component of the Thai economy. As of 2017, Thailand was the world's largest exporter of natural rubber, with a total export value of USD 6.6 billion (Workman, 2018; OAE, 2017). Other important crops grown predominately for export include rice (USD 5.9 billion), sugar (USD 2.9 billion), cassava (USD 2.8 billion) and palm oil (USD 359 million) (OAE, 2017).

Approximately 41 per cent of Thailand's total land area (51.3 million hectares) continues to be used for agricultural purposes (NSO, 2014). Smallholder farmers dominate the agricultural sector and many are unable to afford the costs associated with agricultural machinery (Win, 2017). Further, agricultural holdings growing fruit and vegetables are unable to benefit to the same extent from mechanization, as fruit and vegetables do not ripen uniformly (Martin, 2016). Therefore, Thailand continues to rely heavily on manual labour in order to maintain its agricultural economy.

As a consequence of the declining number of Thai nationals willing to pursue agricultural work, the sector has increasingly come to depend on migrant workers. There are currently 436,188 regular migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar employed in the agricultural sector (MOL, 2018). However, the actual number employed is believed to be substantially higher due to the large number of irregular migrants working in agriculture. The majority of migrant workers in the sector come from Myanmar (75 per cent), followed by Cambodia (14 per cent) and the Lao People's Democratic Republic (11 per cent) (table 4.1).

¹ The term agriculture is defined as “all forms of activities connected with growing, harvesting and primary processing of all types of crops, with the breeding, raising and caring for animals, and with tending gardens and nurseries” (ILO, 1999). It should be noted, however, that the survey data used in this chapter specifically relates to migrants engaged in work involving agricultural crops.

Table 4.1: Migrants employed in the agricultural sector by legal status, nationality and gender

	Nationality	Men	Women	Total
Nationality Verification (NV)	Myanmar	90,855	64,747	155,602
	Cambodia	7,301	5,732	13,033
	Lao PDR	7,814	6,734	14,548
Memorandum of Understanding (MOU)	Myanmar	3,771	2,468	6,239
	Cambodia	5,330	3,749	9,079
	Lao PDR	7,988	6,035	14,023
Registration at One Stop Service Centre	Myanmar	89,177	65,524	154,701
	Cambodia	26,092	21,536	47,628
	Lao PDR	8,574	7,054	15,628
Border Pass Employment	Myanmar	25	9	34
	Cambodia	3,113	2,560	5,673
Total		250,040	186,148	436,188

Source: Ministry of Labour (May 2018)

Labour rights and protections for agricultural workers

International labour standards

Agricultural workers are entitled to the same fundamental labour rights as other workers, as stipulated in the eight ILO core conventions, including: (1) freedom of association and the effective recognition of the right to collective bargaining; (2) the elimination of all forms of forced or compulsory labour; (3) the effective abolition of child labour; and (4) the elimination of discrimination in respect of employment and occupation. Further, they are covered by a number of Conventions aimed specifically at the agriculture sector that have a more technical orientation:

- Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 (No. 99);
- Holidays with Pay (Agriculture) Convention 1952 (No. 101);
- Plantation Convention, 1958 (No. 110);
- Labour Inspection (Agriculture) Convention, 1969 (No.129);
- Safety and Health in Agriculture Convention, 2001 (No. 184) and its accompanying Recommendation (No.192).

While Thailand has ratified six out of the eight ILO fundamental Conventions,² the Government has yet to ratify the Conventions specific to the agricultural sector. The international labour standards related to labour inspection and occupational safety and health (OSH) are particularly relevant to improving conditions for migrant workers within Thailand (box 4.1)

Box 4.1: Select International Labour Standards Specific to Agricultural Employment

Safety and Health in Agriculture Convention, 2001 (No.184) and its accompanying Recommendation (No. 192)

- Guarantees agricultural workers, irrespective of whether they are permanent, temporary or seasonal workers, the same rights and protections afforded to workers in other sectors of employment.
- Assigns clear responsibilities and obligations to employers and governments to protect the rights of agricultural workers, with a particular focus on safety and health protection and risk mitigation.

Labour Inspection (Agriculture) Convention, 1969 (No. 129)

- Provides standards for the establishment of a labour inspection system in the agricultural sector with three specific functions:
 1. Securing the enforcement of legal provisions relating to the conditions of agricultural work, such as working time, wages, weekly rest, safety, health and welfare, and the employment of women and children.
 2. Supplying technical information and advice to employers and workers on how best to comply with such legal provisions.
 3. Establishing the responsibility of the labour inspectorate to bring to the attention of the competent authorities abuses that are not specifically covered by the law and to submit proposals on how to improve laws and regulations.

National legal framework

The Labour Protection Act B.E. 2541 affords all workers equal protection, irrespective of their nationality or legal status. Both documented and undocumented migrant workers are therefore entitled to the same labour protection as national workers, although undocumented migrants often face greater difficulties in utilizing these rights in practice (Harkins, Lindgren and Suravoranon, 2017).

The Act does make a distinction between the rights of workers in the formal and informal sectors.³ Workers in the formal sector are entitled to all of the rights specified under the Labour Protection Act, while workers in the informal sector, including seasonal agricultural workers, are only guaranteed a select number of basic labour rights protections. This distinction is also applied within other labour laws in Thailand, including the Social Security Act, the Workmen's Compensation Act and the Occupational Safety, Health and Environment (OSH) Act.

² Excluding the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) and the Right to Organise and Collective Bargaining Convention, 1949 (No. 98).

³ Informal employment is defined by the Thai Ministry of Labour as individuals who do not hold the status of employee under the Labour Protection Act.

Agricultural workers who are employed for the whole year receive the full protection of the Labour Protection Act; however, this is estimated to represent just 8 per cent of all agricultural workers (Kongtip et al., 2015). For the majority of agricultural workers who are not performing agricultural-related work on a continuous year-round basis, their employment is governed by the Ministerial Regulation concerning Labour Protection in Agricultural Work B.E. 2557 (2014). This Regulation specifies the selected labour rights protections that temporary agricultural workers are entitled to, such as equal pay for equal work, paid sick leave, and maternity leave. It also prohibits the employment of children under 15 years of age. Migrants are also entitled to three days of paid holiday leave following 180 consecutive days of employment but few workers receive this benefit as the majority of crops are seasonal in Thailand.

Labour inspection

The Department of Labour Protection and Welfare (DLPW) is mandated to monitor compliance with the Labour Protection Act, the OSH Act and the associated ministerial regulations. As of 2016, Thailand had 880 labour inspectors who are responsible for monitoring all enterprises that employ one or more workers. This number is significantly lower than the ILO recommendation of 1 inspector for every 15,000 employees in an industrializing country, which would require 2,563 labour inspectors in Thailand (ILAB, 2016).⁴

Although labour inspections should be carried out in all types of enterprises, the agricultural sector has received much less attention. During 2014, a total of 40,274 labour inspections were conducted in Thailand, and just 715 of the inspections were conducted in the agricultural sector. Only two agricultural establishments were issued with orders for non-compliance with the Labour Protection Act. In addition to these inspections, 232 agricultural workplaces were inspected for compliance with the OSH Act and 12 were issued with orders (DLPW, 2015).

Effective labour inspection in Thailand continues to face many challenges, including limited financial and human resources to support specialization in particular sectors of work and the risks inspectors face of being sued for abuse of power. Furthermore, lack of trained interpreters during inspections of migrant workplaces limits the information that can be gathered concerning their working conditions (ILO, 2014). In addition, the often remote and widely dispersed workplaces in the agricultural sector represent a significant obstacle to conducting labour inspections within the sector.

Recruitment and working conditions in the agricultural sector

Employment in Thailand's agricultural sector provides many migrant workers with the opportunity to improve their livelihoods and provide financial support to their families at home. However, farming is physically demanding work and often involves working long hours under difficult weather conditions, as well as use of potentially dangerous heavy machinery and exposure to hazardous chemicals. It is estimated that 170,000 agricultural workers around the world die each year and over 1 million are injured in work-related injuries involving agricultural machinery or made ill by pesticide poisoning (ILO, 2018).

⁴ It should be noted that this situation, while problematic, is not unique to Thailand. Insufficient human resources dedicated to labour inspection is a common challenge faced by many countries.

The following section provides an empirical assessment of recruitment practices, working conditions, OSH and social protection for migrant agricultural workers in Thailand. The analysis in this section is based on the findings of a forthcoming ILO study, conducted in partnership with the Institute of Population and Social Research at Mahidol University. The study was carried out in four provinces of Thailand (Loei, Tak, Sa Kaeo and Surat Thani) with migrants employed on rubber, palm oil, maize and sugar cane plantations. The non-probabilistic survey sample included migrants from Cambodia, the Lao People's Democratic Republic and Myanmar (table 4.2). In addition, qualitative interviews were conducted with 26 key informants and 18 migrant workers.

Table 4.2: Country of origin, gender, location and agricultural crop for survey respondents (n=528)

Country	#	Gender	#
Cambodia	83	Men	227
Lao PDR	134	Women	298
Myanmar	311	Other	3
Total	528	Total	528
Location	#	Agricultural Crop	#
Tak	203	Sugar cane	199
Loei	134	Maize	120
Surat Thani	108	Rubber	90
Sa Kaeo	83	Palm oil	24
Total	528	Various crops	95
		Total	528

Recruitment Practices

Migration into the agricultural sector occurs through both regular and irregular channels but the vast majority of migrants use the latter (79 per cent) (table 4.3). The most commonly used irregular channels were friends and family (36 per cent), independently (26 per cent) and through brokers (16 per cent). Among regular channels for migration, direct recruitment by an employer was the most frequently reported method (18 per cent). The use of recruitment agencies in the agricultural sector is small, representing only 3 per cent of migrant workers. These findings reflect that broader context of largely informal work arrangements that exist within the agricultural sector.

There were significant differences found depending on the nationality of migrant workers. While both Cambodian and Myanmar workers primarily migrated with assistance from friends and family or independently, the majority of Lao migrants (64 per cent) were directly recruited by employers. This potentially reflects stronger cross-border relations between Thai employers and Lao workers in the Loei area.

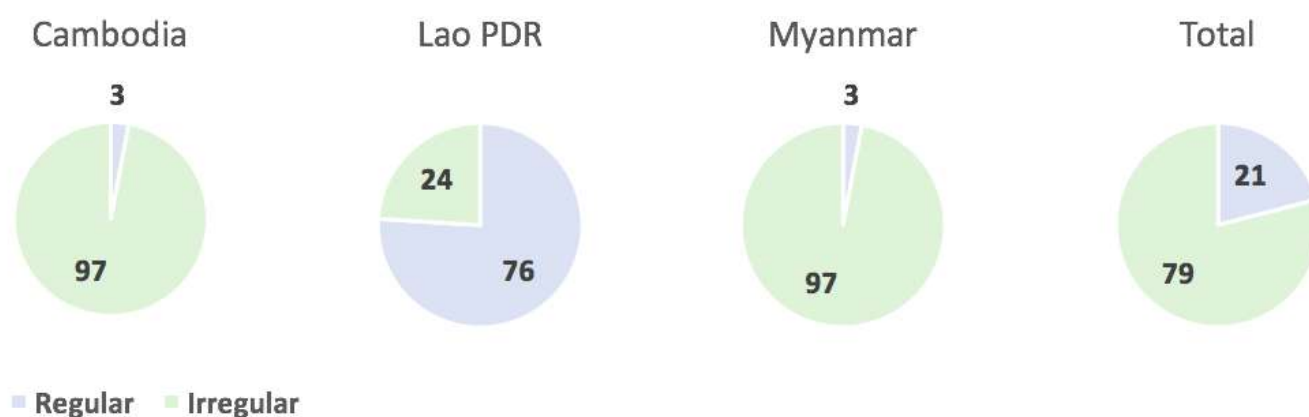
A common practice reported by plantation owners with seasonal crops such as maize and sugarcane is the sharing of their migrant employees. Migrant workers are registered with a

single employer, who then outsources their workers to other plantations in the area. This form of employment falls outside the scope of the existing regulations for labour migration and has significant implications in muddying the statutory responsibility of employers. However, it is used because it minimizes the costs and time required when recruiting migrant workers for short-term agricultural work.

Table 4.3: Migration channel used by nationality (n=527) (%)

	Cambodia (n=83)	Lao PDR (n=134)	Myanmar (n=310)	Total (n=527)
Direct recruitment by an employer	2	64	2	18
Recruitment agency	1	12	1	3
Friends or family	42	14	44	36
Independently	35	9	31	26
Broker	19	1	22	16
Other	0	0	1	1
Total	100	100	100	100

Note: Data was unavailable for one Myanmar respondent.



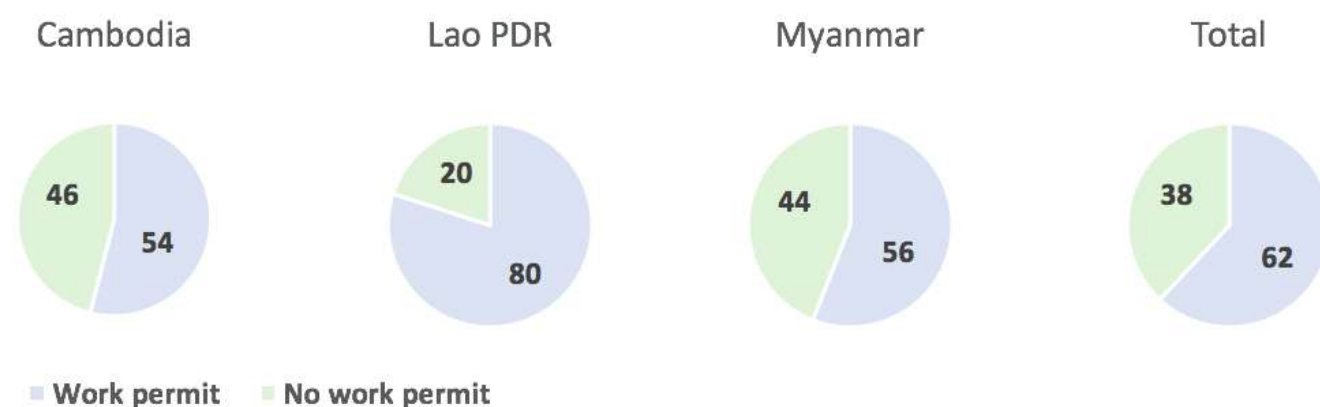
As shown in table 4.4, the majority of migrant workers within the agricultural sector held legal permission to work (62 per cent). Migrants completing nationality verification (30 per cent), entering through the MOU process (15 per cent) or procuring border passes with seasonal work permits (12 per cent) were the most common ways of obtaining legal documentation.

There were some significant differences in documentation between nationalities of migrant workers. The vast majority of Cambodian migrants worked with border passes (85 per cent), with or without work permits. Lao migrants predominantly obtain documents through the MOU process (43 per cent) or nationality verification (37 per cent). The largest group of Myanmar migrants completed nationality verification (35 per cent) and were also the most likely to work without any documents (20 per cent).

The registration of Cambodian migrants as seasonal workers is particularly notable as the recently signed bilateral MOU between Thailand and Cambodia appears to fill an important policy gap in providing legal documentation to migrants. The much lower utilization of these passes by Myanmar migrants, for whom another bilateral agreement has been signed, is also worthy of consideration. There were 12,079 migrant workers from Cambodia registered for seasonal work permits in January 2018, while only 181 workers from Myanmar were registered (DOE, 2018).

Table 4.4: Documentation held by nationality (n=528) (%)

	Cambodia (n=83)	Lao PDR (n=134)	Myanmar (n=310)	Total (n=527)
Temporary passport/COI, visa, work permit (NV)	0	37	35	30
Passport, visa, work permit (MOU)	0	43	7	15
Registration card (pink card)	11	0	5	5
Border pass and seasonal work permit	43	0	9	12
Border pass only	42	6	1	9
Passport and visa only	0	12	2	4
Stateless card	0	1	6	4
No documents	4	0	20	12
Other	0	1	15	9
Total	100	100	100	100



The average cost of migration for workers in Thailand's agricultural sector was THB 2,778 (USD 85). The cost of migration was highest for Lao migrants at THB 12,000 (USD 366), which likely resulted from the large number of Lao workers who participated in the more costly NV and MOU processes (table 4.5). Migration was significantly cheaper for Cambodian and Myanmar migrants at THB 1,800 (USD 55) and THB 1,450 (USD 44), respectively. In order to cover the costs involved with migration, 43 per cent of migrants surveyed had to borrow money.

Table 4.5: Cost of migration by nationality (n=526) (% and THB)

	Cambodia (n=81)	Lao PDR (n=134)	Myanmar (n=311)	Total (n=526)
No cost	10	4	16	14
< 1,000 baht	21	1	40	17
1,000–4,999 baht	49	3	36	29
5,000–9,999 baht	12	29	3	14
> 10,000 baht	6	63	4	26
Unknown	1	0	1	1
Total	100	100	100	100
Median (THB)	1,800	12,000	1,450	2,778

Note: Data was unavailable for two Cambodian respondents.

Working conditions

The employment status of migrant workers in the agricultural sector can broadly be divided into three main groups: year-round workers, seasonal temporary workers who stay for the harvest period and day workers who cross the border on a daily basis. Table 4.6 shows that four out of five migrants are temporarily employed as seasonal and daily workers (47 and 33 per cent respectively), while 19 per cent are employed as year-round workers. This finding suggests that most migrant agricultural workers are not fully covered by the labour rights and social protections provided under Thai law.

Myanmar workers were much more likely to work on a daily basis (53 per cent) or year-round (31 per cent) than other nationalities of migrants. One of the main determinants of employment status for these workers is the agricultural crop they are hired to cultivate. The majority of migrants employed on rubber plantations (90 per cent) are employed on a year-round basis because rubber is harvested throughout the year. Conversely, migrants surveyed on maize and sugar cane plantations are primarily employed as seasonal workers or day workers based upon the growing season of these crops.

Table 4.6: Employment status by nationality (n=527) (%)

	Cambodia (n=82)	Lao PDR (n=134)	Myanmar (n=311)	Total (n=527)
Daily worker	10	1	53	33
Seasonal worker	83	99	16	47
Year-round worker	5	0	31	19
Other*	2	1	0	1
Total	100	100	100	100

*Other refers to migrants working on a temporary basis for more than 180 days.

Note: Data was unavailable for one Cambodian respondent.

Seasonal agricultural workers do not receive the same labour rights protection as year-round workers. In particular, migrants employed on a seasonal basis can be paid below the legal minimum wage. Table 4.7 reveals that the median monthly wage for migrant workers in the agricultural sector is THB 6,000 (USD 183), which is considerably below the minimum wage in Thailand at THB 9,240–9,900 per month (USD 282–302), depending upon province.

Substantial variations in income between migrants of different nationalities were found, with migrants from the Lao People’s Democratic Republic earning the highest median wages at THB 10,000 (USD 305), followed by Cambodians at THB 7,000 (USD 213) and Myanmar workers at THB 4,260 (USD 130). There was also a very significant gender wage gap of 34 per cent among migrants in the agricultural sector, with women receiving THB 5,300 (USD 162) and men receiving THB 8,000 (USD 244).

The study found a complex range of factors influencing these variations in wages, including type of agricultural crop, method for determining payment, location of employment and availability of work – though discriminatory wage practices were also revealed. One female migrant worker interviewed in Tak province commented: “Women get 200 baht and men get 250 baht for maize but with sugarcane we all get paid 2 baht per bundle.”

Table 4.7: Monthly income by nationality (n=492) (% and THB)

	Cambodia (n=77)	Lao PDR (n=111)	Myanmar (n=304)	Total (n=492)
< 4,500 baht	8	0	56	36
4,500–9,000 baht	75	6	33	33
> 9,000 baht	17	94	12	31
Total	100	100	100	100
Median (THB)	7,000	10,000	4,260	6,000

Note: Data was unavailable for 36 respondents.

As displayed in table 4.8, the median number of hours worked by migrants on farms was 9 hours per day. The working hours were much longer on rubber farms, with the average migrant spending 12 hours per day at work, which would be considered excessive overtime. Long hours of work, particularly for agricultural employment that involves intense manual labour, can cause sleep disturbance and fatigue, as well as cardiovascular, gastro-intestinal and mental health disorders. Moreover, the fatigue experienced can contribute to a higher incidence of accidents and injuries.

In interpreting these results, however, it should be noted that most employment on rubber farms operates on a different business model than for other agricultural crops in Thailand. The relationship between employers and workers is typically closer to a tenant farming arrangement, with most migrants paid a share of the rubber sales. This suggests that the long working hours put in on rubber farms may be to some extent self-motivated, though the recent decline in rubber prices has squeezed the income that migrants receive from their work.

Table 4.8: Working hours per day by agricultural product (n=512) (% and hours)

	Rubber (n=81)	Palm oil (n=23)	Maize (n=119)	Sugarcane (n=195)	Various (n=90)	Total (n=508)
8 hours or less	8	0	1	4	9	5
9–12 hours	56	87	99	95	91	89
13 hours or more	36	13	0	1	0	6
Total	100	100	100	100	100	100
Median (hours)	12	10	8.5	8	8	9

Note: Data was unavailable for 16 respondents.

As in several other sectors of migrant employment in Thailand, there have been cases of severe labour rights violations reported within the agricultural sector (Hodal, 2016). Migrant workers employed in agriculture are vulnerable to these abuses for a number of reasons, including gaps in labour rights protection, unequal power relations with their employers, and the often remote and isolated rural areas where farms are located.

Only nine migrants surveyed showed clear indications that they were working against their will and were unable to leave their employment. However, more pedestrian forms of labour rights violations, such as wages below the legal minimum, unclear wage deductions, long working hours, lack of overtime pay, unsafe workplaces and exposure to pesticides were much more common. The implication is that although clear cases of coercion may be limited within the agricultural sector, many migrant workers have little choice but to accept poor working conditions due to the limited livelihood options available to them.

It is estimated that approximately 13 per cent of the working population in Thailand are between the ages of 5 and 14, and within the agricultural sector, child workers have been found on rubber and sugarcane plantations (ILAB, 2015).⁵ The extent of child labour is currently unknown in Thailand, especially among migrant children. One out of five migrant workers surveyed (21 per cent) in the ILO study reported that there were children under the age of 18 working with them on the farm, though it cannot be determined whether they were engaged in hazardous employment. The main reasons cited by migrants for allowing their children to work in agriculture were insufficient wages, lack of childcare, difficulties accessing the Thai school system and that they wanted their children to learn the skills required for future employment.

Occupational safety and health

Injuries are common during agricultural work in Thailand, and accounted for 17 per cent of all workplace injuries between 2002 and 2010. The most frequent causes of injury were being struck by a falling object (12 per cent) or contact with agricultural machinery (10 per cent). Workers employed to operate machinery, handle produce or who are untrained are more likely to suffer from workplace injuries (Siripanich, Meanpoung and Sangchatip, 2014). The number of workplace accidents involving migrant workers is thought to be underreported as migrants are

⁵ The Labor Protection Act sets the minimum age for employment at 15 and the minimum age for hazardous employment at 18. Hazardous working conditions prohibited for children include exposure to chemicals and use of heavy machinery.

less likely than nationals to seek medical care, especially for those with irregular legal status.

Table 4.9 shows that the occupational safety and health concerns varied across the four surveyed agricultural sectors. The most frequent risks faced by workers on rubber plantation were dangerous animals (53 per cent); while migrants on palm oil (57 per cent), maize (79 per cent) and sugarcane (74 per cent) farms all noted prolonged exposure to sunlight as the most common risk factor. Exposure to dust particles, pesticides and high temperatures were also frequently experienced by migrant workers.

Table 4.9: Exposure to occupational safety and health risks by agricultural product (n=519) (%)

	Rubber (n=89)	Palm oil (n=23)	Maize (n=117)	Sugarcane (n=196)	Various (n=94)	Total (n=519)
Pesticides	3	9	51	19	51	29
Prolonged high temperatures	3	13	38	35	46	31
Prolonged direct sunlight	3	57	79	74	68	61
Risk of falling from height	1	0	0	7	1	3
Lifting heavy weights	8	52	28	3	35	18
Hazardous equipment/machinery	4	30	2	4	10	6
Smoke from burning fields	1	0	13	34	33	22
Dust particles	2	35	11	69	32	36
Unsanitary conditions	4	4	3	16	18	11
Dangerous animals	52	39	10	14	21	22
Other	1	0	0	0	0	0
None	37	13	12	22	19	22

Note: Multiple responses were possible. Data was unavailable for nine respondents.

The ILO study found that headaches were the most prevalent health problem reported among migrant agricultural workers (61 per cent), particularly on palm oil, maize and rubber farms. More than half of workers (56 per cent) across the four agricultural sectors surveyed also indicated that they suffered from severe joint and muscular pain. The cause of these health effects among migrants in the agricultural sector can only be inferred based upon the information available. However, musculoskeletal disorders are known to be a common health impact experienced by agricultural workers and have been documented by a number of research studies globally (Thetkathuek, Meepradit and Sa-ngiamsak, 2017; Fathallah, 2010; Hansen and Donohoe, 2003; Jain et al., 2017).

Dizziness was also experienced by 48 per cent of agricultural workers, and some migrants linked this condition to their exposure to pesticide: "I feel faint depending on the kind of pesticide. Some kinds can cause harm. I did not go to work during pregnancy because I felt dizzy and vomited."

Pesticides such as organophosphate and carbamate are extensively used in Thailand, with little or no oversight on their quality, sale, end use or disposal (Kaewboonchoo, Kongtip and Woskie, 2015).

Pesticide exposure tests conducted among agricultural workers in Thailand between 2012 and 2014 indicated that one third of tested workers presented with unsafe levels of pesticide exposure (Thetkathuek et al., 2017).

As migrant workers have limited access to OSH training, they are often unaware of the factors that contribute to injuries and illness or how to prevent them (Thetkathuek, Meepradit and Sa-ngiamsak, 2017). Moreover, many agricultural employers are reluctant to pay for personal protective equipment for their workers. Table 4.10 shows that the majority of migrant workers did not receive any training on OSH or personal protective equipment (PPE) during their employment (84 per cent) – particularly on rubber (97 per cent), sugarcane (85 per cent) and maize farms (80 per cent). Previous studies have pointed to low levels of training and poor use of PPE as key contributing factors to pesticide over-exposure (Kachaiyaphum et al., 2010; Namwong et al., 2011).

Table 4.10: Provision of protective equipment and OSH training by agricultural product (n=526) (%)

	Rubber (n=90)	Palm oil (n=23)	Maize (n=120)	Sugarcane (n=198)	Various (n=95)	Total (n=526)
OSH training only	1	9	9	12	3	8
Personal protective equipment (PPE) only	1	30	9	2	5	5
OSH training and PPE	1	18	2	1	5	3
None	97	43	80	85	87	84
Total	100	100	100	100	100	100

Note: Multiple responses were possible. Data was unavailable for nine respondents.

The majority of migrant agricultural workers surveyed (86 per cent) were living in accommodation provided by their employers. The housing provided for year-round workers tended to be more permanent in terms of the building materials used, and tended to offer better access to clean water and adequate sanitation facilities. Seasonal workers were often found to be living in temporary encampments in close proximity to the plantations, with limited access to clean water or sanitation facilities.

The Ministerial Regulation concerning Labour Protection in Agricultural Work stipulates that seasonal migrant workers are entitled to safe and hygienic living conditions. Inadequate enforcement of the law, particularly through labour inspection, has contributed to widespread non-compliance among employers and major gaps in the provision of acceptable housing facilities for migrant workers.

Conclusion

Thailand's agricultural sector continues to play an important role in the country's economy. As a result of industrialization and changing employment structures, Thailand has increasingly come to rely on migrant workers in order to sustain the agricultural sector. However, the actual number employed within this type of work is difficult to determine due to the substantial presence of migrants working in agriculture who have not been granted legal status.

Although the form of employment for these workers varies – including year-round workers, seasonal workers and daily workers – the results of a recent ILO survey suggests that most are employed on a temporary basis. This distinction is important, as it determines the labour rights that migrant agricultural workers are entitled to. Only year-round workers receive full coverage by the Labour Protection Act, while seasonal and daily workers are entitled to a limited number of rights detailed in the Ministerial Regulation concerning Labour Protection in Agricultural Work. The difference in employment status also determines their ability to receive social security benefits.

The insufficient quality and scope of labour inspections carried out for agricultural workplaces is an important contributing factor to the lack of compliance with the standards set forth within Thailand's labour laws. In addition, insufficient provision of OSH training and personal protective equipment for migrant workers places them at an increased risk of pesticide overexposure and workplace injuries. As a result, migrants are frequently unfamiliar with the measures they could take to prevent injuries and illness and must go without essential personal protective equipment unless they pay for it out of their own pockets.

Further action is needed to improve working and living conditions for agricultural migrant workers in order to establish an environment of decent work within the sector. Provision of comprehensive coverage by labour and social protection to agricultural workers and raising the regulatory standards to ensure these rights are adequately enforced will help to guarantee the sustainability of the agricultural industry in Thailand.

Recommendations

- 1. Ensure that all agricultural workers are covered by the Labour Protection Act, irrespective of the duration of their employment:** Currently, only agricultural workers that are employed for a full-year and performing agricultural work on a continuous basis are covered by the legal protections of the Act. Seasonal agricultural workers are only entitled to a limited number of labour rights specified in the Ministerial Regulation concerning Labour Protection in Agricultural Work. The distinction should be eliminated to ensure greater coverage by labour rights protection for migrant workers.
- 2. Improve the quality and coverage of labour inspection in the agricultural sector:** The ILO Labour Inspection (Agriculture) Convention, 1969 (No. 129) stipulates that an efficient labour inspection system is required in the agricultural sector in order to secure the labour rights of workers. To better adhere to this standard, the labour inspectorate should recruit more labour inspectors, increase inspector specialization, improve labour inspection tools, and enhance data collection and reporting mechanisms.

- 3. Allow migrant workers greater flexibility to change employers:** It is a common practice among seasonal agricultural workers to move between different plantations depending on what crop is in season. Migrant workers are often registered with one employer who then outsources the workers to other employers in the area. The development of a formal system allowing migrant workers to change employers under these circumstances would create clearer statutory responsibility for their working conditions, incentivize migrant workers to register with the Department of Employment and support increased labour market efficiency.
- 4. Expand employer responsibility under the OSH Act:** Employers' responsibilities under the OSH Act should include providing OSH trainings and information to migrant workers in their native languages and the provision of personal protective equipment at no cost to workers.
- 5. Extend social protection to all agricultural workers and improve access to their entitlements:** Most seasonal agricultural workers are not currently eligible to receive benefits from the Social Security Scheme or the Workmen's Compensation Fund. In addition, irregular migrant workers are sometimes unable to receive benefits from the Workmen's Compensation Fund for workplace accidents. These benefits should be extended to all agricultural workers, and employers who fail to register migrant workers with the Social Security Scheme and the Workmen's Compensation Fund should be penalized.
- 6. Conduct an agricultural labour market assessment:** A comprehensive labour market assessment for the agricultural sector would enable the Thai Government to generate an estimate of how many migrant workers are needed to sustain the sector and formulate policy and planning accordingly.
- 7. End child labour in the agricultural sector:** The employment of children in the agricultural sector should be eliminated through collaboration with relevant stakeholders at both the local and national level. These actions should include the provision of childcare services and improving migrant children's access to the Thai educational system.
- 8. Consider ratifying the Labour Inspection (Agriculture) Convention, 1969 (No. 129) and Safety and Health in Agriculture Convention, 2001 (No.184):** Ratification would help to ensure that Thailand's national legislative framework provides agricultural workers with protections for their labour rights and occupational safety and health that are in-line with international labour standards.

References

Bureau of International Labour Affairs (ILAB)

- 2015 *2015 Findings on the Worst Forms of Child Labor*. ILAB, Washington, DC.
Available at: <https://www.dol.gov/sites/default/files/images/ilab/child-labor/Thailand.pdf>.
- 2016 *2016 Findings on the Worst Forms of Child Labor*. ILAB, Washington, DC.
Available at: <https://www.dol.gov/sites/default/files/images/ilab/child-labor/Thailand2016.pdf>.

Department of Employment (DOE)

- 2018 *Alien Workers in Thailand*. DOE, Bangkok (in Thai). Available at: https://www.doe.go.th/prd/assets/upload/files/alien_th/5f3479f4e58d958f20d607c457bc89bd.pdf.

Department of Labour Protection and Welfare (DLPW)

- 2015 *Yearbook of Labour Protection and Welfare Statistics 2014*. DLPW, Bangkok.

Fathallah, F.

- 2010 Musculoskeletal disorders in labour-intensive agriculture. *Applied Ergonomics*, 41(6): 738–743.
Hansen, E. and M. Donohoe
- 2003 Health issues of migrant and seasonal farmworkers. *Journal of Health Care for Poor and Underserved*, 14(2): 153–164.

Harkins, B.

- 2014 Social protection for migrant workers in Thailand. In: *Thailand Migration Report 2014* (J.W. Huguet, ed.). United Nations Thematic Working Group on Migration in Thailand, Bangkok, p. 27.

Harkins, B., D. Lindgren and T. Suravoranon

- 2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

Hodal, K.

- 2016 Thailand: Poultry workers cry fowl amid claim they “slept on floor next to 28,000 birds” *The Guardian*, 1 August. Available at: <https://www.theguardian.com/global-development/2016/aug/01/thai-chicken-farm-workers-slept-on-the-floor-next-to-28000-birds>.

International Labour Organization (ILO)

- 1999 *Safety and Health in Agriculture*. ILO, Geneva.
- 2014 ILO technical cooperation on labour inspection in Thailand. ILO, Bangkok.
Available at: https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/documents/genericdocument/wcms_319017.pdf.
- 2015 *ILO Global Estimates on Migrant Workers: Results and Methodology*. ILO, Geneva.
- 2017 *Decent and Productive Work in Agriculture*. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_policy/documents/publication/wcms_437173.pdf.
- 2018 Agriculture: A hazardous work. Available at: http://www.ilo.org/safework/areasofwork/hazardous-work/WCMS_110188/lang--en/index.htm
Recruitment Practices and Working Conditions for Migrant Workers in Thailand’s Agricultural Sector. ILO, Bangkok (forthcoming).

Jain, R., M. Meena, G. Dangayach and A. Bhardwaj

2017 Association of risk factors with musculoskeletal disorders in manual-working farmers. *Archives of Environmental & Occupational Health*, 73(1): 19–28.

Kachaiyaphum, P., N. Howteerakul, D. Sujirarat, S. Siri and N. Suwannapong

2010 Serum cholinesterase levels of Thai chilli-farm workers exposed to chemical pesticides: Prevalence estimates and associated factors. *Journal of Occupational Health*, 52(1): 89–98.

Kaewboonchoo, O., P. Kongtip and S. Woskie

2015 Occupational health and safety for agricultural workers in Thailand: Gaps and recommendations, with a focus on pesticide use. *New Solutions*, 25(1): 102–120.

Kongtip, P., N. Nankongnab, C. Chaikittiporn, W. Laohaudomchock, S. Woskie and C. Slatin

2015 Informal workers in Thailand: Health and social security disparities. *New Solutions: A Journal of Environmental and Occupational Health Policy*, 25(2): 189–211.

Mahathanaseth, I. and K. Pensupar

2014 Thai agricultural policies: The rice pledge scheme. *FFTC Agricultural Policy Platform*, 2 July. Available at: http://ap.ffc.agnet.org/ap_db.php?id=260.

Martin, P.

2016 *Migrant Workers in Commercial Agriculture*. ILO, Geneva.

Ministry of Labour (MOL)

2018 Statistics on Foreigners Obtaining Work Permits through NV and MOU. MOL, Bangkok.

Namwong, N., N. Hoteerakul, D. Sujirarat and N. Suwanapong

2011 Factors affecting serum cholinesterase level among grape farm workers exposed to chemical pesticides in Samutsakorn province. Paper presented at the 13th National Conference: “Global Crisis and Its Impact on Health: Public Health Challenge”, Bangkok, 28–29 April (in Thai).

National Economic and Social Development Board (NESDB)

2017 *The Twelfth National Economic and Social Development Plan (2017–2021)*. NESDB, Bangkok.

2018 NESDB economic report: Thai economic performance in Q4 and 2017 and outlook for 2018. Media release, 19 February.

National Statistical Office (NSO)

2014 2013 Agricultural Census: *Whole Kingdom*. NSO, Bangkok.

2018 Summary of labour force survey in Thailand: September 2018. Available at: http://www.nso.go.th/sites/2014en/Survey/social/labour/LaborForce/2018/September_18.pdf.

Office of Agricultural Economics (OAE)

2017 Thailand Foreign Agricultural Trade Statistics 2017. OAE, Bangkok. Available at: <http://www.oae.go.th/view/1/Publications/EN-US>.

Singhapreecha, C.

2014 Economy and agriculture in Thailand. *FFTC Agricultural Policy Platform*, 9 May. Available at: http://ap.ffc.agnet.org/ap_db.php?id=246.

Siripanich, S., P. Meanpoung and A. Sangchatip

2014 Trends and characteristics of occupational injuries in Thailand, 2002–2010. *OSIR Journal*, 7(3): 8–15.

Thetkathuek, A., P. Meepradit and T. Sa-ngiamsak

2017 A cross-sectional study of musculoskeletal symptoms and risk factors in Cambodian fruit farm workers in Eastern Region, Thailand. *Safety and Health at Work*, 9(2): 192–202.

Thetkathuek, A., P. Yenjai, W. Jaidee, P. Jaidee and P. Sriprapat

2017 Pesticide exposure and cholinesterase levels in migrant farm workers in Thailand. *Journal of Agromedicine*, 22(2): 118–130.

Win, H.

2017 Farm mechanization in Thailand. *FFTC Agricultural Policy Platform*, 22 February. Available at: http://ap.fftcc.agnet.org/ap_db.php?id=743&print=1.

Workman, D.

2018 Natural rubber exports by country. *WTEx*, 29 May. Available at: <http://www.worldstopexports.com/natural-rubber-exports-country/>.





CHAPTER 05

WORKING CONDITIONS FOR MIGRANTS AND ILLEGAL, UNREPORTED AND UNREGULATED FISHING IN THAILAND'S FISHERIES SECTOR

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Abstract:

International attention to labour rights abuses and illegal fishing practices within Thailand's fishing and seafood processing industry has led the Thai Government to amend its legislative and regulatory frameworks and increase enforcement. To assess the effect of these changes on working and living conditions in the sector, the ILO conducted a survey of 434 fishing and seafood processing workers in Chonburi, Chumporn, Pattani, Phang Nga, Phuket, Ranong, Rayong, Samut Sakhon, Songkhla, Surat Thani and Trang provinces. This chapter provides an overview of the key developments within the sector, briefly reviews the legal and institutional framework, provides the key findings from the ILO study and offers recommendations on strengthening protections for migrant workers within the industry. It concludes that decent work for migrants in the fishing and seafood industry requires more intensive enforcement of the relevant laws and regulations. In particular, improving wage protections should be an area of focus, including payment of the legal minimum wage, eliminating unfair wage deductions, providing written payslips and ensuring monthly payment of wages in full.

Introduction

During the last five years, Thailand's fishing and seafood processing industry has come under close scrutiny by labour rights organizations, international media, trading partners and seafood buyers. Numerous reports have documented severe labour rights abuses within the sector – particularly against migrant workers – and illegal, unreported and unregulated (IUU) fishing. In April 2015, the European Commission issued a “yellow card” warning to Thailand for IUU fishing and made a clear connection between illegal fishing practices and exploitative working conditions. Responding to the situation, the Government of Thailand, private sector companies, workers' groups, civil society organizations and United Nations agencies have stepped up their efforts to improve labour and fishing practices within the industry.

Drafted in cooperation between the International Labour Organization (ILO) and Food and Agriculture Organization of the United Nations (FAO), this chapter provides a situation analysis of the current state of the commercial fishing and seafood processing sector in Thailand. The analysis covers recent economic, social and environmental developments; relevant FAO and ILO international standards related to the fisheries sector; and the Thai legal and institutional framework. This is followed by an in-depth analysis of working and living conditions in the industry based on a survey conducted by the ILO in 2018. The chapter concludes with a set of recommendations to the Government, employers, workers' organizations and buyers for strengthening protections for migrant workers in Thailand's fishing and seafood industry.

Recent developments in the fishing and seafood industry

Thailand has experienced a substantial decline in seafood exports since 2013, mainly linked to reduced shrimp production caused by disease (FAO, 2016a). However, it remains a key processing country for seafood products, and the Thai fishing and seafood industry is a major player in the global fisheries trade. In 2017, the total value of Thailand's seafood exports was estimated to be USD 5.9 billion (FAO, 2018a). Fish and fishery products are also important sources of animal protein supporting food security and nutrition in Thailand, with a per capita food supply of 27 kg in 2013 (FAO, 2017).

Apart from its economic and nutritional contributions, the fishing and seafood industry also plays an important role in job creation. In 2017, the sector employed approximately 600,000 workers. More than 302,000 of those employed were migrants, primarily from Myanmar and Cambodia. They obtain documentation through a range of different admissions and regularization processes, including registration at One Stop Service Centres, nationality verification, Memoranda of Understanding (MOUs) with countries of origin and border passes (ILO, 2018a).

To reduce irregular employment of migrant workers, the Thai Government recently implemented a registration policy for undocumented migrants, seeking to complete the process by 30 June 2018. Official data provided by the Department of Employment shows that approximately 1.2 million migrant workers went through the process and had their nationality verified. Among those completing the procedure were 114,558 migrants working in fishing and seafood processing (DOE, 2018). As of November 2018, the Department of Fisheries has also issued 68,659 seaman's books to migrants under the Royal Ordinance on Fisheries, providing them with identification documents for work on fishing vessels over 10 gross tons.

In 2018, the ILO report *Baseline Research Findings on Fishers and Seafood Workers in Thailand* examined the different migration statuses and pathways used by migrant workers. Nearly two thirds of the migrant workers surveyed had a "pink card" – a step towards regularization for irregular migrants. This was found to be more common for workers in the fishing sector at 83 per cent, as compared to those in the seafood sector at 50 per cent (ILO, 2018a).

To measure progress, the study compared responses to similar questions asked in a 2013 ILO survey entitled *Employment Practices and Working Conditions in Thailand's Fishing Sector*. One notable improvement was that 43 per cent of fishers surveyed in 2018 reported that they had signed a written contract, compared to just 6 per cent in 2013. However, only 14 per cent reported receiving a copy of their contract to keep. Also signalling improvement is the decline in reports of severe beatings on board fishing vessels, which was reported by 10 per cent of respondents in 2013 and 2 per cent in the 2018 report. In addition, average monthly wages (before deductions) were higher than those reported in 2013 (ILO, 2013, 2018a).

Despite these signs of improvement, the ILO report notes persistent labour abuses affecting migrant workers in the sector. One third of workers reported being paid less than the legal minimum wage, before any deductions were made. There were also indications of forced labour, including deceptive recruitment and contracting practices and wage withholding (24 per cent). The combination of a traditional system of cash payments, lack of pay slips and low levels of

literacy and numeracy carries risks for workers in the fishing industry.

Since 2014, the Thai Government has made substantial efforts to amend its legislative frameworks and implement measures to monitor and enforce the regulations. Established in mid-2015, the Command Centre to Combat Illegal Fishing (CCCIF) and the 32 Port-In/Port-Out (PIPO) Centres help track the movement of fishing vessels as they depart and arrive back at ports, and enforce vessel licensing requirements and the proper registration of workers.

Until recently, the Myanmar Government had refused to deploy fishers through the MOU channel until working and living conditions in the fishing sector improved. However, it has continued to allow Myanmar migrants – a majority of them women – to work in seafood processing factories. Dropping its previous restrictions, the Cambodian Government has allowed Cambodian workers to work in the fishing sector via the MOU system since 2017.

Based upon estimates of the labour shortage by the National Fisheries Association of Thailand, the Thai Government has developed measures to recruit about 53,000 additional workers into the fisheries sector. A new Memorandum of Understanding for the fishing sector is being developed between Thailand and Myanmar, which is expected to recruit 42,000 Myanmar workers into the sector by November 2018 (MFA, 2018).

The continued difficulties with recruiting fishers and the shrinking of the Thai commercial fishing fleet – a combination of regulatory and market changes driven by IUU reform – suggests an industry in turmoil.

Environmental impact of fishing

The Gulf of Thailand is the main marine fishing ground, contributing nearly 70 per cent of the total marine capture production in Thailand, followed by the Andaman Sea. Commercial fishing vessels account for 82 per cent of the catch in the Gulf of Thailand and 92 per cent in the Andaman Sea (DOF, 2015).

Thailand's marine fisheries resources have been in decline for several decades. Marine capture production peaked in 1995 at 2.8 million tonnes. By 2016, production had fallen to 1.3 million tonnes (FAO, 2018b). Stock assessment studies and catch rates after the introduction of trawl fishing in the 1960s already showed signs of overexploitation of the marine resources (Supongpan and Boonchuwong, 2010; FAO, 2009). Regular vessel surveys in the Gulf of Thailand showed declining catch per unit of effort, from nearly 300 kg per hour in 1961 to around 27 kg per hour in 2014. The same trend was observed for the Andaman Sea, with catch per unit of effort declining from 400 kg per hour in 1966 to 100 kg per hour in 2014 (DOF, 2015).

Trawl fishing in Thailand is particularly dependent on migrant workers for its operation. A notable feature of trawling is that it often captures a large portion of “trash fish”, constituting 42 per cent of the total catch of trawlers in the Gulf of Thailand during 2007. Trash fish includes juveniles of high value fish, which when allowed to grow would fetch a better price; they are important for the reproduction of the species and a major ecosystem concern (Suebpa et al., 2017). They are used primarily as raw material for aquatic animal feed and feed for chicken and pigs (Funge-Smith, Lindebo and Staples, 2005). More recently, the use of trash fish in the production of pet food by major multinational companies has been highlighted, raising concerns about ethical sourcing of products (Urbina, 2015).

The sustainability of Thailand's fisheries resources is threatened by the overcapacity of its fishing fleet and IUU fishing (DOF, 2015). There is also a well-established link between illegal fishing practices and labour rights abuses. The technical guidelines for the implementation of the International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing recognizes that "Operators of IUU vessels ... tend to deny to crew members fundamental rights concerning the terms and conditions of their labour, including those concerning wages, safety standards and other living and working conditions" (FAO, 2002).

In April 2015, the European Commission issued a notification of the possibility of Thailand being identified as a non-cooperating third country in fighting IUU fishing. The notification ("yellow-card warning") provided details on Thailand's failure to discharge its responsibilities under international law as a flag, coastal, port and market State and in fighting IUU fishing. Among the shortcomings identified by the European Commission were:

- (1) an obsolete legal framework, not in line with Thailand's international obligations;
- (2) incomplete legal provisions to follow-up on infringements and lack of dissuasive sanctions;
- (3) lack of collaboration between the Department of Fisheries and other authorities, as well as with third-country flag States landing into Thailand;
- (4) lack of control in terms of registration, licensing and remote tracking of vessels;
- (5) poor monitoring, surveillance and traceability systems for controlling products destined for the EU market; and
- (6) forced labour and trafficking in persons linked with IUU fishing activities (on board fishing vessels and within the seafood industry) (Vandewalle, 2016).

Discussions at the European Parliament pointed out that, "Human rights and labour abuses, including slavery and human trafficking, are closely linked to illegal and unregulated fishing in Thailand" (2016).

Since receiving the yellow card warning by the European Union, Thailand has taken steps to reform its fisheries sector and address weaknesses and deficiencies in fighting IUU fishing. In 2015, the Council of Ministers approved the Marine Fisheries Management Plan 2015–2019 and the National Plan of Action to Prevent, Deter, and Eliminate IUU Fishing. In addition, the Royal Ordinance on Fisheries B.E. 2558 (2015) came into force on 14 November 2015, updating the legislation regulating the sector. Thailand also acceded to two international binding agreements: (1) the Port State Measures Agreement; and (2) the United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks (1995 United Nations Fish Stocks Agreement).

In response to the reforms undertaken, the yellow card warning was lifted in January 2019. In its press release, the European Commission acknowledged that Thailand had successfully addressed the shortcomings in its fisheries legal and administrative systems. The specific reasons provided for lifting the warning included reinforced compliance with Thailand's obligations as a flag, port, coastal and market state, greater clarity of definitions in legislation, a deterrent regime of sanctions, reinforced mechanisms of control for the national fishing fleet and enhanced monitoring and surveillance systems (European Commission, 2019).

International standards and guidelines

Work in Fishing Convention, 2007 (No. 188) and Recommendation (No. 199)

The Work in Fishing Convention, 2007 (No. 188) sets the basic standards for decent work in the fishing industry and binding requirements to address the main concerns related to work on-board fishing vessels. This includes occupational safety and health and medical care at sea and ashore, rest periods, written work agreements, and social security at the same level as other workers. It provides for regulation of the recruitment process and investigation of complaints by fishers, as well as for prevention of forced labour, human trafficking and other labour rights abuses.

To determine Thailand's readiness to ratify Convention No. 188, the ILO conducted a gap analysis to identify discrepancies between Thai law and practice and the articles of the Convention. The research determined that Thailand has laws and subordinate legislation in place that reflect many of the standards outlined in Convention No. 188. However, they are scattered across legislative instruments and are in some cases overlapping, falling under the mandate of various governmental agencies (ILO, 2017a).

In late November 2018, the National Legislative Assembly approved the ratification of the Work in Fishing Convention (No. 188) and will submit its application to the ILO in early 2019. The Thai Government has drafted the Labour Protection of Work in Fishing Act to implement the provisions stipulated in Convention No. 188, which combines the Royal Ordinance on Fisheries and the Ministerial Regulation Concerning Labour Protection in Sea Fisheries Work. The consolidated law sets forth labour standards and clear roles and responsibilities for each governmental agency involved, including the important role of the Navy and its capacity to conduct inspections at sea. The new law will help to address the discrepancies identified in the gap analysis without having to amend a significant number of existing laws.

Forced Labour Convention, 1930 (No. 29) and 2014 Protocol

The two ILO Conventions on forced labour – namely the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105) – have played a vital role in combating coercive labour practices and are among the most widely ratified ILO instruments. Yet gaps in implementation meant that additional measures were needed in order to achieve effective and sustained suppression of forced labour, including in its contemporary manifestations. Therefore, at the International Labour Conference in June 2014, ILO constituents adopted the Protocol of 2014 to the Forced Labour Convention, 1930. Constituents also adopted the Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203), which provides further guidance on the implementation of both Convention No. 29 and its Protocol.

Thailand ratified Conventions No. 29 and Convention No. 105 in 1969, and the Government has adopted and implemented measures with a view to addressing forced labour over the last few decades. Nevertheless, the ILO Committee of Experts on the Application of Conventions and Recommendations, as well as several recent research studies and reports, continue to draw attention to the poor working conditions and labour rights abuses experienced by migrant workers in the fishing and seafood processing industries (ILO, 2018b).

In 2017, the ILO conducted a gap analysis of the country's existing laws against the requirements of Convention No. 29 and the 2014 Forced Labour Protocol. The study found that Thailand has made significant regulatory changes to prevent and suppress trafficking and forced labour and strengthen the protection of workers' rights. However, challenges related to the enforcement and application of certain provisions remain, including a legal definition of forced labour that makes it difficult to distinguish victims of forced labour from human trafficking or other labour rights violations. In addition, operational coordination among the stakeholders involved, particularly between government agencies and civil society organizations, still needs to be improved to support effective regulation.

Thailand ratified the Forced Labour Protocol at the International Labour Conference in June 2018. Though a separate Forced Labour Act was initially drafted, the Ministry of Labour has instead amended the Prevention and Suppression of Human Trafficking Act to include forced labour as a standalone offense. The amendment aims to address gaps in the legislative framework with regards to forced labour; to improve forced labour prevention, protection and assistance to victims of forced labour; and to bring Thailand's legislation in line with international standards.

International Plan of Action to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing

The International Plan of Action on IUU Fishing was developed within the framework of the FAO Code of Conduct for Responsible Fisheries and conceived as a comprehensive "toolbox" that includes a full range of tools to prevent, deter and eliminate IUU fishing (FAO, 2002). It provides guidance to States and fishery stakeholders on the responsibilities of all States and the implementation of flag, coastal and port State measures to combat IUU fishing.

Among other things, the guidance provided by the International Plan of Action pertains to the ratification of international instruments; sanctions for IUU fishing vessels; monitoring, control and surveillance; development and implementation of national plans of action to combat IUU fishing; cooperation between States; fishing vessel registration; record of fishing vessels; authorization to fish; measures against IUU fishing within the exclusive economic zone; port State control measures; and measures to prevent the trade of IUU-caught fish.

Thailand approved its own National Plan of Action to Prevent, Deter, and Eliminate IUU Fishing in November 2015 and acceded to the Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing in May 2016.

Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication

The Voluntary Guidelines for Securing Sustainable Small-scale Fisheries in the Context of Food Security and Poverty Eradication (SSF Guidelines) were the first international instrument devoted to small-scale fisheries. They are intended to "support the visibility, recognition and enhancement of the already important role of small-scale fisheries and to contribute to global and national efforts towards the eradication of hunger and poverty" (FAO, 2015a). The SSF Guidelines complement the Code of Conduct for Responsible Fisheries, extending beyond fisheries management to provide guidance to States and fisheries stakeholders on the social and economic development of small-scale fishers and fish workers and promoting a human rights-based approach.

The SSF Guidelines recognize migration as a common livelihood strategy in small-scale fisheries and ask States to adopt effective measures towards the complete elimination of forced labour in fisheries. The Guidelines also promote social security protection, the progressive realization of the right to an adequate standard of living and to work in accordance with national and international human rights standards, as well as coherent and integrated national strategies for improving safety at sea.

National legislative and institutional framework

Since 2014, substantial changes have been made to strengthen the laws and regulatory bodies used to manage Thailand's fisheries sector. Key elements of the legislative and institutional framework include the following:¹

Labour Protection Act

The Labour Protection Act, B.E. 2541 (1998) is the key legislative instrument for provision of labour protection to workers in Thailand and applies to migrants regardless of their legal status. It sets out the minimum standards for employment practices such as wages, working hours and occupational health and safety. However, workers employed in the fishing industry are exempted from the Labour Protection Act. Based on the Ministry of Labour's Ministerial Regulation on the Protection of Workers in Sea Fisheries B.E. 2557 (2014), only particular sections of the Act apply to the fishing sector.² The Regulation states that the duties and remuneration of workers should be clearly outlined in a document kept by the employer and are subject to inspection by officials. It requires employers to keep a record of employees and submit a copy to the authorities within 30 days from the employee's starting date. It also prohibits children under the age of 18 from working on fishing boats, establishes daily and weekly rest requirements, and stipulates that adequate food, drinking water, toilet facilities and first aid kits must be provided.

An amendment of the Ministerial Regulation on Protection of Workers in Sea Fisheries was approved by the Cabinet in March 2018. The new Regulation requires that fishers be paid monthly wages via bank accounts and that employers provide communications equipment on overseas fishing vessels. The wages to be paid by employers must not be less than the daily minimum wage rate multiplied by 30 days. These rules have proven challenging to implement, including because some migrant fishers have faced problems with lack of access to automatic teller machines.

Royal Ordinance on Fisheries

The Royal Ordinance on Fisheries B.E. 2558 (2015) came into force on 14 November 2015, subsuming the amended Fisheries Act B.E. 2558 (2015). The Royal Ordinance includes measures for more effective fisheries management and stakeholder engagement, improved oversight of fishing operations and transshipments at sea, enhanced traceability systems, prevention and sanction for IUU fishing, improving welfare and working conditions of seamen, and eliminating unlawful

¹ The Anti-Trafficking in Persons Act is also relevant to exploitation of fishers and is covered in detail in chapter 10 on Trafficking in Persons in Thailand.

² The following sections of the Labour Protection Act apply to sea fishery work: sections 7–21 (General Provisions); 100–107 (Occupational Safety, Health and Environment); 123–125 (Complaints); 126–138 (Employment Welfare Fund); 139–142 (Labour Inspectors); and 143 (Delivery of Notices).

labour practices. The Royal Ordinance on Fisheries was amended in 2017 to revise the legal definitions and align the law with the newly adopted Royal Ordinance on the Management of Foreign Workers Employment.

Command Centre for Combatting Illegal Fishing

The National Council for Peace and Order established the CCCIF in 2015 under the Royal Thai Navy to coordinate the efforts of government agencies addressing IUU fishing. Thirty-two Port-In/Port-Out (PIPO) Centres were established in 22 coastal provinces to monitor the movement of commercial fishing vessels in and out of the Centres. The Ministry of Labour is involved in checking employment status and working conditions for fishers, in line with the relevant labour laws. The Department of Fisheries is mandated to conduct pre-departure inspection of fishing licenses and equipment, as well as checking the catch before unloading at the pier. The Flying Inspection Team (FIT) runs random checks and audits compliance to standardize inspection practices across all PIPO centres.

Multi-disciplinary teams comprised of various government agencies are deployed for joint labour inspections at sea and on land. The Thai Navy continues to take the lead for at-sea inspections, while the Ministry of Labour has taken over the lead for labour inspection of seafood processing factories. Fishing vessels are colour-coded to denote their level of risk based upon the violations found – red for high-risk, yellow for medium-risk and green for low-risk. Due to shortages of personnel, the Ministry of Labour has obtained cabinet approval to recruit an additional 186 labour inspectors in 2018 and has long-term plans to expand its staff to 1,049 labour inspectors.

Working and living conditions in the Thai fishing and seafood industry

In 2018, the ILO conducted baseline research on fishers and seafood processing workers, surveying 434 workers across 11 provinces. The survey assessed the experience of workers in relation to recruitment, wages, working hours, safety and health, support services, access to justice, living conditions, indicators of forced labour and compliance with labour laws.³

As shown in table 5.1, workers of three nationalities were surveyed: Myanmar (66 per cent), Cambodian (29 per cent) and Thai (5 per cent). The survey sample included 46 per cent seafood processing workers, 45 per cent fishers and 9 per cent aquaculture workers. Although all of the fishers surveyed were men, a total of 31 per cent of the sample were women. Nearly two thirds of migrant workers (65 per cent) had a “pink card”, which means that they had come to Thailand irregularly but later regularized their status.

³ The findings in this section are drawn from the 2018 ILO report *Ship to Shore Rights: Baseline Research Findings on Fishers and Seafood Workers in Thailand*.

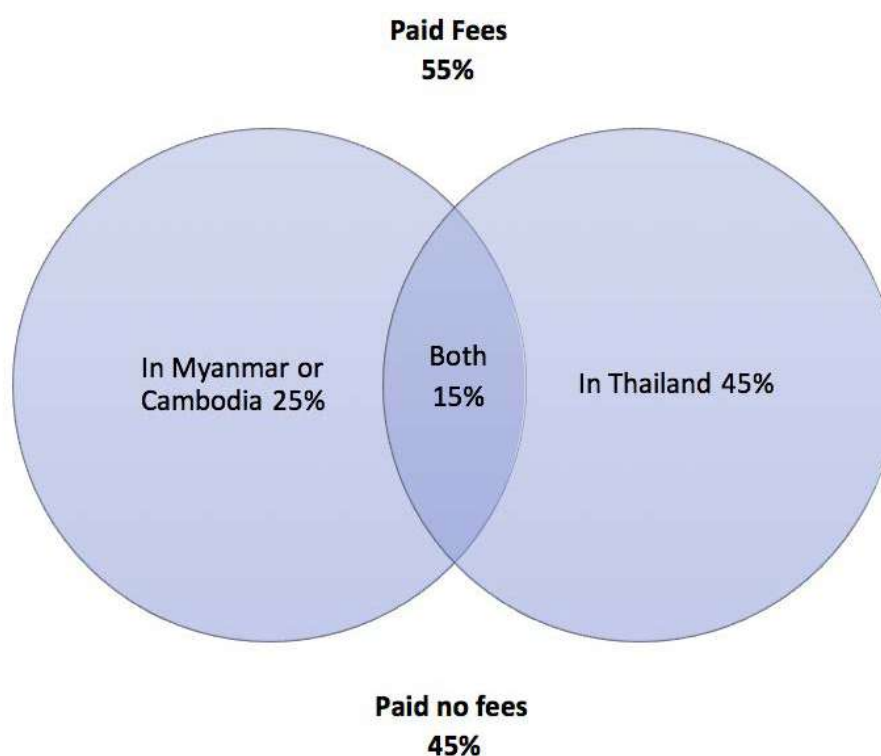
Table 5.1: Sector of work by nationality (n=434) (%)

	Cambodia (n=125)	Lao PDR (n=287)	Thailand (n=22)	Total (n=434)
Fishing	75	33	27	45
Seafood	22	55	68	46
Aquaculture	3	12	5	9

Recruitment practices

The Royal Ordinance on the Management of Migrant Workers requires that employers – not workers – bear the cost of their recruitment in Thailand. Figure 5.1 shows that 45 per cent of migrant workers did not pay any recruitment fees. Among the 55 per cent of migrant respondents paying a recruiting fee, more of them paid it in Thailand than in their country of origin. However, the fees paid were lower on average in the 2018 survey results than in the 2013 survey.

Figure 5.1: Location of payment of recruitment fees by migrant workers (n=412) (%)



As of 2015, Thai law requires that all workers sign a written contract and receive a copy to keep. Some 35 per cent of workers recalled signing an employment contract but only half understood the terms that were outlined (51 per cent). One in five respondents (19 per cent) stated that their working conditions were worse than what had been agreed to in the contract or verbally with the employer or recruitment agent. Most frequently, it was reported that the hours, wages and risks involved were not as promised.

Wages and deductions

The survey determined that 34 per cent of respondents received less than the legal minimum wage⁴ (before deductions), as depicted in figure 5.2. Among fishers, nearly a quarter did not receive the minimum wage (24 per cent), while 43 per cent of seafood processing workers were not paid the minimum rate. It should be noted that the fishing and seafood processing sectors have quite different pay structures, with the most common types being a fixed monthly wage combined with a piece rate in seafood sector and a “share of the catch” in fishing.

The share of fishers reporting deductions from their wages rose from 42 per cent in 2013 to 48 per cent in 2018. After these deductions were taken into account, the average wage for fishers in this survey was THB 7,730 (significantly below the legal minimum). Withholding of wage payment was also found to be common in fishing, doubling to 24 per cent of fishers since the 2013 ILO survey (and considered to be an indication of forced labour). In nearly all cases (94 per cent), it was the boat owner who withheld the salary of fishers.

Figure 5.2: Compliance with the minimum wage for workers within the fisheries sector (n=434) (%)



Gender differences in working conditions

Overall, men reported a higher prevalence of labour rights abuses (63 per cent) than women (40 per cent). Among men, the most common forms of labour rights violations were abusive working conditions (36 per cent), deception (33 per cent) and withholding of documents (25 per cent). For women, abusive working conditions (22 per cent) and deception (22 per cent) were slightly less common, and very few had their documents withheld (5 per cent). Reports of intimidation, including threats and harassment, were experienced by an equal share of both women and men (16 per cent).

⁴ By law, workers are to be paid at least the minimum wage, which was THB 9,000 per month in most provinces at the time of the survey.

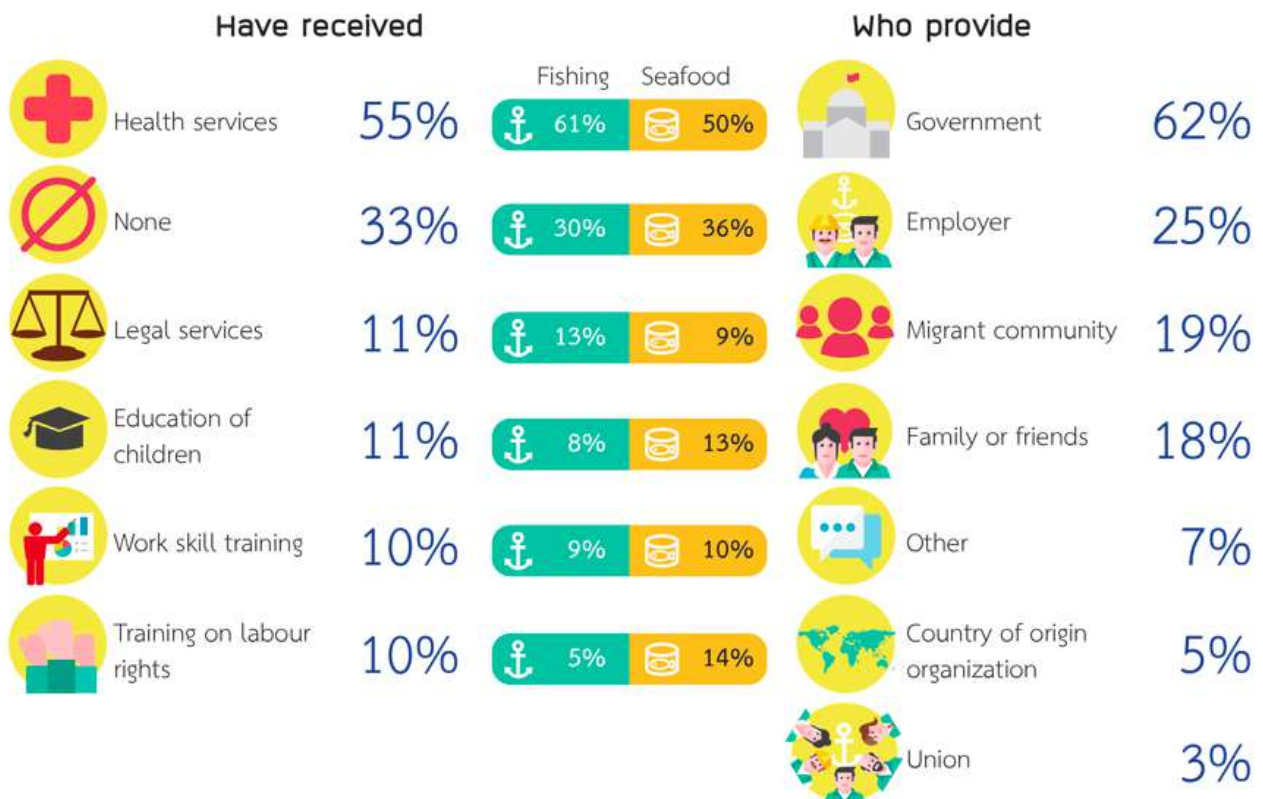
There was a significant wage disparity between men and women, with 73 per cent of men receiving the minimum wage or more, while only 48 per cent of women received the statutory minimum. In the seafood processing sector, where both men and women were employed, men were paid an average of THB 840 more than women each month.

Access to support services

As displayed in figure 5.3, two thirds of the respondents (67 per cent) said they had accessed some kind of support services – health care, legal support, education for children or training on vocational skills and labour rights. The most commonly cited service accessed was health care (55 per cent). In most cases, the support service was provided by a government provider (62 per cent), though many also received assistance directly from their employer (25 per cent) or from the migrant community (19 per cent). Key informants interviewed explained that government hospitals had limited resources and did not want to prioritize migrant workers.

Of the 57 per cent of respondents in the survey who reported that they had experienced serious labour rights abuses, only one quarter (26 per cent) sought assistance for their problem. Among those who sought assistance, informal assistance from friends and family (58 per cent) and employers (52 per cent) were the most common sources of help to resolve the problem; though it is noteworthy that a substantial portion of workers said they went to a civil society organization for support (31 per cent).

Figure 5.3: Access to support services and providers of those services for fisheries workers (n=434) (%)

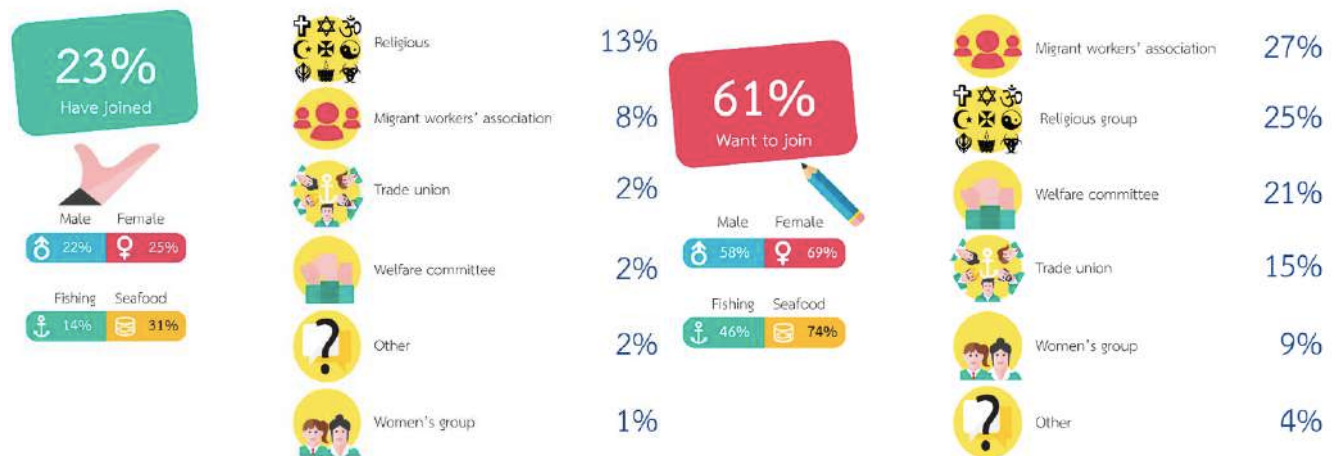


Note: More than one response was possible.

Worker organizing

Almost a quarter of survey respondents (23 per cent) were members of a union or other association (figure 5.4). Interest in joining a union or other association, however, was found to be much higher (61 per cent). The aspiration was strongest among women (69 per cent) and among respondents in the seafood processing sector (74 per cent). Membership in a religious group was the most frequent existing form of association (13 per cent), while migrant workers' associations (27 per cent) were the most commonly cited organization that migrants wanted to join.

Figure 5.4: Membership and interest in joining a union or association among fisheries workers (n=434) (%)



Note: More than one response was possible.

The Labour Protection Act allows for enterprises that have 50 or more workers to establish a “welfare committee in the workplace” through worker elections; however, these committees have a limited role. For example, committee members can only negotiate with employers on matters related to the Labour Protection Act but not on issues that fall under the Labour Relations Act, which governs collective bargaining between private sector workers and employers. Under the Labour Relations Act, migrant workers may join unions but – contrary to international labour standards – they are prohibited from forming or leading unions. The Thai Government has announced its intention to ratify the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) but has voiced reserves about the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) due to national security concerns.

Until their right to organize is formally recognized, migrant workers in the fishing sector have formed networks and associations with the technical support from trade unions. For example, in Songkla the International Transport Federation has established the Fishers' Rights Network among fishery workers. The State Enterprises Relations Confederation formed the Southern Seafood Industry Workers Group among seafood processing workers.

Forced labour indicators

The research questions in the study were not designed to produce estimates of forced labour in the fishing and seafood industry. Instead, the questions sought to determine whether there were indications of forced labour situations. Overall, the research showed that 44 per cent

of workers had not experienced any indication of forced labour abuses,⁵ while 22 per cent experienced one indicator of forced labour, and 18 per cent experienced two indicators of forced labour.

Significantly more accounts of forced labour indicators came from the fishing sector than the seafood sector. Among fishers, less than one third (29 per cent) showed no indications of forced labour in the 12 months prior to the survey. About 23 per cent of the fishers surveyed displayed one indication of forced labour, while another 23 per cent reported two indicators and 12 per cent reported three indicators.

Signs of coercion were less common in seafood processing work, where 56 per cent of respondents showed no indications of forced labour. Nevertheless, more than two out of five workers (44 per cent) had experienced one or more indicator.

Figure 5.5: Forced labour indicators reported by fisheries workers (n=434) (%)

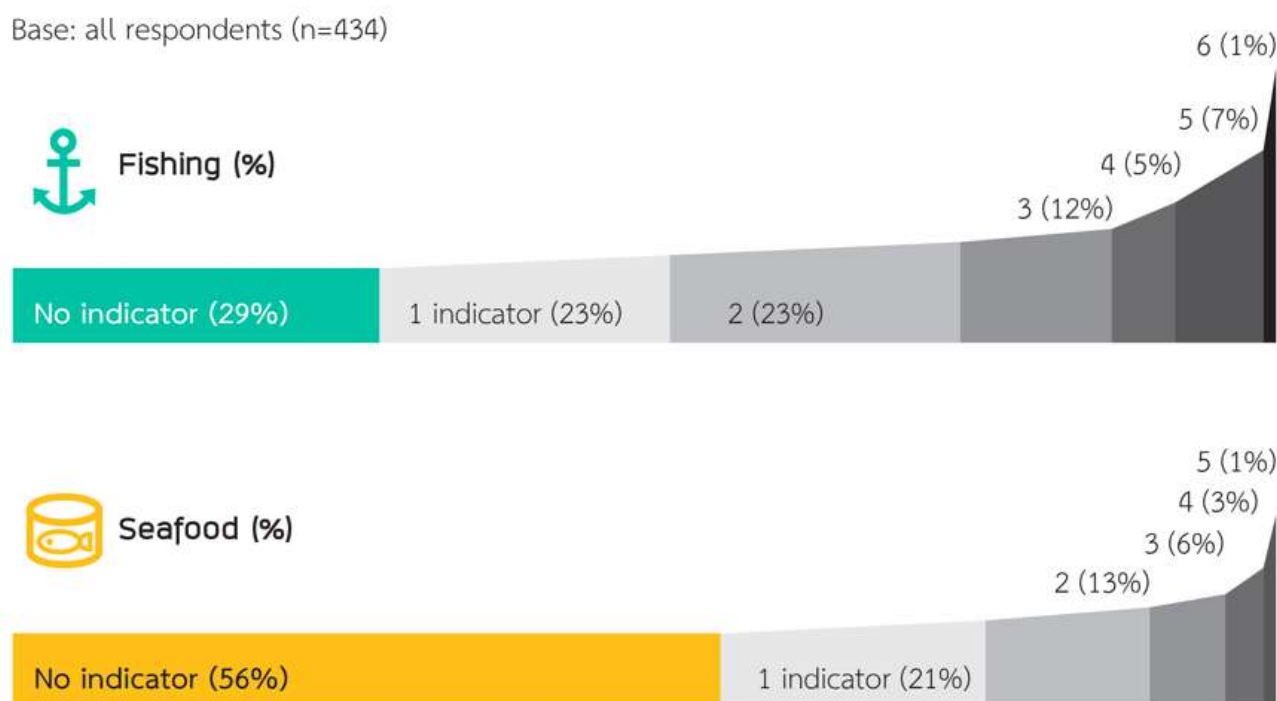


Table 5.2 reveals that the most common indicators of forced labour in seafood processing were deception during recruitment (23 per cent), abusive working conditions (22 per cent) and intimidation (15 per cent).

Deception (37 per cent) and abusive working conditions (40 per cent) were also the most common forced labour indicators found among fishers, albeit at much higher levels. Almost one quarter (24 per cent) of fishers also stated that some of their wages were withheld by the vessel owner (or by skippers or crew supervisors). As many as 30 per cent reported that they did not have access to their identity document. Intimidation or threats were recounted by 18 per cent of fishers. The survey findings revealed higher level of wage withholding, abusive working conditions and deception among Cambodian migrants than among workers from Myanmar.

⁵ The survey covered seven indicators forced labour: deception, isolation, intimidation and threats, retention of identity documents, withholding of wages, abusive working conditions and excessive overtime. The research method used in this baseline study was not designed to produce a prevalence estimate but rather focused on identifying indications of possible forced labour during the survey session.

Table 5.2: Forced labour indicators among fisheries workers by gender and sector (n=434) (%)

	Men (n=300)	Women (n=134)	Fishing (n=196)	Seafood (n=238)	Total (n=434)
Deception	33	22	37	23	30
Isolation	3	4	4	3	4
Intimidation	16	16	18	15	16
ID retained	25	5	33	7	19
Withheld wages	16	0	24	0	11
Abusive conditions	36	22	40	22	32
Excessive overtime	12	6	11	11	10
No abuse	37	60	29	61	44

Note: More than one response was possible.

Compliance with labour laws

An assessment of legal compliance was conducted based upon the experiences of workers in the fisheries sector (table 5.3). Regulations regarding the minimum working age had the highest level of compliance, with 99 per cent of respondents stating they were 18 years of age or older.

Compliance with minimum wage rules was found among 66 per cent of those surveyed. In adherence with the Royal Ordinance on the Management of Migrant Workers, 45 per cent of respondents had not paid any recruitment fees in Thailand. Regarding employment contracts, some 36 per cent of respondents stated that they had signed a contract but fewer said they had received a copy of the contract to keep. Almost half of the respondents (48 per cent) received one day off per week but only one third (34 per cent) had paid holidays. Nearly four out of five respondents (79 per cent) were enrolled in the government health insurance scheme, with slightly more fishing workers than seafood workers enrolled.

The findings illustrate that enforcement efforts need to be strengthened to deliver more consistent adherence to labour and social protection laws in both the fishing and seafood processing industries.

Table 5.3: Legal compliance by sector (n=434) (%)

Labour protection	Benchmark for compliance	Fishing (n=196)	Seafood (n=238)	Total (n=434)
Child labour	At least 18 years of age	98	99	99
Working hours	Fishing: At least 10 hours rest in 24 hours and 77 hours rest in 7 days (or not more than 14 hours of work/day).	78	-	88
	Seafood: Less than 10 hours/day and not to exceed 48 hours per week.	-	71	59
Minimum wage	THB 9,000 or more in monthly wages.	76	57	66
Recruitment fees	Did not pay any recruitment fees in Thailand.	55	43	45
Work contracts	Signed an employment contract.	43	29	36
Weekly rest days	Received one day off per week	35	59	48
Holidays	Received pay on holiday	20	45	34
Benefit schemes	Enrolled in government health insurance	89	70	79

Conclusion

Extensive international attention to forced labour and illegal fishing practices in Thailand's fisheries sector has led the Thai Government to improve legislative and regulatory frameworks and expand its efforts to identify and prosecute offenders. A raft of new measures has established higher standards for labour rights protection and fisheries management in the industry and increased inspection of fishing vessels.

However, achieving conditions of decent work for migrants in the fishing and seafood industry requires more intensive enforcement of labour standards. For example, targeted and strict application of wage protections – payment of the legal minimum wage, eliminating unfair wage deductions, providing written payslips and ensuring monthly payment of wages in full – should be a focus of collective attention in both the fishing and seafood processing sectors.

In addition, implementation of measures to eliminate illegal fishing should be enhanced to ensure that fishing operations are conducted in an entirely legitimate and environmentally sustainable manner. Further reform of industry practices is necessary, including improved regulation of fishing operations, enhanced traceability, and prevention and sanction of IUU fishing.

Recommendations

1. **Strengthen Thailand’s legal framework in line with the relevant international labour standards**, including the Protocol to the Forced Labour Convention, 2014 (No. 29), the Work in Fishing Convention, 2007 (No. 188), the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) and the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).
2. **Ensure effective enforcement of the applicable labour laws and regulations across multiple tiers of the seafood supply chain** through improving the capacity of the labour inspectorate to investigate and identify violations and apply appropriate sanctions.
3. **Establish higher industry standards for ethical and sustainable business practices** and monitor compliance in a credible and impartial manner.
4. **Enhance workers’ knowledge and access to support services through trade union and civil society organization activities**, including large-scale worker education campaigns, organizing of workers and legal support for the resolution of grievances.
5. **Raise awareness among fishing communities and among fisheries and labour authorities on the link between forced labour and IUU fishing.**
6. **Increase implementation of the Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication.**

References

Department of Employment (DOE)

2018 *Alien Workers in Thailand*. DOE, Bangkok (in Thai). Available at: https://www.doe.go.th/prd/assets/upload/files/alien_th/5f3479f4e58d958f20d607c457bc89bd.pdf.

Department of Fisheries (DOF)

2015 *Marine Fisheries Management Plan of Thailand 2015–2019*. DOF, Bangkok.

European Commission

2015 Commission Decision of 21 April 2015 on notifying a third country of the possibility of being identified as a non-cooperating third country in fighting illegal, unreported and unregulated fishing (2015/C 142/06). Available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2015.142.01.0007.01.ENG.

2018 Overview of existing procedures as regards third countries. Available at https://ec.europa.eu/fisheries/sites/fisheries/files/illegal-fishing-overview-of-existing-procedures-third-countries_en.pdf.

2019 Commission lifts “yellow card” from Thailand for its actions against illegal fishing. Available at: http://europa.eu/rapid/press-release_IP-19-61_en.htm.

European Parliament

2016 Subject: Illegal fishing and human rights abuses in Thailand. Parliamentary Questions, 1 March. Available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+WQ+E-2016-001911+0+DOC+XML+V0//EN>.

Food and Agriculture Organization of the United Nations (FAO)

- 2002 *Implementation of the International Plan of Action to Prevent, Deter, and Eliminate Illegal, Unreported and Unregulated Fishing*. FAO Technical Guidelines for Responsible Fisheries, No. 9. FAO, Rome. Available at: <http://www.fao.org/3/a-y3536e.pdf>.
- 2015a *Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries in the Context of Food Security and Poverty Eradication*. FAO, Rome. Available at: <http://www.fao.org/3/a-i4356en.pdf>.
- 2015b Report of the Thirty-first Session of the Committee on Fisheries, Rome, 9–13 June. Available at: <http://www.fao.org/3/a-i4356en.pdf>.
- 2015c *Review of Impacts of Illegal, Unreported and Unregulated Fishing on Developing Countries in Asia*. BOBLME-2015-Governance-15. Available at: <http://www.boblme.org/documentRepository/BOBLME-2015-Governance-15.pdf>.
- 2016a *State of the World Fisheries and Aquaculture 2016*. FAO, Rome.
- 2016b The global record of fishing vessels, refrigerated transport vessels and supply vessels. Brochure. FAO, Rome. Available at: <http://www.fao.org/3/i5446e/i5446E.pdf>.
- 2017 Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing. Leaflet. FAO, Rome. Available at: <http://www.fao.org/3/a-i5779e.pdf>.
- 2018a *Globefish Highlights: A Quarterly Update on World Seafood Markets*. April. FAO, Rome.
- 2018b Global capture production 1950–2016. Database. Available at: <http://www.fao.org/fishery/statistics/global-capture-production/query/en>.

Funge-Smith, S., E. Lindebo and D. Staples

2005 Asian Fisheries Today: The Production and Use of Low Value/Trash Fish from Marine Fisheries in the Asia-Pacific Region. FAO, Bangkok.

Harkins, B., D. Lindgren and T. Suravoranon

2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

International Labour Organization (ILO)

- 2013 *Employment Practices and Working Conditions in Thailand's Fishing Sector*. ILO, Bangkok.
- 2015 *Migrant and Child Labour in Thailand's Shrimp and Other Seafood Supply Chains: Labour Conditions and the Decision to Study or Work*. ILO, Bangkok.
- 2017a Gap analysis of the Work in Fishing Convention, 2007 (No. 188), and Thai national laws, regulations and other measures concerning conditions of work on board fishing vessels. ILO, Bangkok.
- 2017b Situation and gap analysis on the ILO Protocol of 2014 to the Forced Labour Convention, 1930, and the fishing and seafood processing industries in Thailand. ILO, Bangkok.
- 2018a *Ship to Shore Rights: Baseline Research Findings on Fishers and Seafood Workers in Thailand*. ILO, Bangkok.
- 2018b *Application of International Labour Standards 2018*. Report of the Committee of Experts on the Application of Conventions and Recommendations, Report III (Part A), International Labour Conference, 107th Session. ILO, Geneva. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_617065.pdf.

Ministry of Foreign Affairs (MFA)

2018 Thailand extends work permit for migrant workers in the fisheries sector. Media release, 1 September. Available at: <http://www.mfa.go.th/main/en/news3/6886/93709-Thailand-extends-work-permit-for-migrant-workers-i.html>.

Suebpa, W., R. Chuenpagdee, C. Nitithamyong and T. Yeemin

2017 Ecological impacts of fishing gears in Thailand: Knowledge and gaps. *Asian Fisheries Science*, 30: 284–305.

Supongpan, M. and P. Boonchuwong

2010 *Thailand National Report: Bycatch Management in Trawl Fisheries in the Gulf of Thailand*. Available at <http://www.rebyc-cti.org/countries-profiles> (accessed 21 December 2017)

Urbina, I.

2015 Sea slaves: The human misery that feeds pets and livestock. *The New York Times*, 27 July. Available at: https://www.nytimes.com/2015/07/27/world/outlaw-ocean-thailand-fishing-sea-slaves-pets.html?_r=0.

Vandewalle, L.

2016 Thailand in 2016: Restoring democracy or reversing it? European Parliament, Directorate-General for External Policies Policy Department, Brussels. Available at http://www.europarl.europa.eu/RegData/etudes/STUD/2016/578931/EXPO_STU%282016%29578931_EN.pdf (accessed on 15 February 2018).





CHAPTER 06

STRENGTHENING ACCESS TO SERVICES FOR MIGRANT CHILDREN IN THAILAND

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Abstract:

Migrant children in Thailand commonly find themselves in a complex and multifaceted situation of vulnerability. Thailand is a country of origin, transit and destination for large numbers of documented and undocumented migrants, displaced persons and asylum seekers. Children are part of this migration, though their movements are frequently less visible. This chapter will focus primarily on those children who accompany their parents to migrate for work or come alone seeking employment. The policy framework in Thailand continues to evolve but is characterized by two main responses to the migration of children. One area of policy concerns the Thai Government's efforts to regularize the legal status of migrant workers in Thailand, including their dependent children. The other policy stream relates to the rights of migrant children to access public services. Thailand has a progressive legal and policy environment that allows all children in Thailand, including documented and undocumented migrants, to access education, health care and child protection services. Although migrant children can legally access these services, practical obstacles persist in some cases. Key barriers include negative attitudes toward migrant children, lack of understanding of policies and procedures by officials, lack of capacity among service providers to adequately support migrant children and reservations among the migrant community about using government services.

Introduction

Migrant children in Thailand commonly find themselves in a complex and multifaceted situation of vulnerability. Thailand is a country of origin, transit and destination for large numbers of documented and undocumented migrants, displaced persons and asylum seekers. Children are part of this migration, though their movements are frequently less visible. The number of migrant children is thought to be in the hundreds of thousands (IOM, 2018).¹

This chapter will focus primarily on those children who accompany their parents to migrate for work or come alone seeking employment. Migrant workers in Thailand primarily come from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam, and their number has been estimated at approximately 3.9 million (see Chapter 1). The Thai population is ageing and sectors of the economy, such as fishing and construction, are profoundly dependent on migrant workers. More than one out of five of these migrant workers are undocumented,

¹ Calculating the number of migrant children is challenging due to the large proportion who are undocumented. IOM has estimated that there are between 300,000 and 400,000 migrant children in Thailand as of 2018.

and therefore considered to be illegal immigrants under Thai law. Another group that will be discussed is urban asylum seekers and refugees, who are also vulnerable due to their lack of legal status.

The policy framework in Thailand continues to evolve but is characterized by two main responses to the migration of children. The first concerns the Thai Government's efforts to regularize the legal status of migrant workers in Thailand, including their dependent children. This goal is grounded both in the need to better regulate labour migration as an indispensable human resource that contributes to the Thai economy, as well as in the belief that undocumented migrants pose a health and security risk to the country. The latter concern has been mainly pursued through enforcement of immigration law, under which undocumented migrants are to be detained and deported, while the former is reflected in policy through regularization procedures, such as registration amnesties and bilateral agreements with countries of origin.

Ad hoc registrations, often coupled with the threat of a subsequent law enforcement campaign against workers and employers who do not register, have been used periodically to bring into the system the population of irregular migrant workers, including child dependents. For many years, however, the Thai Government has sought to shift away from this approach toward a formal migrant worker recruitment and deployment process. MOUs between Thailand and neighbouring countries were signed in 2002–2003 (and revised in 2015–2016), as instruments to facilitate regular labour migration. Dependents are excluded from making use of this migration channel, leaving few options available for the children of migrant workers to migrate to Thailand. This can lead to child dependents entering the country without legal status, even when their parent(s) have migrated through regular channels. Due to the long periods of time that many migrants remain in Thailand, a large number of migrant children are also born within the country. Incomplete birth registration further increases the number of migrant children in Thailand without legal documentation, which can be a source of vulnerability.

The second policy stream relates to the rights of migrant children to access public services. Thailand has a progressive legal and policy environment that allows for all children, including documented and undocumented migrant children, to make use of education, health care and child protection services. Migrant children can legally access these services, though practical obstacles persist in some cases. The key barriers include negative attitudes toward migrant children, lack of understanding of policies and procedures by officials, lack of capacity among service providers to adequately support migrant children and reservations among the migrant community about using government services. The situation of migrant children in terms of access to each of these essential services is explored within this chapter.

Irregular legal status and vulnerability

In 2012, the Committee on the Rights of the Child (CRC) observed that national efforts in Thailand have been insufficient in eradicating direct and indirect discrimination towards certain groups of children. One of the groups named was migrant children, who as a result are more vulnerable to exploitation, abuse and neglect. A key factor contributing to this vulnerability is that many migrant children lack legal status in Thailand.

Irregular status is accompanied by risks of arrest, detention, fines and deportation. Even if parents hold visas and work permits in Thailand, their children may not have the same level of documentation. Employers often register only their workers, leaving the dependents of migrants undocumented. Consequently, some migrants may feel that they have to keep their children hidden as a strategy to cope with the risks but this can also have a negative impact on the well-being of their children.

Inadequate data on undocumented migrant children in Thailand also contributes to a lack of responsive service provision. According to a recent study from the International Labour Organization and International Organization for Migration (Harkins, Lindgren and Suravoranon, 2017), most migrant workers use irregular channels when migrating to Thailand. Consequently, many of these migrants (including children) are never counted in official data, and therefore effectively do not exist from a policy standpoint. Lack of accurate data makes it more difficult for the Thai Government to effectively plan and facilitate the delivery of the services needed by migrant children.

Lack of documentation for migrants and their children can at times pose practical obstacles to accessing services such as education, health care and child protection. This is in part due to fears of contacting authorities because of the possibility of a denial of services or being reported as an undocumented migrant. These concerns may not be entirely unfounded as studies have shown that in some cases migrant children are asked to show documents before enrolling in schools, even though it contravenes the policy on education for all (Harkins, 2014; World Education and Save the Children, 2014; Salmon, Thanwai and Wongsangpaiboon, 2013). In other cases, migrant children and their families may lack knowledge and information about children's rights in Thailand and how to utilize them.

Access to quality education (from pre-primary through secondary education)

Policy on access to education

The Government of Thailand has opened the country's educational system to all people, regardless of citizenship or legal status. The 2005 Cabinet Resolution on Education for Unregistered Persons provides access to education for the entire non-Thai population, including irregular migrants. The Ministry of Education Regulation on Proof of Admission of Students into Educational Institutions 2005 provides guidelines for all educational institutions to admit school-age children to study, with or without evidence of civil registration. The policy aims to ensure access to equitable and inclusive education for all children in Thailand, especially undocumented migrant and stateless children.

Under the aforementioned policy, all children are entitled to 15 years of basic education. In March/April 2018, a Ministerial Proclamation was enacted to eliminate the obstacles that prevent irregular migrant children from being enrolled. Documentation is no longer required and schools have the responsibility of admitting children and creating a 13-digit identification number for them if they do not already have one. Children are able to enrol in any public school certified by the Thai Ministry of Education and obtain an accredited certificate of education, with learning opportunities provided until tertiary level.

Schools are provided with a subsidy that ensures that the education of all students is budgeted at the same per-head amount. For the 2018 academic year, the Government of Thailand allocated THB 76.6 billion (approximately USD 2.55 billion) to the Ministry of Education for the national per-head educational budget, demonstrating its commitment to increasing access to education for all children in Thailand. This budget financed the education of 11 million students, from pre-primary to upper secondary level, studying under the auspices of the Ministry of Education. Other government agencies that provide educational services also receive per-head budgets based on the number of students enrolled.

National, regional and global commitments to education for migrant children

Thailand and United Nations agencies jointly developed the United Nations Partnership Framework (UNPAF) 2017–2021. The UNPAF prioritizes enrolment of out-of-school migrant children in Thailand, in line with United Nations Sustainable Development Goal (SDG) 4 to “ensure inclusive and equitable quality education and promote lifelong learning opportunities for all”. Inclusive education for disadvantaged children and youth is one of most important components in the UNPAF and is also espoused in the recently concluded Global Compact for Migration.

The Government of Thailand, with the support of UNESCO, UNICEF and the ASEAN Secretariat, took the lead in developing the ASEAN Declaration on Strengthening Education for Out-of-School Children and Youth. The Declaration was adopted by the Heads of State and Governments of ASEAN at the 28th ASEAN Summit in September 2016. It marks the first time that the ASEAN Member States made a joint commitment to address the needs of out-of-school children, including migrant and stateless children, in the South-East Asia region. To make education accessible to all children irrespective of their nationality and ethnicity, the ASEAN Member States have joined hands to ensure implementation of seven key principles – inclusivity, equity, accessibility, continuity, quality, flexibility and sustainability – through regional and national activities to put the Declaration into practice.

Access to education for migrant children in Thailand

Through the efforts of the Government of Thailand and NGOs, approximately 164,000 non-Thai children are enrolled in the educational system in Thailand (figure 6.1). However, it is estimated that more than 200,000 migrant children remain out of school and are not receiving any form of education. The actual number of out-of-school migrant children in the country may potentially be an underestimate due to the lack of official data on the total number of migrant children in Thailand. There are three main sources of education provided for migrant children, as follows:

- **Public schools:** Following the Basic Education Core Curriculum 2008, Thai public schools under the Office of Basic Education (OBEC) offer basic education for migrant children from primary through secondary levels. As of the 2017 Thai Academic Year, there were 145,379 non-Thai students enrolled in OBEC schools (Ministry of Education, 2017). When these students complete primary or secondary school, they will receive educational certificates and be able to continue their studies at university level. To assist public schools in the process of enrolling non-Thai students, the Ministry of Education developed the Handbook and Guideline for Providing Education for Persons without Legal Status or Thai Citizenship, which was updated in 2017. It includes guidance on admission, transfer and graduation of students (Ministry of Education, 2018a).

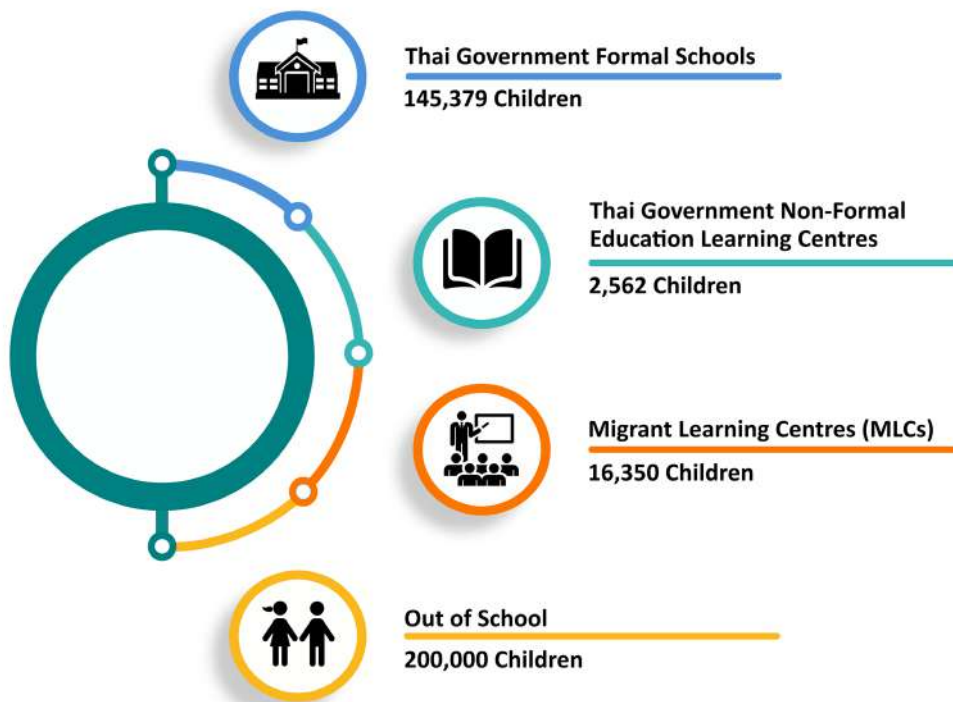
- **Non-formal education centres:** The Office of Non-Formal and Informal Education provides education to students through flexible equivalency programmes that follow the Basic Education Core Curriculum. There are 2,039 migrants above 15 years of age enrolled in primary and secondary education programmes at non-formal education centres at the provincial and district levels, as well as at community learning centres. Another 523 migrant children between the ages of 6–15 years old were also supported in their studies by the Office of Non-Formal and Informal Education (Ministry of Education, 2018b). Of these children, 360 were enrolled at 13 migrant learning centres (MLCs). These Centres are operated in collaboration with NGOs in Bangkok, Chiang Rai, Tak, Samut Sakhon and Ranong provinces. Upon completion of the programme, learners will obtain educational certificates for the equivalent of primary or secondary education.
- **Migrant learning centres (MLCs):** With assistance from NGOs, a further 16,350 migrant children are enrolled at MLCs. There are currently 110 MLCs along the Thai–Myanmar border and other provinces with high numbers of migrant workers, such as Tak, Ranong and Samut Sakhon (table 6.1). MLCs often apply their own curriculum but others do follow the basic educational curriculum of Myanmar’s Ministry of Education. As noted above, some MLCs are supported by the Thai Ministry of Education to conduct non-formal education programmes, though most are supported by NGOs and private donors.

Table 6.1: Migrant learning centres and enrolled students by province (November 2018)

Province	Migrant Learning Centres	Student Enrollment
Bangkok	3	139
Chiang Mai	2	44
Chiang Rai	4	190
Chumphon	2	72
Kanchanaburi	1	233
Pathum Thani	4	193
Phang Nga	3	300
Ranong	13	2,462
Rayong	1	50
Samut Prakan	2	47
Samut Sakhon	4	510
Tak	70	12,085
Trat	1	25
TOTAL	110	16,350

Source: Migrant Working Group and Tak Primary Educational Service Area Office 2 (2018)

Other educational institutions that provide access to education for migrant children include the Bangkok Metropolitan Administration schools for those who reside in Bangkok, and the Border Patrol Police schools that support children along the border to complete their basic education. At present, there are 204 Border Patrol Police schools nationwide, with over 26,000 matriculated students (Ministry of Education, 216).

Figure 6.1: Enrolment of migrant children in Thailand's educational system

Source: Ministry of Education and Migrant Working Group (2018)

Education challenges for migrant children

Barriers in access to education and learning achievement for migrant children in Thailand are the result of multiple interlinking factors. Importantly, the cost of education in Thailand can be unaffordable for migrant parents. The OECD calculated household education expenditure by level and school type in 2009. To attend public primary school, families spent on average THB 1,976 on tuition fees, THB 880 for school uniforms, THB 761 for books and equipment and THB 2,837 for transportation per year. These costs increase when children attend higher levels of education (OECD, 2013).

Thai public schools and community learning centres receive the same amount of per-head budget for migrant students as they do for Thai students, however, migrant children commonly need additional transportation support to travel from their villages to schools. In addition, children are in some cases required to stay in dormitories during their studies, which may present an untenable financial burden to migrant parents. There are also the opportunity costs of attending school as some migrants must have their children work rather than study due to high-levels of poverty and indebtedness.

Despite the support of the Government and NGOs to enrol migrant children in the education system, many migrant children face challenges in studying due to language differences in public schools and the quality of teaching available at MLCs. The lack of credentialled teachers and learning materials at the MLCs can contribute to low achievement in some subjects, including for Thai and Myanmar languages and mathematics. Funding for the MLCs provided by donors has been decreasing as many are shifting their support across the border from Thailand to Myanmar. This puts many migrant children at high risk of being out of school should they – or their parents – not want to transition to Thai public schools.

Another challenge is that the educational curriculum delivered through the MLCs is mostly not recognized by either the Thai or Myanmar Governments, causing barriers to matriculation at accredited schools in both countries for migrant children. Placement tests are not systematically implemented at schools to accept migrant students from Thailand and the documentation required to access Myanmar Government schools varies considerably. Head teachers can use their discretion to accept or decline access to government schools and there are both official and unofficial fees applied in some cases (Save the Children, 2015).

There have been efforts at the local level to standardize education at the MLCs through the support of both the Myanmar and Thai Governments. The Myanmar Ministry of Education has been supporting a number of MLCs in Thailand to conduct the Non-Formal Primary Education (NFPE) curriculum. Students who complete NFPE can return to Myanmar and continue to study with a certificate issued by Myanmar's Ministry of Education. For migrant students remaining in Thailand, they may be able to enrol in the non-formal education programmes supported by the Thai Ministry of Education at select MLCs.

Discriminatory attitudes and lack of understanding can also present a barrier for migrant children to access education. Despite the policy allowing all children to attend school, many Thai parents have demonstrated opposition to their children's schools allowing migrants to enrol. A recent survey conducted by UNICEF revealed that the majority of parents strongly believe that migrant children should attend MLCs rather than Thai Government schools. Only 33 per cent of Thai parents agreed that "Migrant children have the same rights as Thai children" (2017).

Access to health care

All migrant children, no matter their legal status, have the right to access health care in Thailand. Because of the need to cover the cost of care, however, medical facilities often want to see proof of ability to pay before they provide services. For many, this means that they need to be enrolled in a health insurance scheme.

At present, health coverage for migrant workers and their dependents is provided under two insurance schemes. The Social Security Scheme (SSS) is managed by the Social Security Office of the Ministry of Labour, and is open to migrants employed in the formal sector who entered Thailand through one of the bilateral MOUs or completed the nationality verification process.

The other main health scheme for migrants is the Migrant Health Insurance Scheme (MHIS) managed by the Ministry of Public Health. In 2004 and 2006, the Thai Cabinet stipulated that dependents of migrant workers could be enrolled, and a further resolution was issued in 2013 that all migrant workers and their accompanying dependents were eligible (WHO, 2014). The MHIS is therefore intended to address the gap in health insurance coverage for migrant workers who are not covered by Social Security, including regular and irregular migrant workers and their accompanying dependents (Chalernpol and Apipornchaisakul, 2016). Insurance is offered at an annual rate of THB 2,200 for adults and THB 365 for dependents per year (see chapter 7).

Challenges in accessing health care

Despite the open eligibility requirements, multiple barriers to accessing the MHIS exist. Financial and language barriers are common challenges for migrants. In addition, some parents do not see the immediate need to buy health insurance if their children are healthy and others are not aware of the insurance scheme. There have also been reports of health facilities turning away migrants due to concerns about financial losses, as they could incur costs beyond those covered by the insurance scheme and migrants may be unable to pay. As noted, some migrant parents may hesitate to register their children for insurance due to their irregular legal status and fear of being reported to immigration authorities.

Lack of flexibility for MHIS coverage is another challenge, as it may be used at only one health-care facility except in cases of emergency. Many migrant workers and their dependents are highly mobile and may only be in one location for a couple of months before travelling to their next destination or back home. Migrant workers in some sectors, such as construction, are particularly disposed to frequent relocation because of the short-term nature of their work. When construction at a site is finished, or even just their part of the build, workers may move on to a project in another location. Under these conditions, buying health insurance linked to a single health-care facility may seem a costly investment with an uncertain return. It is often not clear how easily it will be to transfer their coverage to another hospital.

Access to child protection services

Thailand continues to strengthen its child protection system to address violence, exploitation, abuse and neglect for all children in the country. During research on the child protection system, respondents from Government agencies and NGOs noted that migrant children are often particularly vulnerable to these threats because of their disadvantaged legal, economic and social status in Thailand (Yarrow et al., 2018).

Migrant children are protected under the 2003 Child Protection Act, which defines a child as “a person below 18 years of age, but does not include those who have attained majority through marriage”. This definition does not differentiate based on the nationality or legal status of children, and the Act states that treatment of cases “shall give primary importance to the best interest of the child and any discrimination of an unfair nature shall not be allowed”.

The National Child Protection Committee, an inter-ministerial body established by the Child Protection Act and chaired by the Minister of Social Development and Human Security, leads development of national child protection strategy. Much of the child protection system is managed by the Ministry of Social Development and Human Security (MSDHS) through its Child and Family Shelters and provincial offices. However, Provincial Police Departments, Education Departments, Welfare Homes, Public Health Offices, Observation and Protection Centres and individual competent officials also have a legal mandate to protect children and perform related statutory duties.

At the operational level in provinces, districts and sub-districts, the child protection system aims to detect, refer, provide service and monitor child protection cases. Some of the main government child protection services are:

- **Sub-district personnel monitor the situation of children** in their villages, with responses sometimes coordinated through a child protection committee. In theory, these monitoring, case management and referral services should cover migrant populations in the community; though it is not clear the extent to which this happens in practice and what challenges local government personnel may face in this regard.
- **The “1300 hotline”** is a 24-hour hotline service operated by MSDHS that serves all groups of vulnerable persons facing social problems. The service refers those who call-in to the appropriate service provider, including for emergency response.
- **One Stop Crisis Centres** are units located within hospitals across the country and have a key role to play in aiding children who are victims of abuse. Hospital staff can refer a child to a One Stop Crisis Centre when they suspect the child has been subjected to violence. The Centre will then investigate and provide care to the child through a multi-disciplinary approach.
- **Temporary shelters for children and families** are located in every province and provide up to three months of shelter services. Operated by MSDHS, the shelters primarily support women and child survivors of violence, sexual abuse, neglect and exploitation, as well as orphans and women with unwanted pregnancies.
- **Longer-term alternative care for children** who cannot stay with their immediate family is available in many locations. This can be in the form of kinship care, foster homes and institutional/residential care.
- **Various centres provide education and skill development programmes** for Thai nationals and migrants from neighbouring countries who are victims of human trafficking.

NGOs and community-based organizations also play a significant role in the various work streams on child protection. For example, boarding homes have been established along the Thai–Myanmar border to provide care for abandoned, orphaned or abused migrant children. Some also provide care for children whose parents work in another part of Thailand. Still others serve as dormitories for migrant schools. Standards of living and care, however, vary among these institutions, such that not all meet the standards required by the government for institutional care facilities. Other NGOs play a role in linking migrant children to the government child protection system, though more needs to be done to strengthen these links in order to secure the best possible results for the children involved.

Migrant access to child protection services

Anecdotal evidence suggests that migrant children are accessing the services listed in the section above. Cases involving migrant children have been detected by community workers, referred to shelters and One Stop Crisis Centres, and addressed by provincial multi-disciplinary teams. Some administrative data is available regarding the number of migrant cases served. For example, the government-run provincial shelters for children and families (emergency shelters) reported that over 1,200 cases involving migrant children were managed in 2017, across a range of child protection threats (table 6.2).

Table 6.2: Migrant child protection cases addressed by provincial shelters in 2017

Subject	Migrant Children
Runaway/living on street	17
Caretakers lack capacity to care for child	112
Physical abuse	12
Sexual abuse	35
Mental/emotional abuse	0
Unwanted pregnancy	10
Behaviour problem/drug abuse	31
Car racing/inappropriate entertainment facility	9
Problem with caretaker	160
Domestic violence	14
Human trafficking	60
Lack of accommodation	85
Economic problem/poverty	368
Physical/psychological problem	21
Illegal entry	224
TOTAL	1,212

Source: Ministry of Social Development and Human Security (2018)

While additional data is needed to assess the situation, discussions with social workers indicate that the child protection system's coverage of migrant children remains constrained by a number of factors. Language barriers pose a substantial challenge, complicating the response to cases that the system does address and limiting migrant awareness of the existing services. Skills in migrant languages are needed for receiving reports and for case management, including for essential services such as counselling. The system to support human trafficking survivors has put into place some translation resources but the child protection system in general, including the 1300 hotline, does not yet have the ability to provide services in the main migrant languages, especially Myanmar and Khmer.

As a general issue, the capacity of the child protection system, particularly at the provincial level, is under strain. Shelters and residential care facilities are often full; such that migrant children who require alternative care options are reportedly sometimes referred to private residential care homes.

Perhaps an even greater concern is the space where child protection exists in relation to criminal law. The need to access protection services is frequently linked to criminal offenses against children, such as violence, exploitation, abuse or human trafficking. Yet the reporting of such crimes is always a challenge given that abuse is most often connected to an imbalance of power. Migrants may be hesitant to file reports because offenders may be their employers or prominent individuals in their communities. Filing a report with the authorities is even more of a challenge

for irregular migrants. Accessing child protection services requires extensive contact with the criminal justice system, which may serve as a deterrent to those who are undocumented and face the possibility of detention and deportation.

Alternative care for children is a necessity in a well-functioning child protection system. At times, a child, for their own protection or care, must either temporarily or permanently be removed from their family and placed in an alternative care setting. The types of alternative care provided include kinship care, foster homes, adoption, institutional/residential care (such as orphanages), boarding houses and boarding schools.

In Thailand, these care arrangements are delivered to migrant children by a range of public and private providers, though most institutions for the care of migrant children are privately run. While clear guidelines and standards of care exist for government institutions, the system for registration and monitoring of private institutions does not yet function effectively. Boarding houses along the Thai–Myanmar border have historically operated independently from the Thai Government’s regulatory system. The Department of Children and Youth is currently working to better understand the situation of children in these institutions and to ensure that the houses meet minimum standards for care through strengthened oversight and support.

Access to birth registration

Every child has the right to a name, an identity and a registration at birth. A birth certificate is the first legal recognition of a child and is the most important document for providing proof of a child’s nationality. Without a birth certificate, a child can be denied the right to subsidized health care and social services or face restrictions on travel that limit their educational and employment opportunities. Unregistered children are also more vulnerable to abuse, trafficking and exploitation, as their legal status makes it more difficult for them to file complaints or access related support services.

The right to birth registration is established under Thai law, which provides that any child born in Thailand, including to non-Thai parents or parents who have no legal status, has the right to be registered and obtain a birth certificate. Thailand has nearly achieved the SDG target of 100 per cent coverage of birth registration for Thai children (UNICEF, 2016). However, a recent study by Mahidol Migration Center found a substantial gap remaining for migrant children, with more than one out of five not receiving a birth certificate (Chamchan, 2017).

The study identified a range of challenges to registering the birth of migrant children in Thailand. Language barriers continue to present a challenge; though increasingly, especially in areas with a high number of migrants, hospitals employ translators. Parents may also not understand that the full process for registration requires two steps: (1) a delivery certificate must be secured from the hospital or, if the birth was home-based, from community authorities; and (2) the document must be brought to the appropriate government office to secure a legal birth registration. Some parents do not realize that the delivery certificate does not complete the birth registration process and others are reluctant to go to another government office if they are undocumented (Chamchan, Apipornchaisakul and Thianlai, 2017).

In other cases, migrant parents do not see the value of birth registration if they plan to return

to their home country (Chamchan, Apipornchaisakul and Thianlai, 2017). However, the absence of a birth registration may create challenges for migrant children when returning home to their parent's country of origin. Even with birth registration, it is unclear how successful migrants are in using Thai birth registration documents in their home countries to register their children and claim citizenship for them.

Several NGOs and international organizations have been working to increase birth registration rates for migrant children. For example, World Vision and the Committee for Protection and Promotion of Child Rights (Myanmar) have implemented projects to inform parents of their legal right to register the birth of their child and support them to navigate the process (Thongpaiwan, 2016). In 2016, IOM supported the establishment of a Legal Clinic in Mae Sot General Hospital to assist migrant parents with registering the births of their children and obtaining birth certificates. The Clinic continues to work directly with migrant communities in Tak province to disseminate information on the importance of birth registration and support them in accessing the Mae Sot district and municipality offices to register the births of their children.

Children in immigration detention

Detention is a risk all irregular migrants face in Thailand. However, detention can have especially negative physical, psychological and developmental impacts on children. Recognizing it as a harmful practice, the Member States of the United Nations committed to work towards ending child immigration detention as part of the New York Declaration in September 2016. The Declaration states:

“Furthermore, recognizing that detention for the purposes of determining migration status is seldom, if ever, in the best interest of the child, we will use it only as a measure of last resort, in the least restrictive setting, for the shortest possible period of time, under conditions that respect their human rights and in a manner that takes into account, as a primary consideration, the best interest of the child, and we will work towards the ending of this practice” (United Nations General Assembly, 2016).

In September 2017, the Committee on the Rights of the Child (CRC) and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW) adopted the Joint General Comment on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return. On the issue of detention of migrant children, it states:

“Both Committees have repeatedly affirmed that children should never be detained for reasons related to their or their parents’ migration status and States should expeditiously and completely cease or eradicate the immigration detention of children. Any kind of child immigration detention should be forbidden by law and such prohibition should be fully implemented in practice” (CRC and CMW, 2017).

In Thailand, immigration detention is not considered a penal sanction and is instead treated as an administrative procedure. Migrants must stay at an immigration detention centre during the processing of an immigration order. Those migrants from neighbouring countries have an expedited process through which they are typically held for a few days to a week before they are bussed to the border and deported.

Conditions in police lock ups and provincial immigration detention centres are reportedly extremely poor and pose numerous health and psychosocial risks to children (Human Rights Watch, 2014). The situation is exacerbated when those persons detained cannot be immediately deported. This has been a long-term problem in Thailand, particularly for persons who are seeking asylum.

Asylum seekers, including children, often remain in immigration detention centres until their case is resolved. Even if they are recognized as legitimate asylum seekers, they frequently must stay in detention until they are resettled to a third country. If their case is rejected, however, they will continue to be detained during any appeal or, absent an appeal, until they can be deported to their home country – which requires the acceptance and support of that country.

This situation has resulted in children being detained by themselves or with family members for years in facilities that were not intended to be used to house people for prolonged periods of time, especially children (Human Rights Watch, 2014). The cells are squalid and overcrowded, without even sufficient space for detainees to lie down and sleep. Depending on their gender, children may be separated from their parents and siblings. For example, boys can stay with their mothers until they reach puberty and then are placed in the cell for men, even if they have no other male family members there. Children in immigration detention centres do not have access to public education or appropriate health care.

Changing policy: Ending immigration detention of children

During the Refugee Summit in the United States in September 2016, Prime Minister Prayut Chan-o-cha stated that he was committed to ending immigration detention of children in Thailand, a point that was reiterated by the Thai Government during discussions for Thailand’s Universal Periodic Review in the Human Rights Council (UNHCR, 2016; OHCHR, 2017).

Ad hoc arrangements to release a few unaccompanied children from immigration detention were made in 2017. Toward the end of the year, however, an inter-ministerial process with input from civil society and the United Nations (IOM, UNHCR and UNICEF) was initiated to develop an MOU and standard procedures for release of children from immigration detention.² The procedures would ensure that children are released with their mothers if detained together and deliberations continue on whether fathers would also be eligible for release.

Children who are released would be cared for in several different alternative care settings based on a best interest determination. Those children released with an adult might be placed in institutional care; though it remains unclear what conditions would apply in these settings. However, once children reach the age of 18, they and their parents would need to return to immigration detention.

Though the MOU and standard operating procedures have not yet been finalized, the Government has begun to release some children and families. In September 2018, all families who had been held in a detention centre in Sadao in Songkhla province were released to the care of

² The MOU will be entitled “Memorandum of Understanding on Determining Standards and Alternatives to Detention for Children in Immigration Detention Centres”. It will be signed by seven government agencies: Ministry of Foreign Affairs, Ministry of Social Development and Human Security, Ministry of Interior, Ministry of Public Health, Ministry of Education, Ministry of Labour and the Royal Thai Police.

community-based organizations in southern Thailand. During a visit of UNICEF's Executive Director to Thailand in October 2018, the Thai Government agreed that UNICEF should continue to support the Government to finalize and implement the MOU. It is currently expected that the MOU will be signed in January 2019.

In November 2018, the Immigration Bureau took further steps to remove mothers and children from Bangkok's Immigration Detention Centre, ahead of the finalization and signature of the inter-ministerial MOU on alternatives to detention for children. A total of 74 children and 43 mothers were temporarily relocated to an Immigration Reception Centre in Don Mueang for processing before being released on bail or placed in institutional care. On 6 December 2018, 102 of these individuals (24 mothers and 78 children, including 2 new born babies) were placed across nine different shelters operated by the MSDHS, while the remainder were released on bail or returned to their countries of origin.

A total of 27 children still remain in the Bangkok and Sadao Immigration Detention Centres, though authorities have indicated that in 2019 a new reception facility designed specifically to accommodate mothers and children in detention will become operational in Bangkok.

Conclusion

Thailand has developed a progressive policy and legislative framework to provide access to education, health care and child protection services for migrant children. Regardless of their legal status in Thailand, migrant children are entitled to such public benefits as birth registration, 15 years of basic education, enrolment in the migrant health insurance scheme and shelter and case management by children protection service providers. Important progress has also been made in ending the immigration detention of children, with an inter-ministerial MOU and standard operation procedures to be finalized shortly and alternative care facilities being established.

Although they are provided with a broad range of entitlements under Thai law, many migrant children continue to experience significant obstacles to their use in practice. Common challenges include language barriers, negative attitudes and/or misunderstandings of policy towards migrant children among officials, lack of service provider capacity to deliver effective services to migrant children and reluctance to make use of government services among the migrant community, particularly for those with irregular legal status. Insufficient access to these essential services – as well as their frequently disadvantaged legal, economic and social status – can increase the vulnerability of migrant children to violence, exploitation, abuse and neglect.

Thailand has demonstrated a substantial commitment to ensuring that migrant children born in or migrating to the country are able to grow up in an environment that fully protects their rights and provides for their developmental needs. Addressing the gaps remaining in effective service delivery to migrant children would further establish the country's leadership in providing equitable and inclusive access to public services for all children in Thailand.

Recommendations

Access to services

1. Maintain access to quality education, health care and child protection for all children in Thailand, including undocumented migrant children.

Access to quality education

2. Develop a comprehensive management information system to identify out of school children, keep records of migrant students, and track their mobility and transfer between schools when their families relocate.
3. Improve the capacity of Thai school teachers to communicate and provide appropriate learning approaches for migrant children to prevent them from dropping out. Enhance the knowledge and skills of Thai school principals in implementing education policy related to migrant children and provide additional resources at the school level to support learning of children who do not speak Thai as their first language.
4. Strengthen the capacity of MLCs by enhancing the teaching and management skills of migrant teachers and MLC managers. Establish standardized and accredited education curriculums at the MLCs so that migrant children are able to continue their education in Thailand or their home countries.
5. Enhance mutual recognition of education credentials in Thailand and Myanmar, as well as other neighbouring countries, to support the educational transition of migrant children.

Access to health care

6. Explore alternative ways to implement and promote health care and disease control for migrants through:
 - (a) Integrating the Migrant Health Insurance Scheme with the schemes for Thai nationals to improve budget management.
 - (b) Exploring the potential of alternative private health-care schemes that cater to migrants needs.
 - (c) Promoting cross-border health insurance schemes
 - (d) Supporting and fostering public–private partnership with NGOs and community-based organizations to provide basic medical care and case referrals.

Access to child protection

7. Increase coverage of migrant children through a review of the child protection system's performance in providing them with services. Introduce the issue of protectn for migrant children to the agenda of the National Child Protection Committee and its sub-committees.

8. Develop supplemental inter-ministerial and ministerial guidelines and procedures for the protection of migrant children that can be annexed to existing guidance (such as the child protection manual) to institutionalize protection of migrant children in the government system.
9. Strengthen public–private links between government and private/community-based child protection services to enhance quality of care for migrant children.

Access to birth registration

10. Raise awareness on the availability of birth registration among the migrant community, including the steps necessary to register births at hospitals and district offices.
11. Develop agreements bilaterally or at regional level within ASEAN on the recognition of birth registration, including as part of the documentation for legal family registrations in the country of the child’s parent(s) and citizenship applications.

Ending immigration detention of children

12. Conclude the preparation and dissemination of government guidance and standard operating procedures for the removal of children from immigration detention with their parents and prevention of future detention, emphasizing the best interest of the child and family unity.

References

Chamchan, C.

2017 Access to rights of migrant children in Thailand: The importance of social integration and roles of civil society. Presentation to the International Symposium on Children of Migration: Child Migrants, Bangkok. Department of Fisheries (DOF)

Chamchan, C. and K. Apipornchaisakul

2016 Health security for cross-border migrants in Thailand: Where have we been? In: *Thailand in the Era of Transnational Migration*. Mahidol University, Nakhon Pathom.

Chamchan, C., K. Apipornchaisakul and K. Thianlai

2017 *A Baseline Survey Report: Empowering Civil Society Organizations for the Protection of Migrant Children (ECPMC Project)*. Institute for Population and Social Research, Nakhon Pathom.

Committee on the Rights of the Child and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CRC and CMW)

2017 Joint general comment No. 4 on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return.

Harkins, B.

2014 Social protection for migrant workers in Thailand. In: *Thailand Migration Report 2014* (J.W. Huguet, ed.). United Nations Thematic Working Group on Migration in Thailand, Bangkok, p. 27.

Harkins, B., D. Lindgren and T. Suravoranon

2017 Risks and Rewards: *Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

Human Rights Watch

2014 Two Years with No Moon: *Immigration Detention of Children in Thailand*. Human Rights Watch, New York.

International Organization for Migration (IOM)

2018 Assistance to migrant children. Leaflet. IOM, Bangkok. Available at: <https://thailand.iom.int/sites/default/files/Infosheets/IOM%20Infosheet%20-%20Assistance%20to%20Migrant%20Children.pdf>.

Ministry of Education

2016 Educational statistics. Bangkok.

2017 Education statistics. Available at: http://www.bopp-obec.info/home/?page_id=26188.

2018a *Handbook and Guideline for Providing Education for Persons without Legal Status or Thai Citizenship*. Ministry of Education, Bangkok (in Thai). Available at: <http://www.moe.go.th/moe/upload/news20/FileUpload/50931-4205.pdf>.

2018b MIS dashboard. Database (in Thai).

Office of the United Nations High Commissioner for Human Rights (OHCHR)

2017 Human Rights Committee considers the report of Thailand, 14 March. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21377&LangID=E>.

Organisation for Economic Co-operation and Development (OECD)

2013 *Structural Policy Challenges for Southeast Asian Countries*. OECD, Paris.

Salmon, A., S. Thanwai and H. Wongsangpaiboon

2013 *In School, In Society: Early Childhood Development in Myanmar Migrant Communities in Thailand*. VSO Thailand, Bangkok.

Save the Children

2015 *Beyond Access: Refugee Students' Experiences of Myanmar State Education*. Save the Children, Bangkok.

Sovuthy, K.

2018 Thousands of illegal migrant workers deported from Thailand. *Khmer Times*, 13 July.

Thongpaiwan, T.

2016 EU funds project for registering migrant children in three provinces. *The Nation*, 19 August. Available at: <http://www.nationmultimedia.com/national/EU-funds-project-for-registering-migrant-children--30293289.html>.

United Nations General Assembly

2016 Resolution adopted by the General Assembly on 19 September 2016: New York Declaration for Refugees and Migrants.

United Nations High Commissioner for Refugees (UNHCR)

2016 UNHCR welcomes Thailand's pledges towards a new refugee screening mechanism, 26 September. Available at: https://www.unhcr.or.th/en/news/UNHCR_welcomes_Thaipledges.

United Nations Children’s Fund (UNICEF)

2016 Thailand MICS: Multiple Indicator Cluster Survey 2015–2016: Final Report. UNICEF, Bangkok.

2017 Knowledge, Attitudes and Practices Survey. UNICEF, Bangkok.

World Education and Save the Children

2014 *Pathways to a Better Future: A Review of Education for Migrant Children in Thailand.*

World Education and Save the Children, Bangkok.

World Health Organization (WHO)

2014 *From Burden to Challenges: A Decade of Learning and Development: Review of Client-Friendly Health Services for Cross-border Migrant in Thailand, 2004–2014.* WHO, Nonthaburi.

Yarrow, E., K. Apland, L. Wroe and C. Hamilton

2018 *Quantitative and Qualitative Baseline Assessment of Specific Indicators Related to the Thailand Child Protection System.* UNICEF, Bangkok.





Abstract:

Universal Health Coverage (UHC) means that people and communities receive effective, quality health care without being exposed to financial hardship. It is a significant target of the Sustainable Development Goals. Thailand achieved UHC for all its citizens in 2002; since then, progress has been made in extending UHC to migrants, including those who are working and their dependents. This is important, not only because health is a fundamental human right but because a healthy migrant workforce contributes to Thailand's economic development. Two health insurance schemes are available for migrant workers: The Social Security Scheme (SSS), which targets documented migrants working in the formal sector, and the Migrant Health Insurance Scheme (MHIS), targeting all other migrants – documented or otherwise – not covered by the SSS. Through these two schemes, an increasing number of migrants (1.97 million) are assured of quality health services and financial protection from the consequences of ill health. Even so, a substantial portion of migrants are not enrolled in either of these schemes, representing an estimated 36 per cent of documented migrants and 49 per cent if all eligible migrants are considered. Continuing to pursue migrant-friendly health services, establishing better health information systems to understand migrant health, harmonizing existing systems to make benefits more attractive to migrant workers, and pursuing 100 per cent enrollment in the health schemes, will ensure that the goal of UHC for all persons living on Thai soil is realized.

Introduction

Ensuring that all people can access the quality health services they need without financial hardship is a key to improving population well-being. This concept, known as Universal Health Coverage (UHC), has been described by Margaret Chan, the former Director-General of the World Health Organization (WHO) as “the single most powerful concept that public health has to offer” (Chan, 2012). It is an investment in human capital and a fundamental driver of inclusive and sustainable economic growth. There is global consensus that affordable, quality health care is critical to sustainable development. In September 2015, Thailand joined 193 countries at the United Nations General Assembly to adopt UHC as a target of the Post-2015 Sustainable Development Goals (SDGs) for 2030.

There are over 258 million migrants globally – 3 per cent of the world's population (UNDESA, 2017). In the context of the SDGs and the Global Compact for Migration, states are responsible for providing quality health services at an affordable cost to all populations living within their borders – citizen and non-citizen alike. The right to health of migrant populations is recognized, and the clear linkages between health and human rights have been well described (IOM, 2013). In 2017, the World Health Assembly – the governing body of the WHO – endorsed a

Resolution Promoting the Health of Refugees and Migrants. This resolution was co-sponsored by Thailand.

Thailand is recognized globally for achieving UHC for its citizens. While committed to the concept of universality, the Royal Thai Government has faced challenges in providing affordable and high-quality health services to all migrants living and working in Thailand.

Universal Health Coverage in Thailand

Thailand's 30-year journey towards UHC has been well documented (Thaiprayoon and Wibulpolprasert, 2017; Tangcharoensathien, Witthayapipopsakul and Panichkriangkrai, 2018). The country achieved UHC for its citizens when its GDP per capita was less than USD 2,000 by developing rural health-care infrastructure and the health workforce, and building up national capacity for policy research, support from social movements and long-term political commitment. In 2002, Thailand passed the National Health Security Act, creating the Universal Coverage Scheme (UCS) and ensuring that 18.9 million uninsured people were subsequently covered (Kantayaporn and Mallik, 2013). The scheme's benefit package includes health promotion, disease prevention, treatment and care services. A few high-cost services – in particular, anti-retroviral treatment and renal replacement therapy – were introduced in 2003 and 2006 respectively (Tangcharoensathien et al., 2013).

The UCS is one of three insurance mechanisms contributing to UHC in Thailand. The characteristics of each are shown in table 7.1. Each is managed by a different government entity and varies in the extent of benefits provided. All three schemes protect their beneficiaries against catastrophic health expenditures.

Table 7.1: Characteristics of the three main health insurance mechanisms in Thailand

	Civil Servant Medical Benefit Scheme (CSMBS)	Social Security Scheme (SSS)	Universal Coverage Scheme (UCS)
Population coverage	4 Million (6.25%)	12 Million (18.75%)	48 Million (75%)
Beneficiaries	Civil servants and their spouses / immediate relatives	Employees in private and public sectors	Persons not covered by the CSMBS and SSS
Source of finance	General tax revenue	Tripartite: 5% of payroll each from employer and employee; 2.75% from government	General tax revenue (THB 3,344 /capita)
Financial supporters	Comptroller General's Department, Ministry of Finance	Social Security Office, Ministry of Labour	National Health Security Office (independent public agency)

UHC has been successful in Thailand. Between the three health insurance schemes, less than 0.1 per cent of Thais were uninsured in 2015, and they are estimated to have alleviated poverty for at least one million Thais (Thaiprayoon and Wibulpolprasert, 2017). An important challenge remaining is to extend these same benefits to non-Thai citizens.

Background on migration in Thailand

There are an estimated 4.9 million non-Thais living in Thailand. This figure includes 3.2 million foreign workers who are registered for a work permit with the Department of Employment (see Chapter 1). Ninety-six per cent of these workers are from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam (CLMV) and are employed in low-skilled jobs. Skilled and/or professional workers represent the remaining 4 per cent of migrants. This group generally has international health and social insurance packages that cover their basic needs.

Migrants can become “undocumented” for a range of different reasons, including crossing the border without valid travel documents, overstaying their visas or being born in Thailand without registering for a valid birth certificate (Suphanchaimat, Putthasri and Prakongsai, 2017). Between 1992 and 2012, the Thai Cabinet approved over 20 resolutions permitting certain groups of undocumented workers to remain in Thailand under certain conditions (Suphanchaimat, Putthasri and Prakongsai, 2017). Since 2009, however, it has been required that undocumented migrants complete a nationality verification (NV) process to obtain a temporary passport/ certificate of identity and work permit (Natali, Mcdougall and Stubbington, 2014).

Migrant health and supporting policy initiatives

Health data suggests that the overall health profile for migrants is similar to that of the general Thai population (Burkholder and Mounsookjareoun, 2014). Unfortunately, routine disease surveillance systems, and other systems that capture health information in Thailand, do not provide reliable data to support effective policy formulation on migrant populations. Tuberculosis (TB), HIV/AIDS, malaria and vaccine-preventable diseases are of most concern to Thai public health authorities because of the potential spread to the larger population but also because of Thailand's global commitments to control, eliminate or eradicate these diseases. Little is known about the incidence of non-communicable diseases in migrant populations, though they are the leading cause of death among Thais. In general, epidemiologic data about both communicable and non-communicable diseases may be under-reported for migrants due to low access to services. There is no systematic use of data to monitor migrant health status and trends in Thailand, making disease-specific policy formulation difficult.

Policy concerning health service provision for migrants has varied over the last several decades (Chamchan and Apipornchaisakul, 2017). This may reflect the Thai Government's challenges in balancing national security, economic and health protection concerns. The initiatives implemented have met with differing degrees of success. Developing and implementing migrant health policy is the responsibility of the Ministry of Public Health (Policy and Strategy Division, Health Administration Division, and Health Economics and Health Security Division). The underlying vision and resulting trend has been to expand UHC for migrant workers and their dependents in Thailand.

In 2017, the Government endorsed a 20-Year Master Plan for Integration of Health Insurance Systems Development (2018–2037), developed by the Committee for Consideration of Strategic Integration of Budget Planning chaired by the Deputy Prime Minister. The Plan aims to harmonize the three main public health insurance systems (table 7.1) to promote equity, quality, efficiency

and sustainability; and to ensure that everyone living on Thai soil has access to UHC. The Plan also includes a roadmap for a compulsory health insurance system for migrants and stateless people to be achieved by 2021. Implementing the Plan will provide an opportunity for the Ministry of Public Health (MOPH) to involve other Ministries in fully addressing the health needs of migrants.

In addition, Thailand has also developed three policy papers addressing the health needs of migrants, border populations and people living in special economic zones, respectively. The plans share a similar strategic focus: (1) emphasizing primary health care and community participation; (2) improving the quality of health services for border and migrant populations; (3) strengthening disease prevention and control systems; (4) improving information management and resource mobilization; (5) increasing health service coverage through improved health insurance coverage among migrants; and (6) developing coherent policies across sectors.

Migrant health issues are also one of six priorities in Thailand's Country Cooperation Strategy 2017–2021 with the WHO. This collaboration provides a platform for WHO, MOPH and other stakeholders in civil society and academia to work together in support of migrant health policy development.

At the regional level, Thailand signed the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers on 14 November 2017. Although the ASEAN Consensus is not legally binding and focuses on the rights of documented migrant workers, it reflects progress on strengthening social protection and access to health services for migrant workers circulating within the ASEAN region. The consensus clarifies the fundamental and specific rights of migrant workers and the obligations of sending and receiving countries in protecting them (ASEAN, 2018)

Health financing for migrants

Migrants in Thailand are eligible to enroll in either the Social Security Scheme (SSS) managed by the Ministry of Labour or the Migrant Health Insurance Scheme (MHIS) managed by the Health Economics and Health Security Division of the MOPH.

The MHIS was introduced in 1999, targeting migrant workers from Cambodia, the Lao People's Democratic Republic and Myanmar. Those who are not eligible for coverage in other schemes, such as the SSS, must enroll. The scheme is compulsory for migrant workers, though not for their dependents. Beneficiaries pay an annual premium to receive a comprehensive set of benefits. The MHIS operates under an annual Cabinet approval document called Measures and Guidelines for Health Exams and Health Insurance for Foreign Workers, through which the extent of coverage of adult dependents is decided on a yearly basis (MOPH, 2018). Migrants enrolling in MHIS receive an annual health screening examination for certain communicable diseases, including TB, syphilis, leprosy and filariasis. The benefit health package is similar to that of the UCS for Thai nationals but excludes some benefits such as renal replacement therapy.

The source of financing for MHIS is different from the health insurance schemes provided for Thais, as migrants are required to pay an annual enrollment fee to help defer the costs. The cost of MHIS for an adult is THB 500 (approximately USD 16) for the health examination and THB 1,600 (USD 50) for a one-year premium. Children under seven require only an assessment of their growth/development at no cost, and payment of THB 365 (USD 11) for an annual premium.

The Social Security Scheme was established in 1990 and is governed by its own Act. Originally developed to serve Thai workers, the SSS is open to regular migrant workers employed in the formal sector. Employers and workers each contribute 5 per cent of the worker's salary, and the Government contributes an amount equivalent to 2.75 per cent. Regular migrants are required to enroll in the SSS. However, migrant workers engaged in the informal sector (for example, domestic workers, fishers and agricultural workers with contracts of less than one year) are not eligible to join the SSS. Analysis of data suggests that one third of regular migrant workers are employed in the informal work sector, and thus do not qualify to enroll in the SSS.

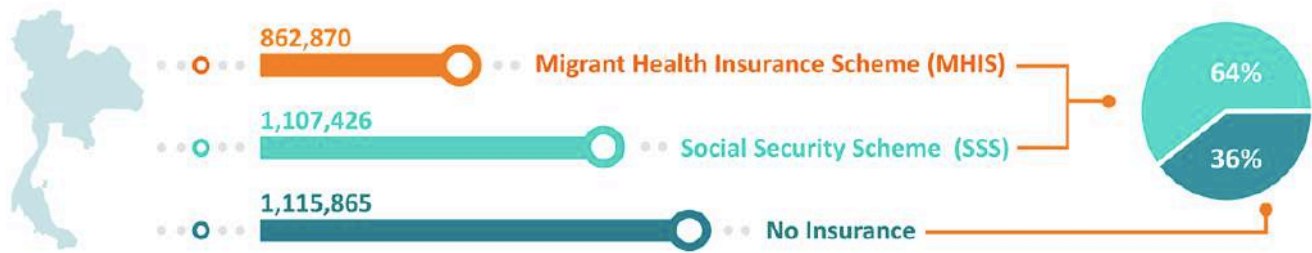
In principle, migrant workers in the SSS have the same access as Thai citizens to all of the scheme's benefits; beyond health services, these benefits include maternity, disability, death, children's allowances, pension and unemployment.

Efforts to protect migrants from catastrophic health expenditures have evolved in Thailand. Before 2013, access to SSS or MHIS depended on whether migrants were legally documented or employed. Undocumented migrants, their dependents and any documented migrant worker in the formal sector not registered with the SSS were not insured and faced the possibility of catastrophic payments for health services. Financing for migrant health services was mostly out-of-pocket rather than through a pre-paid, pooled mechanism – creating a significant financial burden for service providers.

In 2013, the MHIS was expanded to cover all migrant workers not covered by the SSS, regardless of their legal or employment status. This initiative met with limited success – some considered the premium to be too expensive, and the services not “migrant friendly”. Some users were not confident they could access services and others reported negative experiences with the health system (Chamchan and Apipornchaisakul, 2017).

As of 2011, less than 9 per cent of regular migrant workers in Thailand benefited from the SSS. Since then, the number of migrant workers enrolled in SSS has gradually increased. The government's “One Stop Service Centre” policy, which allows migrants to register at over 80 centres across Thailand has contributed to this. The policy allows migrants to more easily obtain legal documentation and health insurance, both for themselves and their dependents.

As of November 2018, there are 862,870 migrants enrolled in the MHIS, of whom 91 per cent are migrant workers and 9 per cent are their dependents (MOPH, 2018). According to the Ministry of Labour (MOL), the number of insured migrants under SSS has increased from 357,643 in September 2013 to 1,107,426 in September 2018. Given the above figures, it can be calculated that approximately 64 per cent of the 3.1 million documented CLMV migrants who are eligible for MHIS or SSS coverage are enrolled (figure). However, there are thought to be an additional 811,437 undocumented migrants who are presumably without health insurance but are technically eligible for coverage under the MHIS. Health insurance coverage for CLMV migrants falls to 51 per cent if all eligible migrants (documented and undocumented) are considered.

Figure 7.1: Insurance coverage for documented CLMV migrants in Thailand (November 2018)

Note: It has been estimated that there are currently 811,437 irregular migrants in Thailand, who are eligible for coverage under the MHIS. Health insurance coverage for CLMV migrants drops to 51 per cent if all eligible migrants (documented and undocumented) are considered.

Source: Ministry of Public Health and Ministry of Labour (2018)

Whatever insurance scheme they use, migrants benefit from the same health services provided to Thai citizens. Adapted from the health service networks under the UCS, migrants enrolled in the MHIS can use services at MOPH-contracted health facilities that include some private hospitals. Uninsured migrants still can access government-run health services but they must pay out-of-pocket at the point of service delivery or, in the case of emergency care, receive an exemption by the facility.

Challenges in providing Universal Health Coverage for migrants

Despite the efforts described above, significant challenges remain in ensuring that all migrant workers and their dependents have access to UHC. Migrants still face physical, attitudinal and procedural barriers to accessing health services in Thailand:

- Health facilities may be distant from where migrants live and work, and transport costs might be prohibitive.
- Cultural beliefs, lifestyles and health practices may differ between the health provider and the migrant (Kantayaporn et al., 2014).
- Thai health providers may not have the language skills to communicate effectively with migrants.
- Linking the scheme members to a single provider when migrants are often highly mobile is problematic. Both the Universal Health Scheme for Thais, and the MHIS, provide beneficiaries with access to services at a single primary health-care facility – if beneficiaries move, they must re-register on their own initiative with a facility at their new residence.

In response, Thailand has developed formal policy options to address the health needs of migrants by establishing migrant-friendly health facilities and services (IOM, 2009; Raks Thai Foundation, 2011). The characteristics of migrant-friendly health services have been well documented (Kantayaporn et al., 2014) and include easy physical access, consistency with the nature of the migrant's occupation and lifestyle, the possibility of clear communication between provider and client and the absence of discrimination based upon legal status. Services should apply the same standard of care to Thais and non-Thais alike, and provide for participation of the migrant community in their delivery.

Migrant Health Workers provide community-level services to migrants, which include health promotion, screening, and home visits for case follow up, as well as general public health education. They help migrants to access hospital services, providing interpretation and facilitating relationships with hospital staff. A qualitative assessment of the programme has found this to be an effective strategy in improving access for migrants to community and hospital health services (Raks Thai Foundation, 2011). Previously, Migrant Health Workers could not be formally employed under Thai labour laws, creating a situation where access to them was sporadic and inconsistent. Given the evidence of their impact, however, the legal employment of Migrant Health Workers to provide translation at health facilities and workplaces was authorized by Prime Ministerial order in November 2016.

Some public health facilities have collaborated with NGO and United Nations supported health service providers. Health outlets set up by NGOs in Tak, Ranong and Samut Sakhon provinces have helped to bridge service gaps, however, this model may not be financial sustainable. Community-based approaches involving both Thai and non-Thai populations that have proven highly effective in tackling disease outbreaks can also be used to follow-up with patients requiring long-term treatment or monitoring (Swaddiwudhipong et al., 2008).

In Tak province, many migrant children are immunized free-of-charge during immunization campaigns carried out in border towns and schools. Comprehensive Migrant Health Information Centres, operated since 2012 in Mae Sot district of Tak province with WHO support, monitor the health needs of migrants and have now been expanded to the entire province. Cross-border referral systems at selected border towns have been established to ensure continuous treatment when migrants return to their countries of origin. Migrant-friendly services that have proven effective at local level should continue to be identified, documented, translated into policy and scaled-up. This will not only promote greater access to health services among migrants but also allow for proper resource allocation to capacity building of health-care providers.

Improving enrollment in the SSS and MHIS by migrants is a continuing challenge despite the increasing numbers insured. Although the benefit package of the SSS is much broader than that of the MHIS, not all of the extensive SSS benefits are attractive to migrant workers. Potential beneficiaries are understandably reluctant to contribute to benefits that they are unlikely to ever collect. Few migrant workers, for example, remain in Thailand to collect pension benefits once their work is over. For migrants to access SSS benefits after finishing their employment in Thailand, bilateral agreements with countries of origin are needed. The MOL is working with their counterparts to establish formal agreements that ensure portability of benefits after migrants return to their countries of origin. The MOL should also continue to monitor the compliance of employers in registering migrant workers and providing their contributions to the tripartite scheme.

The MHIS does not have the long-term institutional stability of the SSS, as it relies on annual cabinet decisions to continue to operate. The Government's "swing" policy – referring to yearly changes in which categories of adult dependents are eligible to receive benefits – may contribute to low insurance uptake as potential beneficiaries are unsure about their eligibility. These annual changes make it difficult to develop a platform and tools to effectively administer the system. Shifting targets and timeframes also make it difficult to effectively communicate policy so that peripheral levels of the system understand the provisions and implement accordingly. The MHIS requires its own act to enshrine the system's governance for the long term, as has been done

for the SSS and UCS.

Though the MHIS is technically compulsory for migrant workers not covered by the SSS, the MOPH does not have a legal mechanism to oblige enrollment. This means less financial and risk pooling – the fewer the beneficiaries contributing to the fund, the fewer the resources available to support them. The MHIS, like other health insurance schemes that are voluntary or do not oblige enrollment, suffers from selection bias; adherents join only when they are already ill. This also serves to limit the funds available in the system. The MOPH should develop a communication strategy to inform the public, employers, migrants and health facilities and promote uptake before migrants are ill and require medical services.

In addition to increasing insurance coverage among documented migrants through the MHIS or the SSS, the Thai Government faces the challenge of insuring more than 800,000 undocumented migrants who are eligible for coverage. A comprehensive description of the difficulties in providing health insurance to undocumented migrants is provided by Suphanchaimat (2017). The Thai Government has attempted to identify and register undocumented migrants through periodic nationality verification initiatives. These processes provide an opportunity to enroll previously undocumented migrants in health insurance schemes but this requires close multi-sectoral collaboration between Ministries with different priorities.

High population coverage by health insurance is not the same as UHC. The potential enrolment barriers (financial and non-financial), supply-side capacity constraints, as well as insufficiency of funds and ineffective management at all levels can prevent available entitlements from being translated into effective service coverage. Therefore, measuring progress towards financial protection should go beyond monitoring the numbers of insured migrants over time. A comprehensive review that considers these factors is required for Thailand to identify gaps in the system and improve planning. The political commitment and momentum generated by the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers should be exploited by relevant ministries to move towards UHC for migrants.

Thailand has no unified health information system to generate strategic data on the health of migrants that can be used to inform policy decisions. Health information for migrants is fragmented and the databases managed by the Ministry of the Interior, MOL and MOPH should be synchronized and analyzed to resolve this problem. While obtaining data to measure access to health services among migrants nationally is a continuing challenge, the results from small-scale studies have yielded interesting results. At Koh Phangan in Surat Thani province, it was found that only 40 per cent of total revenue from the MHIS was used for subsidizing health-care costs borne by insured migrants (Poomchaichote, 2017). This implies that service utilization among insured migrants is rather low. Collecting this data and other health information to inform policy development at national level is an important challenge to be overcome in improving the health service system for migrants.

Control of TB, HIV/AIDS, malaria and vaccine-preventable diseases such as diphtheria and polio, are a priority for Thai public health planners. Thailand has been supported by the Global Fund to fight AIDS, TB and Malaria (GFATM) to control these diseases. Reviewing options for funding these activities when GFATM support is discontinued over the next three years is urgently needed. Thailand's Health System Research Institute suggested that THB 561–639 million (approximately USD 17–20 million) will be required annually to address TB, malaria and HIV/AIDS for 2 million

migrants in Thailand after support from GFATM is stopped. While some funds to address the needs of documented migrants could come from the SSS and the MHIS, identifying alternative financing options for undocumented migrants is still needed.

Conclusion

Thailand has been successful in extending UHC to its citizens. Given its recognition of health as a human right and the contribution that a healthy migrant workforce makes to economic development, Thailand has made concerted efforts to provide UHC to migrant workers through its public health schemes and the scale-up of migrant-friendly health services. By continuing to support evidence-based policy development, increasing enrollment and strengthening disease surveillance systems for migrant populations, and building political commitment and support from social movements, achieving the goal of UHC for all persons living on Thai soil should not be far off.

Thailand's efforts to extend UHC to migrants should be viewed in the context of strengthening UHC for the citizens of all countries within the ASEAN region. As well as strengthening collaboration between Thailand and its neighbouring countries on disease prevention, control and referral for continuity of health service delivery, scaling up UHC in countries of origin will improve the overall health of citizens as cross-border migration continues to expand within South-East Asia.

Recommendations

1. **Continue efforts to harmonize the MHIS with the three health insurance schemes contributing to UHC in Thailand.** Implement the 20-Year Master Plan for Integration of Health Insurance Systems Development (2018–2037), which will promote equity, quality, efficiency and sustainability in financial protection against catastrophic health expenditures for everyone living on Thai soil.
2. **Promote migrant-friendly health services to ensure that all migrants (those insured and those who are not) are able to access health services freely and when needed.** Continue to identify, study and scale up local migrant-friendly services that have proven to be effective. Place emphasis on migrant volunteers and health workers as a way to increase access for migrants to the health system.
3. **Work to increase enrollment of migrants in the SSS and MHIS by:**
 - (a) Improving communication with migrant workers and their families, reminding them of the benefits of health insurance to their longer-term economic well-being, and of their rights and obligations to enroll irrespective of their legal status in the country.
 - (b) Ensure that formal sector employers comply with requirements to enroll documented migrant workers in the SSS and that documented workers employed in work that makes them ineligible are enrolled in the MHIS.
 - (c) Continue discussions with relevant authorities in countries of origin to establish bilateral agreements that ensure portability of SSS benefits after migrants return home.

- (d) Continue multi-sectoral collaboration to find innovative ways to insure undocumented migrants.
4. **Explore ways to harmonize the existing health information systems to provide accurate and accessible health information on migrant populations.** Such data will allow for more targeted and evidence-based policy formulation.
 5. **Thai authorities should continue to provide leadership on achieving UHC in ASEAN countries.** This will improve the overall health of both migrant and national populations within the South-East Asian region.

References

Association of Southeast Asian Nations (ASEAN)

2018 ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers. ASEAN Secretariat, Jakarta.

Burkholder, B. and A. Mounsookjareoun

2014 Health status of migrants in Thailand. In: Thailand Migration Report 2014 (J.W. Huguet, ed.). United Nations Thematic Working Group on Migration in Thailand, Bangkok, p. 69.

Chamchan, C. and K. Apipornchaisakul

2016 Health security for cross-border migrants in Thailand: Where have we been? In: *Thailand in the Era of Transnational Migration*. Mahidol University, Nakhon Pathom.

Chan, M.

2012 Universal coverage is the ultimate expression of fairness. Acceptance speech at the 65th World Health Assembly, Geneva, 23 May. Available at: http://www.who.int/dg/speeches/2012/wha_20120523/en/index.html.

International Organization for Migration (IOM)

2009 *Healthy Migrants, Healthy Thailand: A Migrant Health Program Model*. IOM, Bangkok.

2013 *International Migration, Health and Human Rights*. IOM, Geneva.

Kantayaporn, T. and S. Mallik

2013 *Migration and Health Service System in Thailand: Situation, Response and Challenges in a Context of AEC in 2015*. World Health Organization, Nonthaburi.

Kantayaporn, T., Y. Srivalai, S. Vittaporn, S. Mallik and R. Boonyopakorn

2014 From Burden to Challenges: A Decade of Learning and Development: Review of Client-Friendly Health Services for Cross-border Migrant in Thailand, 2004–2014. World Health Organization, Nonthaburi.

Ministry of Public Health

2018 One-Stop Service Approaches. Ministry of Public Health, Nonthaburi.

Natali, C., E. McDougall and S. Stubbington

2014 International migration policy in Thailand. In: *Thailand Migration Report 2014* (J.W. Huguet, ed.). United Nations Thematic Working Group on Migration in Thailand, Bangkok.

Poomchaichote, T.

2017 The decision of Myanmar migrant workers to enter into the health insurance scheme according to Ministry of Public Health Announcement B.E. 2557 in Samut Sakhon province. *Public Health and Health Laws Journal*, 3(1).

Raks Thai Foundation

2011 *Policy Review: Access to Health Care Service and Health Insurance among Migrant Workers in Thailand*. Raks Thai Foundation, Bangkok.

Suphanchaimat, R., W. Putthasri and P. Prakongsai

2017 Evolution and complexity of government policies to protect the health of undocumented/illegal migrants in Thailand – The unsolved challenges. *Risk Management and Healthcare Policy*, 10: 49–62.

Swaddiwudhipong, W., C. Ngamsaithong, P. Peanumlom and S. Hannarong

2008 An outbreak of cholera among migrants living in a Thai-Myanmar border area. *Journal of the Medical Association of Thailand*, 91(9): 1433–1440.

Tangcharoensathien, V., S. Pitayarangsarit, W. Patcharanarumol, P. Prakongsai and H. Sumalee

2013 Promoting universal financial protection: How the Thai universal coverage scheme was designed to ensure equity. *Health Research Policy and Systems*, 2013, 11: 25. Available at: <https://doi.org/10.1186/1478-4505-11-25>.

Tangcharoensathien, V., W. Witthayapipopsakul and W. Panichkriangkrai

2018 Health systems development in Thailand: a solid platform for successful implementation of universal health coverage. *The Lancet*, 391(10216): 1205–1223.

Thaiprayoon, S. and S. Wibulpolprasert

2017 Political and policy lessons from Thailand's UHC Experience. ORF Issue Brief, No. 174. Observer Research Foundation, New Delhi. Available at: https://www.orfonline.org/wp-content/uploads/2017/04/ORF_IssueBrief_174_ThailandUHC.pdf.

United Nations Department of Economic and Social Affairs (UNDESA)

2017 *International Migration Report 2017: Highlights*. United Nations Department of Economic and Social Affairs, New York.



CHAPTER 08

MIGRANT REMITTANCES FROM THAILAND TO CAMBODIA, THE LAO PEOPLE'S DEMOCRATIC REPUBLIC, MYANMAR AND VIET NAM

Robin Gravesteyn and Richard Last/UNCDF

Abstract:

International remittance flows are increasingly being recognized as an important source of income in countries of origin and have the potential to contribute to both individual and national development. Migrant workers in Thailand send USD 2.8 billion in formal remittances to Cambodia, Lao People's Democratic Republic, Myanmar and Viet Nam (CLMV) per annum. In order for remittance payments to have the maximum possible impact, more must be understood about how and why remittances are sent, and who sends and receives the payments. To this end, the United Nations Capital Development Fund (UNCDF) has conducted numerous studies to better understand remittance value chains and barriers to accessible and affordable formal remittance channels in the region. This chapter aims to profile remittance senders in the Thailand–CLMV corridors and the barriers they face, as well as estimating the amount of formal and informal remittances being sent in each corridor before outlining a number of digital financial solutions that have the potential to formalize remittance flows and increase levels of financial inclusion. Given that formalizing remittances in the Thailand–CLMV corridors could add an additional USD 6–10 billion, regulators have an interest in support formalization efforts, not only for increasing access to vital financial services and thus reducing vulnerabilities for migrant workers and their families but for regionwide inclusive economic growth.

Introduction

Remittance payments constitute a critically important source of finance for development. The 2030 Agenda for Sustainable Development, the Addis Ababa Action Agenda (2015), the G20 Global Partnership for Financial Inclusion and the Global Compact for Safe, Orderly and Regular Migration emphasize that remittances can support inclusive growth and sustainable development and call for policy that enables making them as accessible, cheap and useful as possible. All recognize the role remittances can play in mobilizing additional financial resources for developing countries. In order to maximize the potential development impact of remittance flows, more needs to be understood about who sends remittances, how they are sent, who receives them and what they are used for. This helps the private sector, governments and development partners to create tailored interventions – from financial services to regulations – that make it easier for migrants and recipient families to send, access and use remittances in a more productive way.

Thailand is estimated to have approximately 3.9 million migrant workers from CLMV countries (see chapter 1). Collectively, these migrant workers send USD 2.8 billion in formal or regulated remittances per annum to their countries of origin. In Cambodia, the Lao People's Democratic Republic and Myanmar alone, 2.8 million migrant family members receive remittances

(UNCDF, 2017). At the macro-economic level, these international remittance flows provide much-needed foreign currency exchange, help stabilize the balance of payments, supplement ODA, and reallocate capital resources to more productive investments and other financial services – moving capital from international to domestic, from consumption to investment, and from urban to rural areas (UNCDF, 2017).

This chapter identifies the profiles of senders and receivers of remittances and the different steps and barriers that migrants face in sending remittances from Thailand to CLMV countries, in addition to demonstrating how such payments are being used in countries of origin. The chapter further estimates the size of both the formal and informal remittance flows from Thailand to CLMV countries for low value remittance markets (<200 USD). It then outlines several digital finance and financial technology (fintech) solutions that could be leveraged to formalize remittances flows and generate improved financial inclusion and inclusive growth.

The analysis focuses on Thailand’s main corridors with CLMV countries, drawing from unique survey data on over 1,400 migrants who returned to their home countries and who had sent money from Thailand into the CLMV region (Harkins, Lindgren and Suravoranon, 2017), as well as national financial inclusion survey data gathered on recipient families under UNCDF’s Finscope project (10,250 surveys in total) conducted in Cambodia, Lao People’s Democratic Republic and Myanmar (UNCDF, 2017).¹ This is supplemented by 60 qualitative interviews that were conducted with remittance receivers and senders in the Thailand–Myanmar corridor to better understand how migrants remit money. Finally, UNCDF conducted a market scoping exercise, interviewing 70 remittance service providers and financial experts to identify supply-side digital finance and fintech solutions that could address some of the barriers that migrants face in sending and receiving money (UNCDF, 2017).

This chapter argues that easier access to digital remittance services and linked financial products can serve as an on-ramp for the use of a broader range of financial services (i.e. savings, credit, insurance and payment) and increase productive investments and inclusive growth in CLMV countries. Encouraging migrants in Thailand to transition from using informal to formal remittance products could add an additional USD 6–10 billion to the formal remittance market (UNCDF, 2017), which in turn has the potential to unlock more inclusive economic growth.

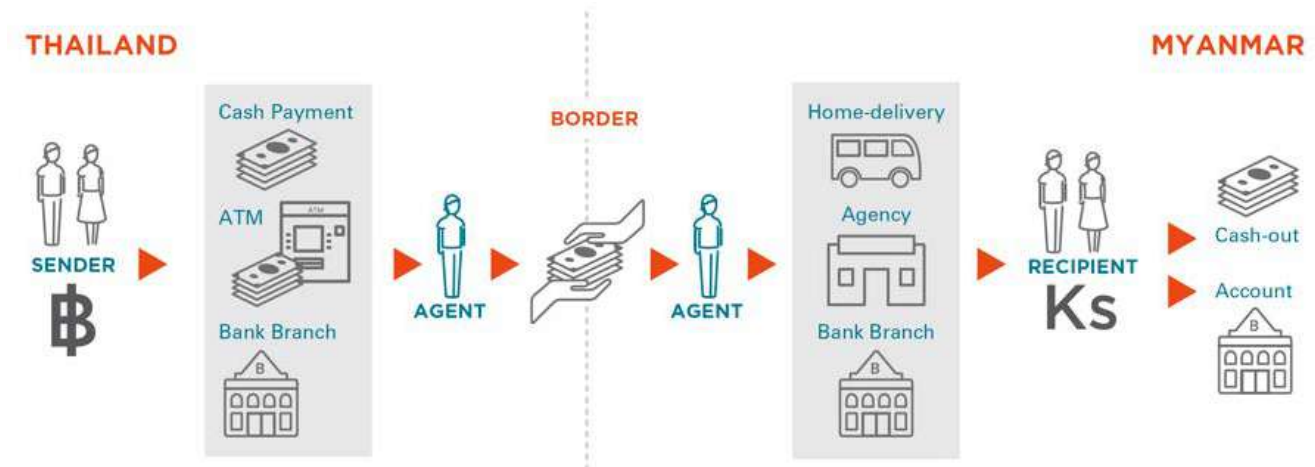
Remittance value chain for low-value remittances

This section follows the remittance value chain for low value remittances (<200 USD); identifies the typical profile of remittance senders in Thailand and remittance receivers in CLMV countries; and examines the steps undertaken by them to transfer money across borders. Figure 8.1 illustrates that the most common remittance channel used in Thailand by low income migrants is informal agents who are either paid in cash or funds that are deposited into the agent’s bank account. The money is then remitted, through either an account-to-account transfer, money transfer operator, the physical transportation of cash or released by agreement in the destination country by an agent. Recipients can then retrieve the money

¹ The chapter draws heavily on the UNCDF report *Remittances as a Driver of Women’s Financial Inclusion in the Mekong Region* (2017) and the study conducted by ILO and IOM titled *Risks and Rewards: Outcomes of Labour Migration in South-East Asia* (Harkins, Lindgren and Suravoranon, 2017).

from the agents through home delivery, pick-up from an agent or withdraw the cash from a local bank branch (UNCDF, 2017).

Figure 8.1: Remittance value chain in the Thailand–Myanmar corridor



Source: UNCDF (2017)

Sender profile

ILO and IOM data illustrates that 93 per cent of the migrants working in Thailand sent remittances home to their families. Migrants had an average monthly income of USD 264 and remitted an average amount of USD 176. The average amount remitted was higher for men (USD 186) compared to women (USD 165), which was largely a reflection of the higher monthly income that men received compared to women (Harkins, Lindgren and Suravoranon, 2017). While this represents a similar proportion of wages, this finding differs from most previous research, which suggested women send a larger proportion of the wages they receive. Migrants in Thailand worked predominantly in the manufacturing (26 per cent), construction (23 per cent), and hospitality/food services (18 per cent) sectors. Women are concentrated in the domestic work and hospitality/food services sectors, and men in the construction and manufacturing sectors.

Transactions

Given the primarily informal status of employment and migration channels utilized, it may not be surprising that the majority of migrants also remitted money through informal rather than formal channels. Fifty-two per cent of migrants used informal channels, including the *hundi*² or broker system to send money abroad. Only 34 per cent of the migrants used formal institutions such as banks and money transfer operators (MTOs), and 14 per cent used other methods, including physically transporting the cash across the border. *Hundi* or broker systems were the most popular among migrants from the Lao People's Democratic Republic (58 per cent) and Myanmar (55 per cent) (Harkins, Lindgren and Suravoranon, 2017).

The UNCDF Finscope national representative financial inclusion survey echoes these results from the remittance receiving side, demonstrating that 65 per cent of remittance recipients in Cambodia,

² According to the ILO (2015), the hundi system is “an informal channel for sending remittances (and sometimes goods) operated by unlicensed financial brokers. While based almost entirely on bonds of trust between the parties involved, these types of money transfer systems are very popular in countries such as Myanmar, Pakistan, Bangladesh, India and China because they are relatively cheap, fast and do not require the sender to provide identification.”

the Lao People's Democratic Republic and Myanmar received remittances from Thailand through informal channels (UNCDF, 2017). Use of informal channels is especially high for the Thailand–Myanmar corridor, with 80 per cent receiving remittances through informal channels, whereas the rate is 53 per cent for the Lao People's Democratic Republic and 21 per cent for Cambodia (UNCDF, 2017).

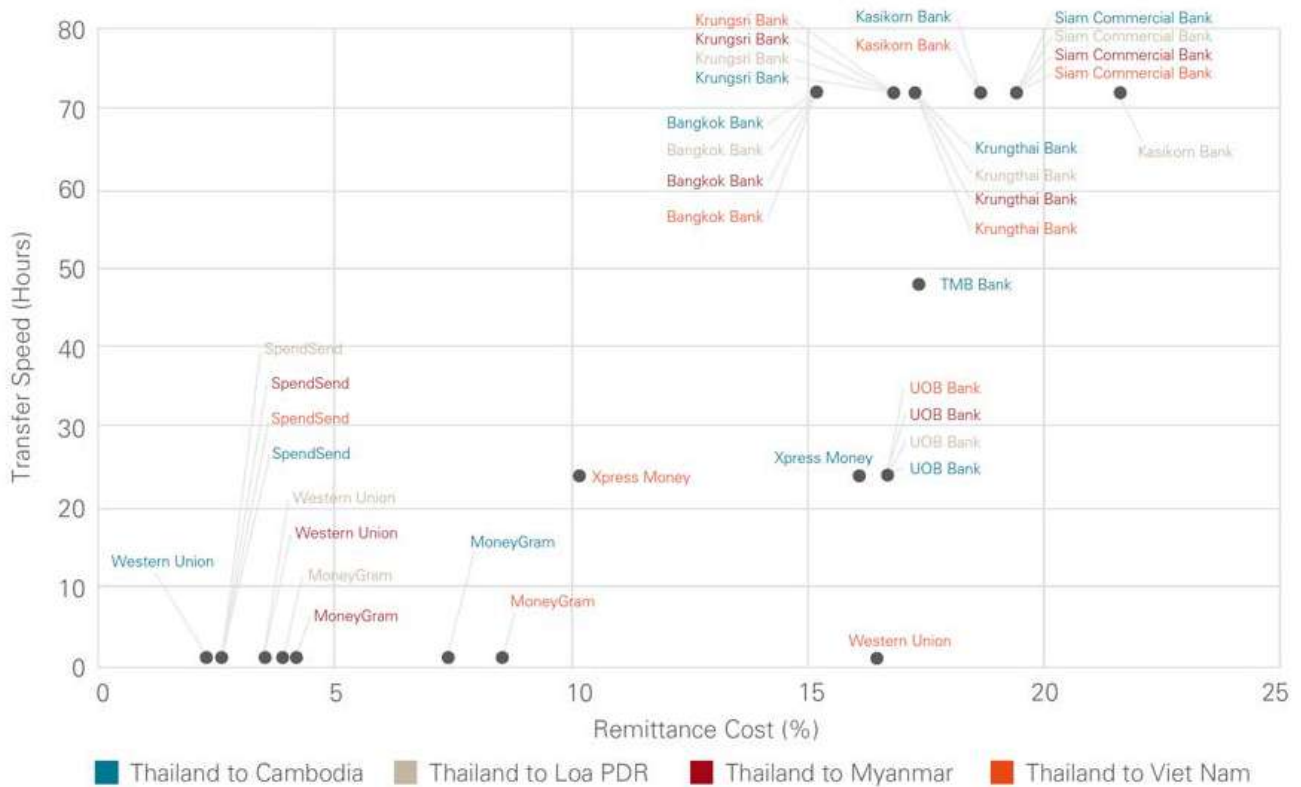
In weighing the relative demand-side advantages of formal versus informal remittances, qualitative feedback from migrant senders and receivers in the Thailand–Myanmar corridor found that trust, ease of use, flexibility and accessibility were people's primary motives in utilizing informal channels (UNCDF, 2017). The option of home delivery provided by informal services was particularly popular among older recipients (who may be less mobile) and those living in rural areas who have lower access to banks, may not be able to be present during open hours, and don't wish to wait in queues and/or deal with sometimes-malfunctioning ATMs. By contrast, people sending money through formal channels expressed dissatisfaction at the large amount of paperwork and customer identification documents required to enact a transfer. Some respondents reported feeling that banks lacked decent customer service, and in some cases were rude or condescending. Indeed, the lack of trust expressed in formal banks proved another factor in people choosing not to use formal services. Within the informal hundi system, cash advances were disbursed on the basis of a trust system, allowing greater flexibility for the sender, and working as a safety net for migrants in the host country who run into liquidity issues (UNCDF, 2017).

While the formal flows from Thailand to Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam are valued at USD 2.8 billion, it is more challenging to estimate the informal financial flows. Under the assumption that remittances received through informal channels are similar in size and transaction frequency and given that about 65 per cent of recipients received money from unregulated channels, it is estimated that the informal remittance flows in the Thailand–CLMV corridors are potentially double the size of the formal flows, and have the potential to contribute between USD 6–10 billion to the formal economies of CLMV countries (UNCDF, 2017). This means that there may be significant market opportunities in the digitization of Thailand's outward remittances.

In terms of cost, figure 8.2 demonstrates that for a USD 200 transaction sent from Thailand to CLMV countries, the average fee for sending money through traditional banks is 18 per cent of the sum, which is in stark contrast to the 3–4 per cent charge for digital financial service providers such as MTOs³ (UNCDF, 2017). Transaction costs of digital financial service providers and fintech firms are considerably lower compared to the traditional banks, and an open question is whether they can challenge the informal service providers to offer more convenient and safer services.

³ A study of 45 corridors concluded that sending remittances through mobile money is 50 percent cheaper than other channels overall (GSMA, 2015).

Figure 8.2: Comparison of remittance costs and transfer speed for remittances from Thailand to CLMV countries (<200 USD transaction)

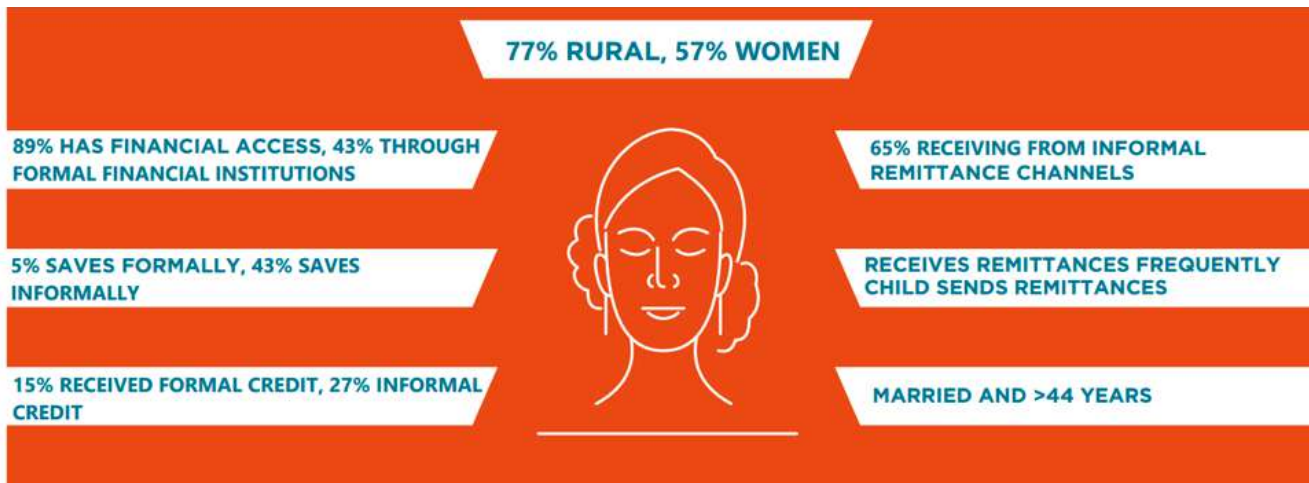


Source: World Bank (2016)

Receiver profile

About 8 per cent of the population of Cambodia, Lao People's Democratic Republic and Myanmar receive remittances from abroad, and a further 14 per cent receive domestic remittances. Developing a general profile (figure 8.3), remittance recipients live primarily in rural areas (77 per cent), are women (59 per cent), are generally middle-aged or older (>44 years), are married and receive their remittances through informal channels (65 per cent). Furthermore, the majority of recipients are often already financially included but access their savings and credit in the informal rather than the formal financial sector. Thus, there is a market opportunity not only to formalize remittances but also to better link remittance payments to other financial services, including formal savings, credit, and insurance products.

Figure 8.3: Profile of remittance receivers in Cambodia, the Lao People's Democratic Republic and Myanmar who receive funds from Thailand (%)

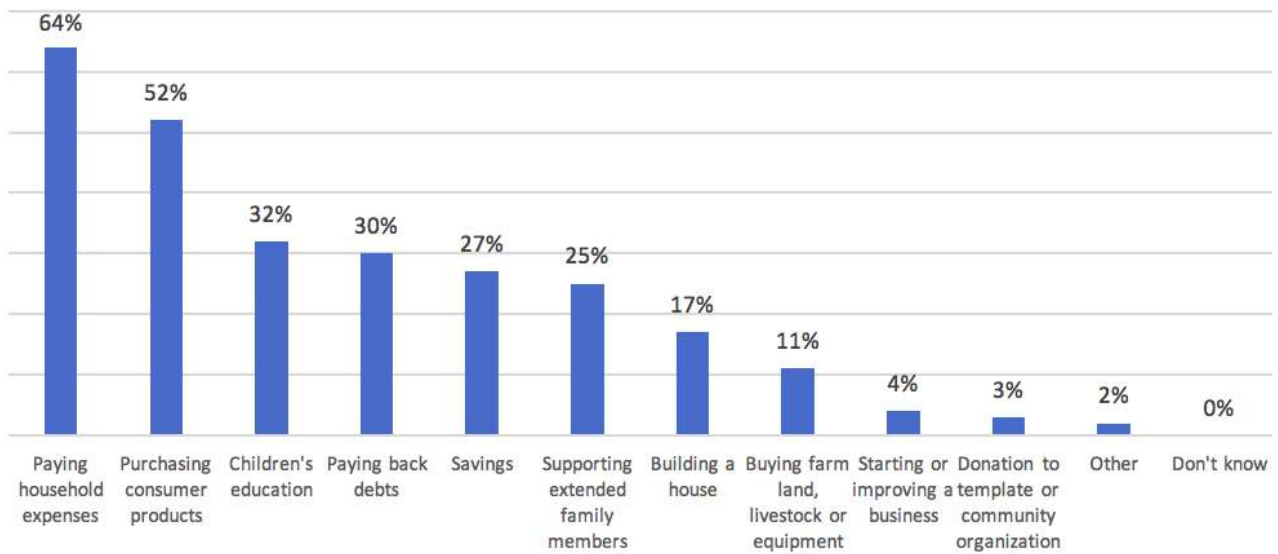


Source: UNCDF (2017)

Most recipients used remittances for “consumptive” purposes (two-thirds), as opposed to “productive” purposes (one-third) (Harkins, Lindgren and Suravoranon, 2017; UNCDF, 2017). Figure 8.4 shows that migrants who send money from Thailand to CLMV countries used remittances primarily to pay for household expenses (64 per cent) and consumer goods (52 per cent). Across more productive investments or long-term consumption spending, 32 per cent of returned migrants reported that their families spent the money on children’s education, followed by 30 per cent who said they used the money to pay off debt, 27 per cent used the money for savings and 25 per cent offered overall support to extended family members. With regard to gender, women were more likely to use the money for children’s education (37 per cent) compared to men (27 per cent) (Harkins, Lindgren and Suravoranon, 2017), corroborating the findings of previous studies (e.g., UN-INSTRAW, 2008).

Thus, in addition to the market opportunity for digitizing remittances flows from Thailand and better linking remittances to other financial products, there is also the opportunity to redirect remittances towards more productive economic activities, including education and enterprise development. Although often used to cover basic needs, investing available remittances into education, savings and more productive investments can support wider financial inclusion and generate more inclusive economic growth.

Figure 8.4: Use of remittances sent by migrants in Thailand (n=1,419) (%)



Source: Harkins, Lindgren and Suravoranon (2017).

Digital finance and financial technology (“fintech”) solutions in CLMV countries

This section identifies several fintech solutions that could be leveraged by the private and public sectors to improve inclusive finance for remittance senders and recipients. These solutions were identified through in-depth interviews conducted with 70 Mekong remittance service providers and financial institutions (UNCDF, 2017), in addition to a comprehensive desktop review of remittances services provided by fintech firms. The private sector stakeholders, many

of whom are active in Thailand, identified mobile wallets,⁴ strengthening agent networks, establishing platforms that compare remittance prices and services, digital identification, and implementing migrant awareness campaigns as key solutions. In addition, peer-to-peer platforms, virtual bank accounts and blockchain technology are other areas for development that remittance actors in Thailand are experimenting with. These initiatives have the potential to drive down transaction costs, link remittances to other financial services and offer more customer value in the Thailand–CLMV corridors. While not solutions in and of themselves, such technologies have the ability to drive down costs and increase accessibility, and are already present in more developed markets in the region. For example, the Central Bank of Malaysia has recognized the important role that technology has played in driving down remittance costs to below the United Nations-set benchmark of 3 per cent through user comparison and healthy competition (Tan, 2018). The following section provides a more detailed description of fintech examples in the Mekong region:

⁴ A mobile wallet is a virtual “wallet” on a user’s phone. The wallet may or may not be linked to an account at a formal financial institution, and can be used to store, transfer or save money. When not linked to a formal account, money may be cashed in or out via networks of agents. The most widely-known example of the latter is Safaricom’s M-Pesa in East Africa.

Launching mobile wallet apps and developing remittance-linked savings products was mentioned by 60 per cent of respondents (UNCDF, 2017). By bundling products and building partnerships, providers can expand services and improve savings mobilization. For example, Angkor Mikroheranhvatho Kampuchea – one of the largest Cambodian microfinance institutions – will be one of the first to introduce a remittance service to its existing savings and loan customers by linking with remittance-sending partners in Thailand, Malaysia and the Republic of Korea. The service will benefit lower income women in rural areas and introduce products that are linked to the remittance service, such as micro-insurance, savings and house loans. Mobile wallet applications allow financial service providers (FSPs) to offer convenient alternatives to informal savings and remittances services, ensuring transfers and deposits can be made frequently in relatively low amounts. This mirrors the convenience of informal financial services and lowers some of the major barriers for low-income customers to use established financial institutions. Customers are also able to use their mobile money accounts for a number of linked services, including bill payments, online payments and airtime top-ups. For example, in May 2018 UNCDF facilitated a partnership between AXA insurance and the mobile transfer operator Merchantrade, offering health insurance to migrants for as little as USD 1 per month to help them reduce their out-of-pocket payments for health care.

Strengthening agent networks was noted as a way to improve pay-in and pay-out locations to increase product reach, primarily through the establishment of partnerships between retailers and financial institutions, such as banks and micro-finance institutions. This has the potential to increase access and ease of use of digital financial services, and creates greater competition for informal providers. Given the profile of remittance recipients – which include many women in rural areas – there is need for women-focused remittance delivery services, including door-to-door delivery options and networks of local agents that may help to eliminate the barriers of distrust that exist with traditional banks (UNCDF, 2017). An example of strengthening an agent network is SingCash, which offers digital remittances to cash pick-up and bank networks in Bangladesh, China, India, Indonesia and the Philippines via the Singtel Dash application. SingCash also allows for remittances to be sent to cash-out points in Myanmar via partner networks in its Dash Mobile Remittance service.

Another way to strengthen product delivery channels is by focusing on migrant awareness and increasing their reach through digital channels. Such awareness campaigns can improve ease of use and address lack of trust in the banking system, including as part of pre-departure and post-arrival training programmes (UNCDF, 2017). In addition, digitally delivered financial literacy information can educate migrants on how to make transactions and build greater familiarity with formal providers. One example of such an initiative is the ILO's SaverAsia website, which serves as a portal for remittance senders to compare the cost of remittance services and offers connections to financial services.

Facilitating remittance hubs and platforms provides banks, MTOs and mobile network operators with the ability to save on operational and cross-border compliance costs, while having access to a real-time, interoperable payment ecosystem to facilitate cross-border and cross-network payment services. Remittance service providers on both the sending and receiving side save significantly on operational costs due to the established distribution networks, cheaper foreign

exchange rates, cross-border KYC/AML⁵ compliance and faster transfer speeds. For example, TransferTo operates a business-to-business Cross-Border Mobile Payments Network, linking money transfer operators, mobile wallet providers and financial institutions through an open remittance hub. The network facilitates mobile-based money transfers to people in countries of origin, including Cambodia, the Lao People's Democratic Republic and Myanmar. Another major provider, Mastercard Homesend, connects telecom partners and MTOs to more than 24,000 financial institutions on the MasterCard network via a single connection, thus enabling consumers to send money to and from mobile money accounts, payment cards, bank accounts or cash outlets, regardless of their location or that of the recipient.

Digital identification: As digital remittance services, especially mobile remittance services, are increasingly used by irregular migrant workers, the traditional approach to authenticating clients by meeting them face-to-face is gradually receding. If applied well, biometric authentication – which involves the use of personally identifiable information like fingerprints, iris scans and voice recognition – holds potential to become a reliable mechanism for reducing the barriers posed by KYC/AML compliance in identifying users. Biometric authentication also aids users because it provides an alternative to passwords and prevents transfer errors, as well as potentially reducing fraud, money laundering and financing of terrorism. Several fintech firms have developed applications that allow mobile phones to take over some of the customer identification process for mobile wallets based on the customer's biological information, including facial, fingerprint and voice recognition, as well as personalized mobile phone usage.⁶ While at present these solutions are mainly applied in the United States, Europe and the more developed markets in the region, such as Singapore and Malaysia, remittance service providers in the Mekong have expressed interest in moving these solutions into emerging markets.

Globally, a number of other innovative business models that have the potential to alleviate the sending and receiving side barriers for remittance services are being developed by FSPs, who are looking to broaden their existing products to target both current and prospective users. Examples of such technologies include:

Peer-to-peer platforms: Through peer-to-peer networks, users can exchange currencies cheaply by being matched with other customers in different countries who are looking to send money the other way. The costs are cheaper because money does not leave each country and the subsequent savings can be passed on to customers, providing a better exchange rate than banks typically do. Within the remittance value chain, this model provides operational cost savings on both the sending and receiving side and provides cheaper foreign exchange rates for the remitter. For example, Transferwise only charges 1 per cent on transfers of up to USD 5,000.

Virtual bank accounts: In this model, a mobile application lets the user open an online bank account regardless of their citizenship or location, which could be used by both the migrant population in Thailand and unbanked people throughout ASEAN. Monese, a United Kingdom-

⁵ KYC/AML (“know your customer” and “anti-money laundering”) are a set of due diligence measures with which financial institutions must comply.

⁶ Examples of such technologies include the Zwipe Access Card, which features on-card fingerprint matching utilizing fingerprint touch sensors from Fingerprint Cards (FPCs), and Daon, which provides biometric authentication and identity assurance solutions that allow financial service providers to integrate biometrics for their mobile authentication needs, such as facial, fingerprint, and voice recognition. MasterCard Identity Check is a further example of biometric technology being used in identity verification.

based virtual banking application that holds an e-money license (a license to operate similar to that required by a bank) targets migrants who find it difficult to open a bank account due to insufficient documentation. The application provides them with a fully-fledged current account, low-cost international money transfer service and a Visa debit card.

Blockchain technology: Blockchain⁷ is perhaps best known as the technology behind digital currencies (such as Bitcoin) but the potential to use the technology for remittances has caught the imagination of many emerging start-ups and financial institutions as it addresses issues of high transfer costs and the limited number of ways money can be transferred internationally (i.e., through costly and slow interbank transfers). KB Kookmin Bank, based in the Republic of Korea, is developing a blockchain solution for international remittances with the aim of offering safer and faster money transmission services. The initiative, which is being carried out in partnership with local bitcoin start-up Coinplug, is built on the premise of eliminating the intermediary services involved in international SWIFT bank transfers, with an eye to offering cheaper remittance services to end users. While the use of digital currencies is unlikely to solve problems with sending and receiving remittances in the Mekong region in the immediate term, the basis of the technology has real potential to bring down remittance costs.

Regulatory issues

While the vast majority of these product innovations have the potential to be realized under current regulations, providers consulted in UNCDF's study (2017) felt that the guidelines were somewhat unclear, and that clarification, especially with regard to partnership models and the role of non-bank financial institutions, would act as an enabler for the development of products such as those discussed above (UNCDF, 2017). Many of these institutions are new actors within the financial sector, including fintech firms, mobile money operators and telecommunications companies, and they have operations in both countries of origin and destination. Proactive regulatory efforts are key to creating partnerships in both the banking and non-banking sectors that benefit migrant workers and their families, businesses and governments alike. Indeed, regulators must build enabling environments that not only encourage new technologies but also ensure safe, transparent and cost-effective channels through which international remittance payments can be made. Ensuring consumer welfare and protecting the needs of users should be an integral part of the assessments for pilot innovations.

One means by which regulators can shape such policies is through establishing regulatory sandboxes,⁸ such as have been created in Thailand (2017), Malaysia (2017) and Singapore (2016), but don't currently exist in Cambodia, the Lao People's Democratic Republic, Myanmar or Viet Nam. Sandboxes offer pro-active regulatory environments for testing fintech solutions and provide financial technology and regulators with an iterative space in which to interact. They can support the enactment of practical and safe policies that take into account the

⁷ Blockchain is a public ledger of transactions distributed across a large network of computers without a central authority.

⁸ A "regulatory sandbox" is a framework set up by a financial sector regulator to allow small-scale live testing of innovations by private firms in a controlled environment (operating under a special exemption, allowance, or other limited, time-bound exception) under the regulator's supervision" (Jenik, 2017).

vulnerabilities of migrant workers and the protections required, moving from reactive to progressive regulation. While it is difficult to judge the effectiveness of sandboxes given the relatively short period of time they have existed, it is believed that they can enable the development of products that benefit excluded customers, lead to more affordable services and reduce the inefficiencies that restrict services for low-margin customers (Jenik, 2017).

It is also recommended that regulators work on remittance markets on both sides of the border, for example through the ASEAN working committees on payments and settlements and financial inclusion, as there are many lessons learned that can be shared across ASEAN countries. While Thailand has already built the facilities to support fintech solutions, many of the other countries in the region are still implementing an optimal infrastructure to handle such systems and transactions. For example, Thailand has placed importance on increasing access for migrant workers to send remittances by installing user-friendly ATMs that provide services in a range of different languages in many major port areas throughout the country. Such initiatives and experiences can be replicated within other countries to foster more inclusive remittance markets.

Conclusion

This chapter has shown that expanding access to digital, formal remittance services, as well as products linked to such services, can more broadly serve to increase financial inclusion for unserved and underserved populations, especially women and rural populations. Greater access to financial products and services for these groups can in turn contribute to improved household resilience and inclusive growth in CLMV countries.

The development of digital finance channels has the potential to make remittances work better for migrants, and many exciting initiatives exist that seek to overcome the issues they face in sending and receiving remittances. Such services are on the cusp of making access to a much wider variety of financial services a reality for previously excluded populations through the linking of products. As remittances are often the primary type of concentrated financial activity for migrants and their family members, the payments serve as a potential entry point to introduce products that will bring these populations into the formal financial ecosystem.

Given the numerous vulnerabilities and constraints faced by migrants, both for those with regular and irregular legal status, and the importance of remittances to the short and long-term well-being of their households, it is vital that steps are taken to ensure that remittance services are as affordable, convenient and safe as possible. The concerns of users (i.e. migrant workers and their family members) must be at the forefront of efforts to introduce new products, schemes and policies that aim to make the process of remitting as positive as possible.

Recommendations

- 1. Offer migrant workers and their families support with using formal remittance channels and remittance-linked financial products:** In line with the Global Compact for Migration, improving accessibility through the expansion of agent networks and partnerships between providers — in addition to efforts to build trust in such services — has the potential to increase the number of migrants and their families using formal financial services. These efforts should be supplemented with financial literacy campaigns, including during pre-departure and post-arrival trainings, and through websites and mobile phone applications, such as those recently launched by UNCDF's partner Wave Money. Incentive programmes may also be offered by governments and FSPs to encourage shifting to the use of formal remittance channels, including favourable rates or government matching schemes.
- 2. Step up efforts to put customer data, needs and preferences at the forefront of product design:** By understanding the needs and wishes of migrant workers and their families, FSPs can tailor products that will allow such users to have access to formal financial services. By offering incentives, FSPs can look to drive usage, and allow recipients access to a wider suite of financial services, including current and savings accounts, credit and insurance. Such incentives could include allowing mobile wallets to earn interest, permitting the transfer of money between mobile wallets and savings accounts, and using remittance data as a form of credit scoring for migrants and their families to secure both personal and business loans.
- 3. Create a proactive regulatory environment that encourages positive innovation:** While many of the innovations discussed in this chapter could be achieved in the current regulatory environment, regulators can aid their development through the issuance of clearer guidelines that make the needs of migrant workers and their families the central concern. The creation of regulatory sandboxes offers the chance to engage in a mutually beneficial relationship, allowing regulators the opportunity to put the well-being of customers first and product developers to create innovative products in an open and transparent environment.

References

GSM Association (GSMA)

2015 *Mobile Phones, Internet, and Gender in Myanmar*. GSMA, London. <http://www.gsma.com/mobilefordevelopment/wp-content/uploads/2016/02/Mobile-phones-internet-and-gender-in-Myanmar.pdf>.

Harkins, B., D. Lindgren and T. Suravoranon

2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok. International Labour Organization (ILO)

2015 *Safe Migration Knowledge, Attitudes and Practices in Myanmar*. ILO, Bangkok.

Jenik, I.

2017 Regulatory sandboxes: Potential for financial inclusion? Consultative Group to Assist the Poor, 17 August. Available at: <http://www.cgap.org/blog/regulatory-sandboxes-potential-financial-inclusion>.

Jenik, I. and K. Lauer

2017 Regulatory sandboxes and financial inclusion. Working paper. CGAP, Washington, DC. Available at: <http://www.cgap.org/sites/default/files/researches/documents/Working-Paper-Regulatory-Sandboxes-Oct-2017.pdf>

Tan, X.Y.

2018 Remittance cost for non-bank service providers falls below 3%, says Bank Negara, *The Edge Markets*, 8 May. Available at: <http://www.theedgemarkets.com/article/remittance-cost-nonbank-service-providers-falls-below-3-says-bank-negara>

United Nations

2015 Sustainable Development Goals. Available at: <http://www.un.org/sustainabledevelopment/sustainable-development-goals/>

United Nations Capital Development Fund (UNCDF)

2015 *Women on the Move: Harnessing the Economic Force of Cross-Border Mobility in ASEAN*. UNCDF, Bangkok.

2017 *Remittances as a Driver of Women's Financial Inclusion in the Mekong Region*. UNCDF, Bangkok.

United Nations International Research and Training Institute for the Advancement of Women (UN-INSTRAW)

2008 *Gender, Remittances and Development: The Case of Filipino Migration to Italy*. UN-INSTRAW, Santo Domingo.

World Bank

2016 Remittance prices worldwide. Database. Available at: <https://remittanceprices.worldbank.org/en>.



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Abstract:

Women migrant workers make up almost half (48.7 per cent) of total intra-ASEAN migrant workers, and slightly more than half (50.2 per cent) in Thailand. Women migrants have played a significant role in economic growth in both Thailand and the region for decades, contributing to economic and social development in both countries of origin and destination. Across the ASEAN region, high demand for labour in feminized sectors such as care work, domestic work, agriculture and manufacturing has increased the migration of women. However, women migrant workers remain overwhelmingly segregated in low-skilled sectors of work that are associated with lower wages and weaker labour protections. Inequality, discrimination and a lack of gender-responsive information and services restrict women's access to safe migration and decent work options. The absence of substantive measures to address these gender gaps shows that the contribution of women migrant workers to economic development across ASEAN remains highly undervalued. The establishment of the ASEAN Economic Community (AEC) in 2015 has the potential to generate new economic opportunities for workers and businesses in Thailand, as well as new pathways for labour mobility into priority sectors. This chapter will examine the structural barriers that inhibit the ability of women migrant workers to fully capitalize on these new opportunities.

Migration characteristics and trends in Thailand and the ASEAN region¹

As of 2017, the estimated number of migrant workers from ASEAN Member States is 21 million, and 6.8 million are intra-ASEAN migrants. The number of women migrating within ASEAN has increased dramatically during the last three decades, from 0.6 million in 1990 to 3.3 million in 2017. Women now make up almost half of intra-ASEAN migrants (48.7 per cent) (UNDESA, 2017).

The vast majority of women migrating within ASEAN (96 per cent) are headed to Thailand, Singapore and Malaysia. Among these three countries, Thailand is the largest destination for women migrants. Women represent slightly more than half (50.2 per cent) of the migrant population in Thailand (UNDESA, 2017).

¹ The findings in this chapter are drawn from the UN Women report *Women Migrant Workers in the ASEAN Economic Community (2017)* unless otherwise cited.

Demand for workers in domestic employment, agriculture, construction, manufacturing and other jobs has facilitated significant flows of women migrant workers from neighbouring countries to enter the Thai labour market (table 9.1). Generally speaking, women migrants in Thailand are concentrated in sectors by country of origin:

- Lao women in domestic work;
- Myanmar women in manufacturing; and
- Cambodian women in the construction and agricultural sectors.

Due to the gendered division of labour, women migrants tend to have fewer job opportunities in the formal sector in Thailand, which limits their ability to migrate through regular channels. The proportion of women migrant workers drops from more than half of all total migrants to 43 per cent when considering only those who have formally migrated to Thailand under MOU agreements (DOE, 2018). As a result, women's migration to Thailand is rendered much less visible in comparison to men, though the actual number migrating is likely to be considerably larger than the official statistics suggest.

Table 9.1: Documented women migrant workers in Thailand by sector and nationality

Sector	Migrant Learning Centres				Lao PDR			Myanmar			
	Total	NV	MOU	Seasonal	Total	NV	MOU	Total	NV	MOU	Seasonal
Domestic work	4,579	2,730	1,712	137	17,687	6,596	11,091	41,302	38,489	2,776	37
Manufacturing	69,487	18,235	50,551	701	28,157	11,055	17,102	258,617	149,719	108,740	158
Construction	51,149	22,175	28,468	506	9,541	4,482	5,059	81,711	70,178	11,483	50
Agriculture	12,749	5,782	5,271	1,696	13,538	6,303	7,235	57,726	53,761	3,932	33

Note: The data does not include women registered at One Stop Service Centres who did not complete nationality verification. Source: Department of Employment (September 2018).

Before migrating, women in countries of origin show disadvantaged results for several key socio-economic indicators that are frequently seen as predictive factors for higher risk migration, such as lower education, employment and income levels. Women migrant workers often migrate at a younger age than men, with UN Women research showing that 37 per cent of women migrant workers in Thailand were aged between 15 to 24. They also earn systematically lower wages than men in countries of origin, as shown in Table 9.2.

Table 9.2: National average monthly income from waged employment by gender and country of origin (USD)

Country	Women	Men	Gender wage gap
Cambodia	105	130	19%
Lao PDR	255	313	19%
Myanmar	71	80	11%

Source: National Institute of Statistics Cambodia (2013); Lao Statistics Bureau (2017); Central Statistical Organization Myanmar (2015).

Income inequalities in countries of origin are replicated in Thailand, where there is evidence to suggest that women migrant workers earn less than their male counterparts. An ILO and IOM survey of migrant workers in Thailand and Malaysia found the average wage for women migrant workers across the two countries was USD 250 per month, as compared to USD 286 for men (Harkins, Lindgren and Suravoranon, 2017). While the data is not exclusively from Thailand, it affirms prior research that also identifies a persistent gender wage gap and higher levels of informality as significant challenges for women migrant workers (ILO, 2017).

Although labour markets in destination countries segregate women migrant workers in low-skilled and low-paid occupations, the contribution of these workers to regional and national economic growth is significant. UN Women research shows that women migrant workers contribute positively to increases in domestic wages in countries of destination, at an average of 14 per cent across ASEAN Member States (2017). At the macroeconomic level, the Organisation for Economic Co-operation and Development (OECD) and ILO estimated that migrants contribute between 4.3 to 6.6 per cent of gross domestic product in Thailand (2017). However, a lack of comprehensive gender-disaggregated data on labour migration, particularly in relation to irregular migrant workers, means reliable data on the economic contribution made by women migrant workers in Thailand is not currently available.

ASEAN Economic Community and its impact on labour mobility

In 2015, ASEAN Member States established the AEC as part of a broader vision of regional integration that would facilitate the freer flow of goods, services, investments and skilled labour. The AEC 2015 Blueprint comprises four key pillars for economic integration: (1) a single market and production base; (2) a highly competitive economic region; (3) a region of equitable economic development; and (4) a region fully integrated into the global economy (ASEAN, 2008).

The ASEAN Economic Community Blueprint focuses on skilled worker mobility, facilitated through Mutual Recognition Arrangements. ASEAN Member States selected seven skilled professions for these recognition agreements, namely: accountancy, engineering, surveying, architectural, nursing, medical, and dental services, plus one sector-wide scheme for tourism. Thailand has yet to fully establish the regulations needed to facilitate mobility into these sectors, and skilled ASEAN migrants comprised only 1.7 per cent of the total number of intra-ASEAN workers employed in Thailand in 2016 (DOE). This reflects the reality that labour market demands for employment of migrant workers in Thailand are largely geared towards lower-skilled occupations.

Low-skilled migrant workers are covered by the ASEAN Socio-Cultural Community (ASCC) Pillar, and therefore the related policies are largely managed separately from the AEC. This results in gaps between the protection imperatives identified under the ASCC, such as those outlined in the ASEAN Consensus on the Protection and Promotion of the Rights of Migrant Workers, and the economic priorities pursued under the AEC.

Priority integration sectors (PIS)

The ASEAN Framework Agreement on Priority Integration Sectors 2004 (PIS) is designed to accelerate the economic integration in the region. The PIS consists of 11 sectors: agro-based products; air travel; automotive; e-ASEAN; electronics; fisheries; health care; rubber-based products; textiles; tourism; and wood-based products (ASEAN, 2004).

The PIS component was included as a pillar of the AEC Blueprint as part of the push towards a single market and production base, key elements of which are the free flow of goods, services, investment, capital and skilled labour. While not a migration framework in itself, the PIS has implications for the mobility of workers across the region. The PIS recognizes the need to invest in key export sectors, including sectors where the Thai economy has a structural dependence on large-scale migration of low-skilled migrant workers – for example, fisheries, tourism and agro-based products – and that employ significant numbers of women migrants. It also identifies growth sectors that have the potential to increase employment opportunities for women workers, including women migrant workers, such as health care, air travel and electronics (i.e. “e-ASEAN”).

However, the PIS also excludes a range of sectors in which there is significant demand for women migrant workers, including domestic work and construction. The lack of a mobility scheme that responds to the realities of the Thai labour market by recognizing the important contribution of low-skilled women workers to existing and emerging sectors limits the potential of the PIS to support Thailand in establishing a future-focused and inclusive economy. Neither the ASEAN Mutual Recognition Arrangements or Thailand’s bilateral MOUs with neighbouring countries currently fill this policy gap.

Safe migration opportunities for women in the ASEAN Economic Community

To maximize the economic outcomes for women migrating into low-skilled occupations, there is a need to increase safe migration options, expand employment opportunities and strengthen labour and social protections. Entrenched inequalities in education, training and employment in countries of origin effectively exclude women migrant workers from benefitting from skilled labour mobility under the AEC. The lack of substantial provisions to address gender gaps in employment and the devaluation of women migrant workers’ contribution to the Thai and ASEAN economies have trapped many women at the bottom of the occupational ladder.

In order to assess the potential of regional economic integration to contribute to improved migration outcomes for women migrant workers and Thailand’s development, it is necessary to examine the existing structural inequalities and institutional barriers that prevent women from accessing safe migration, decent work and social protection. Inequalities in the migration process and in workplaces themselves create a hierarchy of labour, constraining women from accessing decent work in a broader range of sectors. These inequalities also exist within “mixed” sectors, such as construction and manufacturing, where women migrants are more likely than men to be employed in lower paid positions and tasked with less complex responsibilities.

For example, infrastructure is a key National Priority Economic Sector for Thailand for which construction is a significant component. Within the Thai construction sector, women account for almost 50 per cent of the migrant workers employed; however, women are broadly limited

to jobs as “general labourers”. Women migrant workers in construction are tasked with lower-skilled, lower-wage functions such as cleaning, landscaping and cooking. Their opportunities for employment tend to be determined by whether they are married to men who are also employed at the construction site, rather than according to their skills or potential productivity (ILO, 2016a).

A more systematic approach to safe migration for decent work for women migrant workers, one that matches women’s abilities, capacities and contributions with the demands of the labour market, has the potential to bring significant benefits to the Thai economy. Despite limited institutional mechanisms within the AEC to facilitate low-skilled mobility as part of the overall vision of an integrated and productive region, there is scope for national leadership on this issue through improved investments in safe migration pathways and skills development for women migrant workers.

Challenges and barriers to safe migration for women in Thailand

Women’s migration patterns are in part determined by the availability of safe migration pathways into specific occupations and sectors. The undervaluing of feminized occupations such as domestic work results in more limited access to formal sector employment and higher waged jobs. Consequently, women migrant workers are often effectively restricted to irregular migration into occupations that are not clearly covered by MOU agreements with neighbouring countries (RTWG, 2015). Moreover, the cost and complexity of regular migration under MOU agreements with neighbouring countries serves as an incentive for irregular migration, particularly for women whose lower incomes in countries of origin render the costs of regular migration more prohibitive. These factors mean women are more likely to migrate irregularly into informal employment, placing women migrant workers at higher risk of labour exploitation and human rights violations.

An analysis of the experiences of women migrant workers across tourism, agro-based products, and infrastructure sectors in Indonesia, the Lao People’s Democratic Republic, Malaysia and Thailand identified five key challenges and barriers to safe migration for women migrant workers: (1) recruitment process and cost; (2) informal employment; (3) access to social protection; (4) access to legal aid; and (5) opportunities for skills development and training. In the following section, each of these challenges is analysed in the context of Thailand.

Recruitment costs and access to regular migration channels

The cost of regular migration can be prohibitively high for women, effectively discouraging them from utilizing these channels. An ILO and IOM survey of migrant workers in Thailand and Malaysia found regular migrants paid an average of USD 572 to migrate; compared to USD 247 for irregular migrants. Women paid an average of USD 400, which was less than the average fee paid by men of USD 459 (Harkins, Lindgren and Suravoranon, 2017). This may be reflective of women having less available income to cover the costs of regular migration, as well as women opting for irregular migration due to a lack of recognition of their sectors of work under regular migration regimes.

Thailand has stipulated a number of policies and regulations to respond to high rates of irregular migration and to better regulate migration pathways. The provisions for regular migration are governed by bilateral MOUs with four countries of origin – Cambodia, the Lao People’s Democratic Republic, Myanmar and Viet Nam – that establish migration channels through registered recruitment agencies. Uptake of the MOU pathways is relatively low, with the Department of Employment reporting the number of registered migrant workers under MOU arrangements as 850,302 as of October 2018 (DOE, 2018).

In part, the under-utilization of the MOU agreements is linked to lengthy processing times, and higher costs and complexity. There is also a lack of incentive to use regular migration pathways given that MOU channels do not always guarantee full labour and social protection for migrant workers. For example, women migrant domestic workers are not guaranteed the minimum wage in Thailand regardless of their legal status. Unscrupulous recruitment practices in both origin and destination countries mean that workers may still be charged excessive fees or placed in high-risk workplaces, even when migrating through a registered agency. As a result, a common perception is that regular migration provides few advantages, and so women migrant workers tend to opt for irregular migration channels. Furthermore, there is lack of clarity on the legality of migrating under the MOU process into several sectors that employ women migrant workers in Thailand. For example, the Lao People’s Democratic Republic restricts migration of women for domestic work, which may be interpreted as “contrary to Lao customs and traditions”, on a discretionary basis (ILO, 2017).

Informal employment

The sectors that typically employ women, particularly domestic work, agriculture and entertainment, are not fully formalized and are associated with a high degree of irregular migration (Harkins, Lindgren and Suravoranon, 2017). Informal employment is typically associated with job insecurity, rapid turnover between jobs, low wages and unsafe working conditions. Informal employment also limits coverage by social protection schemes and labour laws, meaning that women are more likely to experience certain forms of exploitation and abuse – including sexual harassment – and have little access to recourse when their rights are violated.

The Labour Protection Act 1998 provides basic labour rights to all workers, including women migrant workers. However, there is a significant gap between the law and its implementation, as well as sector-specific protection gaps which disproportionately affect women. The exclusion of workers employed in entertainment and sex work (and partially of domestic workers) mean that women experiencing labour rights violations in these sectors have little or no protection under the law (ILO, 2017). The lack of coverage impacts significantly on the rights of women migrant workers, with studies showing that up to 90 per cent of those employed in domestic work are paid less than the minimum wage, and work an average of 13.5 hours per day (ILO, 2016b). Even in sectors that are recognized under labour laws, limited enforcement and accountability results in many women migrants experiencing discriminatory pay practices and other labour rights violations. An ILO study on the construction sector in Thailand found that women construction workers are paid less than men, even when performing the same work. All of the men interviewed for the research were paid at least the minimum wage, compared to only one in three women (ILO, 2016a).

Thailand has demonstrated a willingness to improve working conditions for women migrant workers, particularly through Ministerial Regulation No. 14 under the Labour Protection Act.

The Regulation extends additional protections and benefits to domestic workers, including provisions for a minimum working age, public holidays, sick leave and guarantee of wage payment. However, women migrants employed in domestic work remain excluded from some basic protections, including the minimum wage and the right to join and form trade unions, and implementation remains limited. The lack of protections for domestic workers is scaffolded by social and behavioural norms that devalue domestic work, further limiting employer compliance (ILO, 2016b).

Access to social protection

Thailand's social protection coverage for migrant workers is the most comprehensive among destination countries in the ASEAN region (table 9.3). Regular migrants are provided with health benefits through the Social Security Scheme and Migrant Health Insurance Scheme, while irregular migrants can opt to enrol in the latter. The Social Security Fund also provides women migrant workers with maternity leave and child support benefits. However, these benefits are provided to workers in the formal sector and workers in agriculture, domestic work and other informal sectors are excluded.

Table 9.3: Social security benefits for migrants in ASEAN destination countries

Country	Medical care	Sickness	Un-employment	Old age	Work injury	Family	Maternity	Invalidity
Singapore	Yes	Yes	—	No	Yes	—	Yes	Yes
Brunei	No	No	—	No	No	—	No	No
Malaysia	Yes	—	—	Yes	Yes	—	—	Yes
Thailand	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes

Source: UN Women (2017)

According to the Social Security Act 2015, women migrant workers are entitled to maternity leave and child support. However, research has shown that women migrant workers may face termination from their employment upon becoming pregnancy (Fair Labor Association, 2018). Reports of dismissal based on pregnancy are common, even in cases where women migrant workers are employed in sectors fully covered by labour protection, such as the construction sector. Low levels of trust between migrant workers and authorities, as well as a lack of information on available services, limits uptake of social protection benefits. Access is even more limited for women migrants holding irregular legal status, with reports of some women giving birth at workplace accommodation instead of going to hospitals due to fears of arrest (UN Women, 2018).

Under the Workmen's Compensation Act 1994, the stringent requirements for filing a claim can make it difficult for injured migrant workers to obtain compensation, particularly in terms of documentation and paperwork. High levels of informal employment effectively exclude large numbers of women migrant workers from compensation and other forms of recourse in cases of illness or injury. Moreover, the long duration and administrative complexity of the process can also prevent women migrants from receiving compensation, as many are unable to remain in Thailand long enough to see it through.

Access to legal assistance and complaint mechanisms

Inadequate outreach to women migrant workers, both in countries of origin and destination, contributes to low levels of awareness about their legal rights and the assistance services available in their areas. The lack of accessible and gender-responsive information and services means that women migrants are often less able to exercise the rights guaranteed to them under Thai law. Women employed in isolated workplaces – such as private homes in the case of domestic workers, or farms in the case of agricultural workers – may face additional barriers to access, including lack of freedom of movement, use of a phone or available transportation options.

Research by the Human Rights and Development Foundation (HRDF) provides further information on the challenges that women migrants face in access to justice in Thailand. Between 2005 and 2015, HRDF provided legal assistance in a number of high-profile cases of abuse of women migrant workers. These cases often involved women who had their labour rights violated and then experienced discriminatory and degrading treatment from the legal system as a result of their gender, nationality or ethnicity. The state mechanisms established to provide remedies for abuses and prosecute criminal offenses were not only unsuccessful in providing justice but also re-victimized women migrant workers during the process of seeking redress (2016).

Opportunities for skills development

In Thailand, according to the Skill Development Promotion Act 2002, business operators with up to 100 employees must provide annual skill training to at least 50 per cent of their regular employees. Information provided by Thai labour officials suggests that 10,000 women migrant workers received training from their employers in 2016. However, monitoring of the results of the trainings is not available, and many women migrant workers report not having received any skills development training at all. Targeted skills training before migration and during employment in Thailand would enhance the capacity of women migrants to match the demands of the labour market, in line with national and regional priorities.

Conclusion

The establishment of the ASEAN Economic Community (AEC) in 2015 has the potential to generate new economic opportunities for women migrant workers and their employers in Thailand. Addressing the challenges and barriers to safe migration into decent work for women would enhance the benefits and reduce the risks associated with labour migration. The current focus of the AEC on skilled labour mobility does not reflect the realities of migration in Thailand, which is overwhelmingly irregular and low-skilled, as well as increasingly feminized. Establishing gender-responsive labour mobility schemes that respond to these issues would contribute to greater labour market efficiency and increase the opportunities for women to migrate safely and receive the labour rights protections to which they are entitled.

Although Thailand has made significant progress in establishing basic labour rights protections for migrant workers within its legal framework, in practice, many migrant workers still face difficulties in accessing these rights. Women migrant workers in particular face pervasive discrimination and inequalities based upon both their gender and nationality. The gap between the guarantees of labour and social protection provided in law and their implementation and uptake illustrates the need to develop measures that better respond to the real-world

experiences of women migrant workers. Strengthening protections and women's access to them would recognize the importance of the contribution that women migrant workers make in ASEAN's priority integration sectors; Thailand's national priority sectors; and other economic sectors that predominately employ women, such as domestic work and care work.

Greater investments in skills development training would also help women migrant workers to move into jobs with better wages and working conditions, addressing segmentation within the labour market by expanding the occupational options available to them. Equipping women migrant workers with the skills to fill mismatches between the supply and demand for labour in Thailand will further expand the benefits they receive and contribution they make to the country's economic development.

Recommendations

1. **Strengthen labour protections for women migrant workers in the informal sector**, including by extending full protection under labour laws for domestic work, agriculture, entertainment and services. In line with the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) Committee's 2017 Concluding Observations and the Global Compact for Migration, create more opportunities for women migrants to gain access to formal employment.
2. **Strengthen enforcement of labour laws in sectors employing women migrants**, with a particular view to enforcing minimum wage protections in the construction sector and reducing excessive working hours in the domestic work sector. Ensure that prohibitions against discriminatory pay practices for women migrant workers are enforced, in line with Thailand's obligations under CEDAW.
3. **Provide clear standards and guidelines and ensure labour inspectors are adequately resourced and trained** to effectively monitor the employment conditions of women migrant workers and enforce penalties on employers who do not comply with the law, including for domestic work.
4. **Raise awareness among employers and workers on their rights and obligations under labour and social protection laws.**
5. **Increase women's access to social protection benefits** by training government service providers on gender-responsive service provision. This will enable authorities to build greater trust with women migrant workers and reduce the barriers to practical utilization of entitlements.
6. **Ensure systematic collection of gender-disaggregated data on labour migration**, including on wages, sectors of employment and legal status.
7. **Amend labour legislation to guarantee all women have the right to freedom of association and collective bargaining**, including through trade unions and formal or informal networks and associations, regardless of migratory status, legal status or sector of employment.
8. **Expand the opportunities for safe migration of women** by increasing the responsiveness of the MOUs with neighbouring countries to labour market needs. This could include recognizing feminized sectors of work – such as domestic work, care work and entertainment

– within the MOUs to increase women’s access to regular migration pathways.

9. **Reduce the barriers to regular migration and legal status for women migrant workers** by reviewing the gender-responsiveness of recruitment and regularization regimes, in collaboration with countries of origin. This should include reducing the cost, duration and complexity of the processes involved and providing women migrant workers with clear, accessible and gender-responsive information and services before migration and during employment.
10. **Expand decent work opportunities for women migrant workers by investing in skills development training** that fits with the needs of the Thai labour market, in collaboration with countries of origin. This should take into account the importance of key national priority sectors and ASEAN PIS, in particular construction, agriculture and tourism.
11. **Ratify international conventions that address the needs of women migrant workers**, including the Domestic Workers Convention, 2011 (No. 189) and the Maternity Protection Convention, 2000 (No. 183).
12. **Promote greater integration between skilled mobility under AEC and the protection of the rights of migrant workers under ASCC**, with particular attention to improving and streamlining women’s mobility for low-skilled jobs. Thailand should make use of the opportunity of being the 2019 ASEAN Chair to advocate for expanded skills recognition arrangements in sectors employing a large proportion of women migrants, such as domestic work, agriculture and manufacturing.
13. **Engage women’s groups, civil society organizations and migrant associations on issues affecting women migrant workers** to ensure that the voices and experiences of women migrant workers are adequately reflected and addressed in policies and legislation.

References

Arora, R.

2017 Female migration and labor in Thailand: When law and society continue to exclude you. *UCLA Journal of International Foreign Affairs*, 21(1): 73–97. Available at: http://www.mapfoundationcm.org/pdf/eng/Female%20Migration%20and%20Labor%20in%20Thailand_Arora.pdf.

Asia-Pacific RCM Thematic Working Group on International Migration (RTWG)

2015 *Asia Pacific Migration Report 2015: Migrants’ Contributions to Development*. RTWG, Bangkok.

Association of Southeast Asian Nations (ASEAN)

2004 ASEAN Framework Agreement for the Integration of Priority Sectors. Available at: <http://asean.org/asean-framework-agreement-for-the-integration-of-priority-sectors-vientiane-29th-november-2004/>.

2008 ASEAN Economic Community Blueprint. ASEAN Secretariat, Jakarta.

2009 *Roadmap for an ASEAN Community*. ASEAN Secretariat, Jakarta. Available at: http://www.asean.org/storage/images/ASEAN_RTK_2014/2_Roadmap_for_ASEAN_Community_20092015.pdf.

2012 ASEAN Vision 2020. Available at: http://asean.org/?static_post=asean-vision-2020.

Department of Employment (DOE)

2016 Newsletter on statistics of foreign workers with work permits throughout the Kingdom, 2016 (in Thai). Available at: https://www.doe.go.th/prd/assets/upload/files/alien_th/94ec1760f83293298787bf9d0fd3496a.pdf.

Fair Labor Association

2018 Triple Discrimination: Woman, Pregnant, and Migrant. Fair Labor Association, Washington, DC

Harkins, B., D. Lindgren and T. Suravoranon

2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

Human Rights and Development Foundation (HRDF)

2016 *Female migrant workers in Thailand: In search of human dignity and labour rights through the justice system*. HRDF, Bangkok.

International Labour Organization (ILO)

2014 Education for Child Labour and Migrant Children: Information Kits for Schools and Teachers. ILO, Bangkok. Available at: <http://www.ilo.org/ipecinfo/product/download.do;jsessionid=fd38347d322c2f7af555ceb9a7a6347fedb1b79658df9b97fa3987e17b2fefbb.e3aTbhULbNmSe34MchaRahaKah50?type=document&id=25735>.

2015 Migrant workers' rights and welfare: Combating the worst forms of child labour in shrimp and seafood processing areas of Thailand. Leaflet, THA/10/50/USA. Available at: http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_230053.pdf.

2016a *High Rise, Low Pay: Experiences of Migrant Women in the Thai Construction Sector*. ILO, Bangkok.

2016b *Worker, Helper, Auntie, Maid? Working Conditions and Attitudes Experienced by Migrant Domestic Workers in Thailand and Malaysia*. ILO, Bangkok.

2017 *Protected or Put in Harm's way? Bans and Restrictions on Women's Labour Migration in ASEAN Countries*. ILO, Bangkok.

International Labour Organization and Organisation for Economic Co-operation and Development (ILO and OECD)

2017 *How Immigrants Contribute to Thailand's Economy*. ILO and OECD, Geneva/Paris.

International Organization for Migration (IOM)

2016 Thailand migration profile. Available at: <https://thailand.iom.int/sites/default/files/Infosheets/IOM%20Infosheet%20-%20Labour%20Migration%20Trends%20in%20Thailand.pdf>.

Ministry of Foreign Affairs

2014 Temporary measures in addressing migrant workers. Announcement of the National Council for Peace and Order, No. 67/2557. Available at: <http://www.mfa.go.th/main/en/media-center/3756/46797-Announcement-of-the-National-Council-for-Peace-and.html>.

United Nations Department of Economic and Social Affairs (UNDESA)

2017 *World Population Prospects: The 2017 Revision*. UNDESA, New York, NY. Available at: <https://esa.un.org/unpd/wpp/>

UN Women

2017 *Women Migrant Workers in the ASEAN Economic Community*. UN Women, Bangkok.

2018 *Scoping Study: Strengthening the Protection and Empowerment of Women Migrant Workers in Crisis and Disaster Situations*. UN Women, Bangkok.



Abstract:

Human trafficking in Thailand is primarily for the purposes of labour and sexual exploitation. It has evolved in the context of large-scale labour migration in the region, with migrant workers coming from neighbouring Cambodia, the Lao People's Democratic Republic and Myanmar due to a confluence of factors. Economic development and labour shortages in Thailand, combined with weak governance of migration and workplaces, has resulted in many migrant workers finding employment opportunities under vulnerable conditions and experiencing varying degrees of exploitation and abuse. Policy development to combat human trafficking has been considerable, yet implementation remains weak. In recent years, state and non-state actors have collaborated to address the problem, particularly in the fisheries industry, which has attracted the most attention for trafficking and related exploitation. However, there are no reliable estimates of the number of people trafficked in the country. A total of 455 individuals in Thailand were identified as trafficked persons in 2017, the majority of whom were women trafficked for the purpose of sexual exploitation. Limitations on trafficking-related data remain substantial and most reports are based on secondary sources or analyses of identified cases. As most victims are not likely to be officially identified, there is a need for more proactive counter-trafficking efforts and research to inform responses.

Thai anti-trafficking laws and definition of human trafficking

Thailand's Anti-Trafficking in Persons Act (enacted in 2008 and revised in 2015 and 2017) broadly uses the international definition of trafficking in persons under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (2000). While the definition is lengthy and complex, it is more simply about the coercion, deception or force used to bring and maintain a person in a situation of severe exploitation.

Consultations are currently ongoing to incorporate more clarity on forced labour as an outcome of trafficking in Thailand's Anti-Trafficking in Persons Act, with "forced labour" defined in international law as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (Forced Labour Convention, 1930 (No. 29)). Forced labour is an outcome, or purpose, of trafficking and is often when trafficking is identified. Trafficking is rarely identified (correctly) prior to exploitation occurring, and indicators of forced labour are also useful for determining trafficking for labour exploitation.¹

¹ Through the COMMIT Process, the Thai Government has agreed with other countries in the Greater Mekong Sub-region to using indicators of trafficking to assist frontline officials to assist in identifying possible victims.

The distinction between trafficking and people smuggling is made in the International Convention and its Protocols. Recognizing the difference is important, as the two phenomena are often conflated with each other. Smuggling is defined by the irregular movement across international borders for profit, and understood to be voluntary; while trafficking does not require crossing international borders and includes an element of deception or coercion.² Many migrants who come into Thailand for work without the correct permits do so without engaging in smuggling or trafficking networks. Instead, they cross the border on short-term passes or through unofficial routes and stay longer or go further into the country than permitted (UNODC, 2017).

Coercion and extortion of smuggled persons can blur into trafficking when a combination of excessive debts accrued from transportation and associated charges is compounded by threats and abuse. The tragic stories of Rohingya people brought through the south of Thailand embody these complexities, and different individuals in a group may demonstrate characteristics of smuggling, trafficking and seeking asylum. During 2014–2017, Thailand identified 100–155 Rohingya as victims of trafficking, assisted at least 49 with resettlement together with UNHCR and IOM, and provided support to more than 120 Rohingya irregular migrants/asylum seekers (MSDHS, 2015, 2016, 2017, 2018). Many others, however, were not considered trafficked persons and did not receive such assistance, even though they demonstrated similar indicators of vulnerability and abuse.

In the context of labour migration to Thailand, many migrant workers cannot afford to pay the full amount of their migration and recruitment costs in advance and therefore start work in debt. The average cost of migration for Myanmar migrants coming to Thailand is USD 400 (Harkins, Lindgren and Suravoranon, 2017). This amounted to more than three months' wages in Thailand and substantially more relative to their incomes in Myanmar. The debt burden can create significant vulnerability to exploitation, with ambiguity concerning the rate of repayment often compounded with other elements of control and coercion, such as the withholding of identity documents (UNODC, 2017). With half of Myanmar migrants borrowing from money lenders to pay for their migration costs, the concerns over debt repayments and losing collateral used for the loans means that some workers “are forced to endure abusive working conditions as they desperately needed money to pay off their loans” (Harkins, Lindgren and Suravoranon, 2017).

Victim identification

Significant concern over the prevalence of trafficking in Thailand has come from State and non-State actors, both nationally and internationally, and many reports highlight the extent of the problem.³ These concerns extend to the identification of trafficked persons, as most are likely not identified in Thailand, as elsewhere, for a range of reasons. These include the hidden nature of the crime, the fear and stigma often experienced by trafficked persons, difficulties with the process for

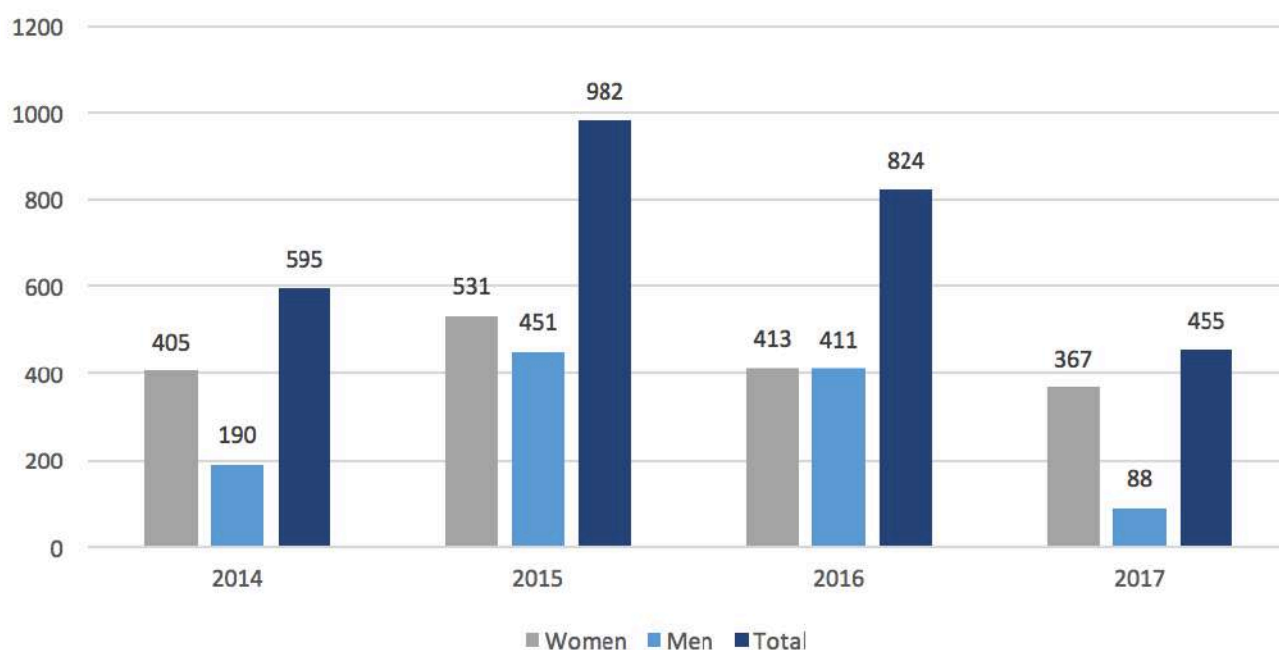
² Legislation on people smuggling is currently being developed in Thailand, under consideration of the Council of State, and will stipulate how smuggled persons should be treated, according to the Ministry of Foreign Affairs.

³ ILO, *Ship to Shore Rights: Baseline Research Findings on Fishers and Seafood Workers* (2018); UNODC and Thailand Institute of Justice, *Trafficking in Persons from Cambodia, Lao PDR and Myanmar to Thailand* (2017); and Human Rights Watch, *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry* (2018) among others.

screening victims and insufficient capacities among responsible officials (ECPAT International and INTERPOL, 2018; UNODC, 2017). While global estimates (ILO, Walk Free and IOM, 2017) suggest that only a small fraction of cases are officially identified, understanding of the spectrum of cases not identified is weak, as little primary research has been conducted in this area. Limitations on trafficking-related data remain substantial and most reports are based on secondary sources or analyses of identified cases, compounding potential biases in the understanding of trafficking in the country. In this regard, the Thai Government’s annual Trafficking in Persons Report is a significant contribution to consolidating the country’s efforts in counter-trafficking. However, independent primary research is also needed, targeted at specific areas and sectors demonstrating risk, and designed to inform effective responses.

Thailand has formally established Multi-Disciplinary Teams (MDTs) to screen and initially identify trafficked persons through a standardized process nationally. While police have the formal responsibility to identify victims of trafficking, they work with social workers, immigration officials and sometimes NGOs to carry out their mandate. Figure 10.1 shows that 455 individuals were identified as trafficked persons in Thailand in 2017, a decline from 824 in 2016 and 982 in 2015 (MSDHS, 2018). There was a substantial reduction in the number of non-Thais identified as victims of trafficking from 2016 to 2017, with 70 per cent of identified victims in 2017 being Thai nationals and Myanmar nationals being the largest other nationality (11 per cent) (figure 10.2). Notably, 84 per cent of identified trafficked persons were trafficked for the purposes of sexual exploitation (figure 10.3), which may reflect a tendency to focus on trafficking cases in the sex industry over more difficult to identify cases in other labour sectors. Assessments of the MDT note that there are issues of inconsistency in screening and determination of status, with different understandings of the forms of coercion and exploitation that result in trafficking (Liberty Asia, 2017). Such analyses provide an evidence base for possible capacity-building mechanisms to strengthen both victim identification and the ability of MDTs to support the screening process.

Figure 10.1: Formally identified trafficked persons in Thailand by gender (2014–17)



Source: Ministry of Social Development and Human Security (2018).

Efforts to improve the processes for victim identification have been welcomed and the recent changes in policy will take time to assess, yet systematic and consistent implementation remains a challenge. Previously, there were pressures to conduct victim identification in a very limited timeframe, which was understood to be within 24 hours. A longer period to conduct victim identification has now been established, which is a positive step. However, there is no formal “reflection period” for possible victims before formal identification, as recommended in international best practice (UNODC, 2009; Liberty Asia, 2017). More formal recognition of the status of “possible victim of trafficking” and the profiling of such cases could help to address the limitations in the binary classification of trafficking/not trafficked, which can otherwise serve to limit the perceived scale of the problem. Analysis of this set of data could help inform interventions by providing insights on the risks and coercive factors that, when identified in exploitative workplaces, result in cases being referred to specialists to conduct determination at a later stage. There has been some progress in more targeted monitoring and victim identification, for example through the Command Center to Combat Illegal Fishing (CCCIF) in the fisheries sector. Acknowledging where such exploitative practices exist more broadly and addressing the phenomena at a systemic level in other high-risk industries could have a significant impact in reducing trafficking.

Further reflection on the potential biases in identification of cases of sexual exploitation over other forms of labour exploitation may be useful, as the resulting statistics impact perceptions and may self-reinforce mistargeted responses. A range of factors contribute to this, including cultural and gender biases wherein women in situations of sexual exploitation fit the stereotype of “trafficking victim” more clearly than other possible trafficked persons. Greater accessibility of workers in the sex industry for officials with the mandate to identify trafficked persons is also a factor, as compared to workers on fishing boats, plantations or private homes (HRC, 2016). The latter sectors of work are characterized by remote, isolated and informal workplaces, which makes it difficult for labour inspection processes to monitor and detect possible trafficking cases (Ronda-Perez and Moen, 2017). In addition, non-physical indicators such as abuse of vulnerability, retention of identity documents and withholding of wages can be difficult to detect, or may not be understood as indicators of forced labour and trafficking (ILO, 2012). These biases also need to be confronted and addressed for more effective counter-trafficking responses.

Vulnerability of migrant workers

Thailand’s economic development has far surpassed many of its neighbours in the Greater Mekong Sub-region. This development, combined with significant labour shortages, has made Thailand an attractive destination for migrant workers, who are recruited primarily for low-skilled manual labour in specific sectors. These include agriculture, manufacturing, food processing, fisheries, construction, domestic work, and increasingly, in hospitality and services. The demand for workers in these sectors has been met by a ready supply from the neighbouring countries of Cambodia, the Lao People’s Democratic Republic and Myanmar. From the perspective of countries of origin, in very general terms, limited livelihood opportunities are combined with a large demographic of working age people without access to decent work at home or elsewhere. With these needs unmet domestically and many successful migration stories within peer networks, there is an incentive for many people to make the move abroad in order to earn a greater income for themselves and their families.

Effective recruitment and migration governance systems have yet to be established to facilitate the movement of migrant workers to meet labour demands in Thailand. National security arguments are often a barrier to the development of more responsive mechanisms. Unlicensed brokers and social networks have filled the gap for decades, often acting as mediators between workers and potential employers, and creating an informal system of recruitment that can adapt to changes in demand and government crackdowns. Operating within and outside of legal frameworks, brokers vary in their practices and in the degree to which they seek to increase their profits by deceiving or exploiting migrant workers. The risks also depend significantly on the willingness of employers and other duty bearers to allow these practices to occur, as limitations in the rule of law and access to justice for migrants gives these actors greater power in the employer–worker relationship. The resulting vulnerabilities have led the Special Rapporteur on Human Trafficking to recommend that Thailand “review its labour and migration laws to accommodate the demand for low- or semi-skilled labour and provide for safe migration options, and eliminate the vulnerabilities of migrant workers and their families to all forms of human trafficking” (Special Rapporteur on Trafficking in Persons, 2012).

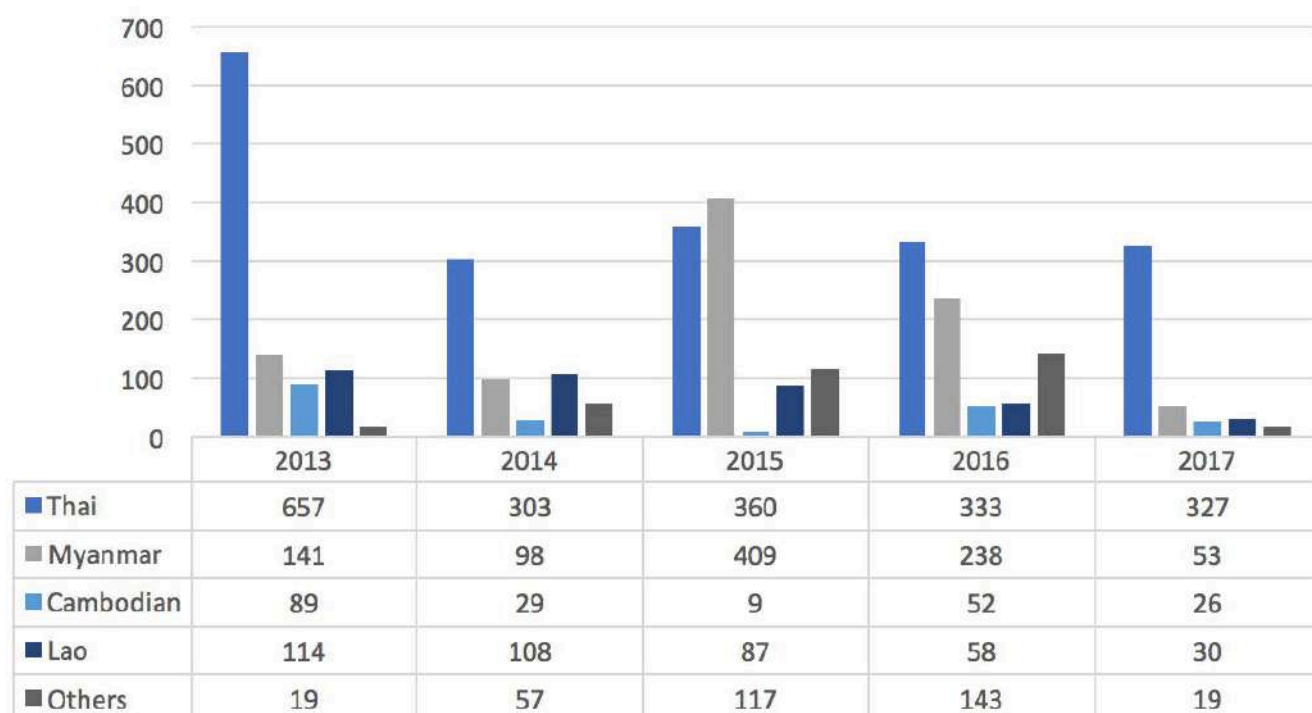
The aforementioned industrial sectors have become largely dependent on low-wage migrant workers to remain competitive, which is unlikely to change in the near-term (IOM and ARCM, 2013; ILO 2018a). There are no definitive statistics on the number of migrant workers in the country due to high levels of irregular migration. However, it is believed that those working in an irregular status remains in the hundreds of thousands (see chapter 1). Regularizing the status of migrants would both recognize the need for their labour and provide some degree of labour rights protection. Research shows that more than half of migrant workers in Thailand (52 per cent) were employed without official documentation (Harkins, Lindgren and Suravoranon, 2017), which contributes to vulnerability, particularly in cases where brokers or supervisors keep workers living and working on-site and use the threat of arrest to limit their freedom of movement.

Public attitudes towards migrant workers can also affect their treatment and ability to seek assistance in cases of exploitation and abuse. In Thailand, the social construction of “Thai-ness” as a national identity has “influenced Thais’ attitude toward immigrants and ethnic minorities, and has possibly produced prejudice and polarization” (Sunpuwan and Niyomsilpa, 2012). Public attitudes are also arguably influenced by “Thai media reports [that] often portray Myanmar refugees and migrants as a threat to personal safety, social order and public health, depicting them as troublemakers and a burden to Thailand” (Sunpuwan and Niyomsilpa, 2012). A survey of Thai nationals found that 80 per cent “felt that unauthorized migrants cannot expect to have any rights at work” (Tunon and Baruah, 2012), which is aligned with national security approaches to managing migration and fails to highlight the economic benefits that migrants bring to the country.

Migrant workers often lack knowledge of the laws applicable to them, as well as their rights and duties (ILO, 2007). Language barriers are also a significant hindrance in negotiating or understanding their terms of employment, whether written or verbal. Often unaware of the wages and working conditions in the workplaces that they are destined for, their vulnerability is increased, particularly when written contracts are not in place and ambiguous employment conditions arise from verbal agreements. Lack of a written contract often results in migrants having inadequate access to legal protections against exploitation and abuse. Civil society provide an important safety net for migrant workers in such cases, making cooperation between government and non-governmental organizations (NGOs) critical to effective counter-trafficking

approaches. NGOs assist victims of trafficking to access services that they may not have otherwise known or understood how to make use of.

Figure 10.2: Formally identified trafficked persons in Thailand by nationality (2013-17)



Source: Ministry of Social Development and Human Security (2018).

High-risk sectors employing a large proportion of migrant workers in Thailand are fishing, construction, agriculture, manufacturing, domestic work, sex work and services. Cases of labour exploitation and trafficking have come to light through the work of NGOs and international organizations in construction, domestic work, chicken farming; however, no large-scale data collection has been conducted to attempt to extrapolate estimates or determine the scale. The ILO are undertaking some such studies, which will provide a substantial contribution to our understanding of the working conditions and incidence of exploitation in these sectors. Further, labour exploitation of Thai workers overseas has been reported in parts of Europe, Israel and the United States; however, the degree to which these patterns demonstrate more systematic trafficking have not been determined. Indicators of forced labour are clearly present in numerous cases, and more research in this area would be valuable (Human Rights Watch, 2015). As a result of a lack of robust research and data collection in other sectors, this chapter will primarily focus on the fisheries industry and sex work.

Much attention has been brought to the fisheries sector in recent years and substantial action has been taken by both civil society and government actors as a direct result (see chapter 5). Structural factors have played a significant role in trafficking being recognized as systemic in the Thai fisheries industry, which have been analysed in a number of UN and NGO reports. The unregulated expansion of the Thai fisheries industry over a number of years has led to a high demand for workers. This comes, paradoxically, with decreasing fish stocks, which require longer time further out at sea to catch. These factors have been key drivers behind the vulnerability of migrant workers in the sector.

NGOs have been proactive in responding to cases of trafficking onto boats and in working with other stakeholders to raise awareness and coordinate responses. This has been supported by advocacy at an international level, from governments, international organizations and the media, to bring changes to exploitative practices. Media reports, exemplified by the Associated Press' investigation of forced labour on Thai fishing boats in Indonesia and the supply chains affected, have resulted in international headlines on the abuses and a surge in action to address the problems (Associated Press, 2016).

With the issue at the top of the national development agenda, there is still contention over the impact these actions are having, and whether the changes are really structural and sustainable, or more temporary while attention is focused on the sector. The Government and other stakeholders have integrated responses to address concerns over illegal fishing and forced labour on boats together, which is arguably a considered approach, yet there is a danger is that measures addressing one issue will be claimed to have addressed the other. The interventions such as Port-In/Port-Out (PIPO) checks, registration of boats and crew lists, are all improvements to the transparency of the fisheries industry, but depending on how they are implemented, may not necessarily have an impact on labour conditions in the industry. Due to the severe abuses noted in the industry, there is a concern that the attention devoted to addressing trafficking on fishing boats may come at the expense of addressing systemic abuses in other sectors.

Trafficking for sexual exploitation in Thailand takes place in the context of a large and thriving entertainment and hospitality sector. In a traditionally conservative society, sex work in Thailand is informal and sex workers are not recognized as workers and protected by labour laws. The strict criminalization of sex work, coupled with the implicit acceptance of the industry by the general public and the financial interests of some law enforcement actors in maintaining the status quo, presents a significant conundrum which exacerbates the distinct vulnerability of workers in the sector. There are differing degrees of exploitation and abuse endured by workers in the industry, even within the context of voluntary sex work. While this is also the case in many other countries, the large number of workers in the sector in Thailand, and its ubiquitous nature and relative acceptance, places a particular importance on advocacy for sex workers' rights.

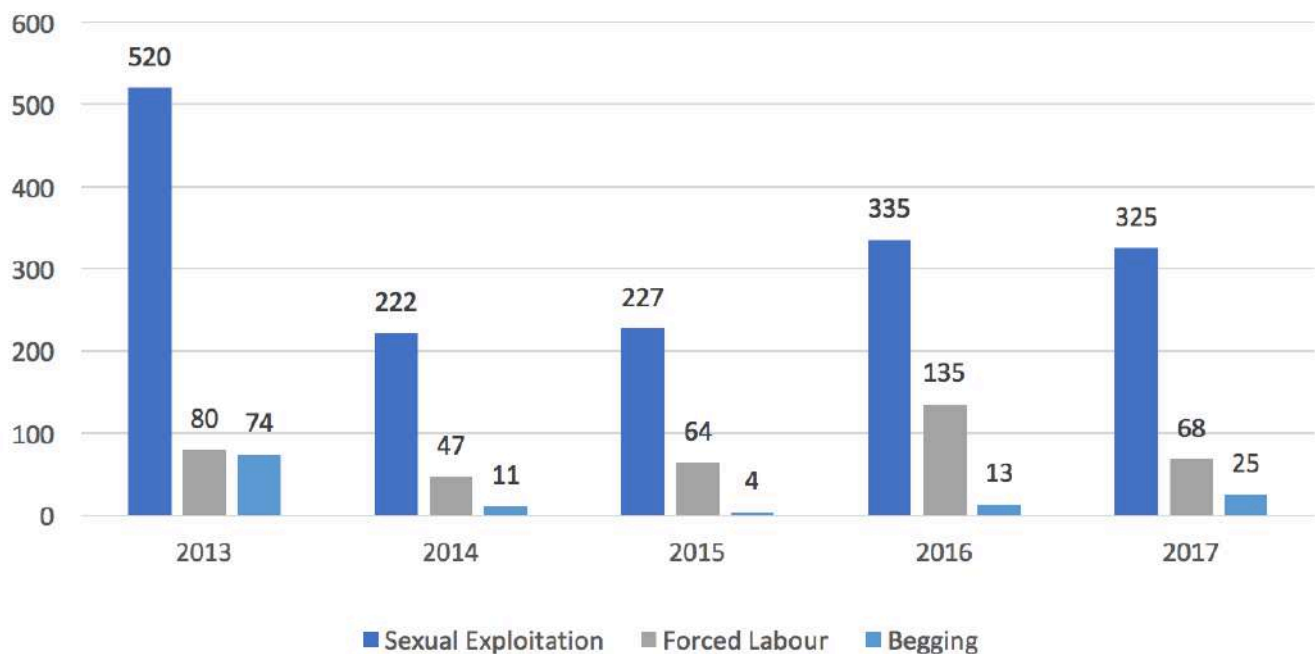
The degree of coercion and deception involved in exploitation within the sex industry is key to understanding whether someone may be considered trafficked into the sector or not. Trafficking for sexual exploitation remains a controversial issue in Thailand, as elsewhere. As chapter 3 notes, the perspective of sex work as a viable livelihood option stands in contrast to Thailand's laws and perceived cultural norms. The response to trafficking for sexual exploitation is frequently sexist, discriminatory and paternalistic, separating "innocent victims" from "criminals". The conflation of sex work and sexual exploitation is also a cause for concern and hinders counter-trafficking efforts when it occurs, as well as abusing human rights. While raids of sex entertainment venues are often criticized in this light, the identification of trafficked persons among workers during such interventions indicates the need for better protection and transparency of working conditions for those employed. There are of course specific concerns related to exploitation of underage girls and boys in the sector that need to be addressed with urgency. Yet for adults, the specifics of individual situations vary considerably. Each individual's own relative agency in their work should be considered when determining whether an exploitative situation is to be considered trafficking or not.

Exploitation of Thai women in sex work outside of Thailand is a relatively well-documented

phenomenon, with cases reported in Europe, the United States and Australia, as well as to a lesser extent in South Africa, the Middle East and India. Within the East and South-East Asia regions, cases have been documented in Malaysia and also China. Inbound trafficking cases have been detected from a number of source countries, with a high concentration of cases originating from the neighbouring countries of Cambodia, the Lao People’s Democratic Republic and Myanmar. In smaller numbers, women, men, girls and boys have also been brought into forced sexual exploitation from Eastern Europe and African countries. There are also reports of sexual exploitation of Thai transgendered women in Europe (AFP, 2018).

Forced begging is also recognized as a form of exploitation prevalent in Thailand, especially foreign children aged below 15 years, with 127 victims identified during 2013–2017 (MSDHS, 2015, 2016, 2017, 2018). Children were also trafficked to sell flowers or other goods; however, the level of organization and intention to exploit is often unclear.

Figure 10.3: Formally identified cases of trafficking by type of exploitation (2013–17)



Source: Ministry of Social Development and Human Security (2018).

Corruption, clientelism and human trafficking

Corruption is a key contributing factor to human trafficking patterns in different ways and forms. In Thailand, acknowledging the context of “widespread and pervasive corruption” is important with regard to effectively addressing vulnerability to human trafficking.⁴ While sensitive, there have been efforts to address this difficult nexus by both non-governmental and, more recently, government actors. The Thai Government’s 2018 Anti-Trafficking in Persons Report states that “High-ranking public officials involved in human trafficking were convicted with harsh penalties for the first time. In the notorious Padang Besar case, the Court of Justice sentenced 11 public

⁴ Reports of “widespread and pervasive corruption” is taken from the UN High Commissioner for Human Rights and applied here to note the specific relevance to vulnerability to human trafficking.

officials, one of whom was a lieutenant general, for having conspired to traffic Rohingya migrants” (MSDHS, 2018). The report also highlights that prior to 2017, a total of 44 public officials had been prosecuted for trafficking in persons-related offences. The Padang Besar case therefore represents a major increase, constituting 20 per cent of all officials prosecuted for trafficking in persons offences in the country.

The complicity of State officials and other duty bearers has also been reported in other human trafficking cases, including a high-profile case of child sexual exploitation in Mae Hong Son province. At least nine police were dismissed after being implicated as clients of under-aged and trafficked girls, which is linked to the issue of clientelism in Thailand. Clientelism “involves asymmetric but mutually beneficial relationships of power and exchange” (Roniger, 2004). It reflects the importance of understanding patron-client relationships in the country with respect to phenomena such as human trafficking, and the informal relationships that can affect law enforcement effectiveness. The systemic nature of corruption that migrant workers encounter is further demonstrated in the finding that 21 per cent of return migrant workers reported that they made informal payments to government officials “due to not having legal permission to stay or work in Thailand” (Harkins, Lindgren and Suravoranon, 2017). Legal tools such as the criminal defamation law and the Computer Crimes Act have been used to intimidate and prosecute human rights advocates and reporters, which prevents more complete research and reporting on the issue. The situation of the Thai Navy vs Phuketwan news agency is a case in point (iLaw, 2014).

Human trafficking responses

The Thai Government has made combating human trafficking a national priority and undertaken significant legislative reforms to support this effort. As noted previously, the Government has also produced substantial annual reports on the work being done through its multi-disciplinary approach to the “3 Ps” of prosecution, protection and prevention.⁵ Various policies, committees, taskforces and plans of action have been announced, adopted and established over the years, so much so that it is not possible to document them all in this chapter. The Government engages in regional cooperation to combat trafficking through ASEAN bodies, the Coordinated Mekong Ministerial Initiative against Trafficking (COMMIT) and the Bali Process. The challenge is often, however, in demonstrating effective implementation of these policy-level mechanisms. A reputation as being permissive for human trafficking is not only damaging for a country’s image but can also negatively impact upon trade, as Thailand found with the European Union’s “yellow card” on the fisheries sector – ostensibly for illegal, unreported and unregulated fishing practices but also later recognized to be influenced by unacceptable labour conditions. The Government has focused substantially on addressing the reputation of the fisheries industry as a result, with the establishment of the CCCIF receiving a considerable amount of funding for its counter-trafficking efforts.

New regulations in the fishing sector include a limit of 30 days for which boats can remain at sea, which could have a significant impact on long-haul fishing operations. The distance which

⁵ In the related area of the worst forms of child labour, the US Department of Labor commended the Government of Thailand for “significant advancement” based on its efforts in eliminating child labour in the 2017 edition of *Findings on the Worst Forms of Child Labor*.

Thai vessels have to travel and the months on-board fishing boats, combined with intermittent docking and lack of grievance mechanisms for workers, have been significant drivers of forced labour. ILO research in 2018 indicates that some positive changes in recent years include a shift from variable pay to payment in accordance with the minimum wage, which is now applied to the sector. In addition, more workers indicate having signed a written contract (43 per cent) than in a previous ILO survey in 2013 (6 per cent). As it is now a legal requirement, however, and over half of those surveyed do not have a contract, greater efforts are still needed. The research also noted that there are significant indications of forced labour, with the retention of identity documents (30 per cent) and withholding of wages (24 per cent) remaining common in the sector (ILO, 2018b).

A number of the structural issues noted as applying to migrant workers in general within this chapter are compounded in the fisheries sector. Monitoring of working conditions through the PIPO centres is not conducted in a manner that is likely to identify coercive employment conditions. Coercion or deception by boat supervisors and brokers is still a factor, as work in the sector remains unattractive to most Thai citizens and thus the sector is for the most part reliant on migrant workers. Ultimately, how the industry will adapt to the substantial regulatory changes will be clearer over time, particularly once the issue is considered a lower priority for the country and less focus and resources are paid to addressing the problem. Yet the unsustainability of fishing in the long-haul industry may force more permanent changes in the longer-term.

More attention is also needed in other industries, as recognized by the United Nations Working Group on Business and Human Rights, which welcomed the Thai Government's adoption and promotion of the Business and Human Rights agenda. The Working Group specifically noted the need to adopt a similar approach as taken in the fisheries sector to address the risk of forced labour and trafficking in agriculture and construction, which also employ large numbers of migrant workers. In terms of complicity between officials and businesses that use forced labour, a new anti-corruption law enacted in 2018 stipulates that companies can be held criminally liable for bribes given to officials and may also factor into counter-trafficking responses.⁶

The Government standardized its victim identification screening process nationwide in 2015, and since 2016 has reported substantial progress in the development of guidelines to "enhance efficiency of human trafficking victim identification". How this aligns with the lower number of cases identified is unclear and merits further exploration. Non-Thai trafficked persons can now receive permission to stay and work in Thailand for up to two years following the closure of their cases. Of the 455 trafficked persons identified in 2017, 195 were provided with employment opportunities in collaboration with the Ministry of Labour. Provincial Social Development and Human Security offices provide follow up on reintegration support for Thai victims, and follow up with migrants from neighbouring countries is conducted through Case Management Meetings under bilateral cooperation mechanisms. The changes since 2015 have come in response to shortcomings identified in previous policies and practices, yet some still in place remain contentious. For example, the compulsory shelter stays enforced for many identified trafficked persons.

The Government reports that an integrated database on human trafficking cases has been developed and implemented, which is important for improving case management and monitoring

⁶ Act Supplementing the Constitution Relating to the Prevention and Suppression of Corruption B.E. 2561 (2018).

and evaluation of responses. In 2018, ten law enforcement and protection agencies signed a MOU to further develop the database to strengthen prosecution and protect victims of trafficking. Specialist counter-trafficking agencies have been established at each level of the criminal justice system since 2015, and the Anti-Money Laundering Office is now better able to confiscate assets of those complicit in trafficking. More than USD 22 million was confiscated in 2016, while compensation provided to victims through the Ministry of Justice's Rights and Liberties Protection Department amounted to approximately USD 13,000 for 23 persons in the same year. Although this is a laudable increase from the USD 5,142 provided for six victims in 2015, it remains insignificant compared to the amounts due to victims. Claims for unpaid wages, sometimes referred to as "wage theft", have resulted in more than USD 95,000 awarded to 77 persons, with more claims still to be settled.

A Master Plan for Labour Management for 2017–2020 was developed by the Ministry of Labour to address policy issues related to the vulnerability of migrant workers. Moreover, a National Strategy for Migrant Worker Management for 2017–2021 is intended to address these vulnerabilities at an operational level. There have also been periodic processes to regularize the legal status of migrant workers in Thailand, yet without significant changes to the formal channels for migration, migrant workers with up-to-date registration will over time become undocumented and further rounds of registration will be needed again in the future. There have been some improvements to the process for registering migrant workers; however, challenges remain in reducing the attrition in the system and ensuring that migrant workers do not lose their legal status when they change employers. Furthermore, overall management of migration would benefit from whole-of-government coordination and a collaborative approach between ministries for effective implementation.

International organizations and civil society have worked to combat human trafficking in Thailand, in collaboration with the Government and in a range of partnerships supported by development partners. Civil society has been a particularly strong force in counter trafficking, with many organizations and individual advocates working on the issue, often engaging the media to raise awareness of cases. However, victims of labour exploitation, labour rights advocates and reporters have also been targeted for their work by the powerful interests in business and politics affected (OHCHR, 2017; Campbell, 2015). Strategic lawsuits against public participation (SLAPP) cases have been reported in Thailand, using legal recourse through anti-defamation law or the Computer Crimes Act to prevent investigation and reporting on exploitation and abuse (OHCHR, 2018). This is a wider issue than counter-trafficking; however, like corruption, it will be important to address this issue to allow for more effective responses.

In recent years, an increasing emphasis has been placed on the role of the private sector in combating human trafficking and for understanding the influence of business practices on trafficking (see chapter 11). This ranges from focusing on those who are complicit in supply chains, to banks and others potentially liable for business dealings with such companies, to progressive companies looking to implement higher standards. Differing degrees of progress have been made, including in models of corporate social responsibility, the development of the Business and Human Rights framework and multi-stakeholder initiatives in a variety of sectors. Some have highlighted the history of corporate social responsibility and voluntary frameworks as notes of caution to the optimism placed in focusing on supply chain and private sector responses (Gallagher, 2017). Much can and has been written on the economic and political models that have resulted in this approach; however, time will tell whether the more recent developments will have an impact or not.

Conclusion

Thailand's association with human trafficking is well documented and a systemic approach to the patterns of exploitation occurring is important in understanding the economic, political, social and cultural factors perpetuating the problem. With the increased priority that has been placed on anti-trafficking efforts in recent years, both nationally and internationally, as well as by Government and non-governmental actors, some clear progress has been made in addressing the issue.

However, additional efforts are required to ensure that the substantial policy framework developed is fully operationalized to support real changes to the profile of human trafficking in Thailand. As most victims are not likely to be officially identified, there is a need for more proactive counter-trafficking efforts and research to inform responses. Identifying the sectors in Thailand where such exploitative practices are widespread and addressing the phenomena systematically in these high-risk industries could have a significant impact in reducing trafficking in persons.

Recommendations

1. **Develop a sustainable management system for labour migration**, with protection of fundamental labour rights in practice as well as in legislation, while meeting industry demands for workers to fill labour shortages.
2. **Conduct research with vulnerable populations and in high-risk sectors of work**, making use of the indicators of trafficking and forced labour.
3. **Conduct systematic and proactive victim identification in targeted sectors and hotspot geographic areas**, with a focus on monitoring for forced labour indicators.
4. **Continue to adjust policies regarding assistance to trafficked persons according to best practices and international standards**, including reflection periods for possible victims and individualized plans for support.
5. **Strengthen multi-disciplinary approaches with all relevant stakeholders, including civil society and the private sector**, to develop stronger monitoring and protection to prevent trafficking in vulnerable sectors.
6. **Actively investigate cases and address corruption related to human trafficking at a systemic level**, with research informing effective responses to combat corruption and collusion.
7. **Building on the action taken in the fisheries sector**, interventions should be targeted to reduce abuses in other sectors vulnerable to exploitative practices, including construction and agriculture.
8. **Provide protection to advocates of labour rights and counter-trafficking against strategic lawsuits** by those engaged in human trafficking.

9. **Strengthen international cooperation in counter-trafficking** through Thailand's leadership in implementing commitments under ASEAN and the COMMIT Process, and in line with the objectives of the Global Compact for Migration.

References

Agence France-Presse (AFP)

- 2018 Germany smashes massive Thai sex trafficking ring in 'biggest ever' raids. 18 April. Available at: <https://www.scmp.com/news/world/europe/article/2142321/germany-smashes-massive-thai-sex-trafficking-ring-biggest-ever>.

Associated Press

- 2016 An AP investigation helps free slaves in the 21st century. Available at: <https://www.ap.org/explore/seafood-from-slaves/>.

Boll, S.

- 2018 Human trafficking in the context of labour migration in Southeast Asia: The case of Thailand's fishing industry. In: *Routledge Handbook of Human Trafficking* (R. Piotrowicz, C. Rijken and B.H. Uhl, eds). Routledge, Abingdon.

Campbell, C.

- 2015 Australian journalist and colleague cleared of charges in Thai Navy defamation case, Time, 1 September. Available at: <http://time.com/4018217/reuters-phuketwan-navy-thailand-alan-morison-chutima-sidasathian/>.

ECPAT International and Interpol

- 2018 *Towards a Global Indicator on Unidentified Victims in Child Sexual Exploitation Material*. ECPAT International and Interpol, Bangkok.

Gallagher, A.

- 2017 Four dangerous assumptions about human trafficking. World Economic Forum, 16 August. Available at: <https://www.weforum.org/agenda/2017/08/4-fallacies-slowing-the-fight-against-human-trafficking/>.

Harkins, B., D. Lindgren and T. Suravoranon

- 2017 *Risks and Rewards: Outcomes of Labour Migration in South-East Asia*. ILO and IOM, Bangkok.

Human Rights Watch

- 2015 *A Raw Deal: Abuses of Thai Workers in Israel's Agriculture Sector*. Human Rights Watch, New York.

iLaw

- 2014 Thai Royal Navy vs Phuketwan news agency. Available at <https://freedom.ilaw.or.th/en/case/554>.

International Labour Organization (ILO)

- 2007 *International Labour Standards on Migrant Workers' Rights: Guide for Policymakers and Practitioners in Asia and the Pacific*. ILO, Bangkok.
- 2012 *ILO Indicators of Forced Labour*. ILO, Geneva.
- 2018a Thailand (July – September 2018). TRIANGLE in ASEAN Quarterly Briefing Note. ILO, Bangkok. Available at: https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614383.pdf.

2018b *Ship to Shore Rights: Baseline Research Findings on Fishers and Seafood Workers in Thailand*. ILO, Bangkok.

International Labour Organization (ILO), Walk Free Foundation and International Organization for Migration (IOM)

2017 *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. ILO, Walk Free Foundation and IOM, Geneva.

International Organization for Migration and Asian Research Center on Migration, Chulalongkorn University (IOM and ARCM)

2013 *Assessing Potential Changes in the Migration Patterns of Myanmar Migrants and their Impacts on Thailand*. IOM and ARCM, Bangkok.

Labour Rights Promotion Network and Asian Research Center for Migration (LPN and ARCM)

2009 *Brokers and Labor Migration from Myanmar: A Case Study from Samut Sakorn*. LPN and ARCM, Bangkok.

Liberty Asia

2017 *Legal Analysis of Human Trafficking in Thailand*. Liberty Asia.

Ministry of Social Development and Human Security (MSDHS)

2015 *Thailand's Trafficking in Persons 2014 Country Report*. MSDHS, Bangkok.

2016 *Trafficking in Persons Report 2015: The Royal Thai Government's Response, 1 January – 31 December 2015*. MSDHS, Bangkok.

2017 *Thailand's Country Report on Anti-Human Trafficking Response (1 January – 31 December 2016)*. MSDHS, Bangkok.

2018 *Thailand's Country Report on Anti-Human Trafficking Response (1 January – 31 December 2017)*. MSDHS, Bangkok.

Office of the United Nations High Commissioner for Human Rights (OHCHR)

2017 UN Human Rights Office welcomes payout to migrant workers in Thailand, says criminal charges should be dropped. Media release, 15 September. Available at: <https://bangkok.ohchr.org/news/press/Thaimigrants.aspx>.

2018 Statement at the end of visit to Thailand by the United Nations Working Group on Business and Human Rights. News article, 4 April. Available at: <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22915&LangID=E>.

Ronda-Pérez, E. and B. Moen

2017 Labour trafficking: Challenges and opportunities from an occupational health perspective. *PLoS Medicine*, 14(11).

Roniger, L.

2004 Political clientelism, democracy, and market economy, *Comparative Politics*, 36(3): 353–375.

Special Rapporteur on trafficking in persons, especially women and children

2012 Mission to Thailand. Addendum to Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/20/18/Add.2, Human Rights Council, Twentieth Session.

Sunpuwan, M. and S. Niyomsilpa

2012 Perception and misperception: Thai public opinions on refugees and migrants from Myanmar. *Journal of Population and Social Studies*, 21(1):47–58

Tunon, M and N. Baruah.

2012 Public attitudes towards migrant workers in Asia, *Migration and Development*, 1(1): 149–162.

United Nations Human Rights Council (HRC)

2016 *Report of the Working Group on the Universal Periodic Review: Thailand*. 7 March. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/044/06/PDF/G1604406.pdf?OpenElement>.

United Nations Office on Drugs and Crime (UNODC)

2009 *International Framework for Action to Implement the Trafficking in Persons Protocol*. UNODC, New York, NY.

2017 *Monitoring Target 16.2 of the UN Sustainable Development Goal: A Multiple Systems Estimation of the Numbers of Presumed Human Trafficking Victims in the Netherlands in 2010-2015 by Year, Age, Gender, Form of Exploitation and Nationality*. Research brief. UNODC, Vienna.

United Nations Office on Drugs and Crime (UNODC) and Thailand Institute of Justice

2017 *Trafficking in Persons from Cambodia, Lao PDR and Myanmar to Thailand*. UNODC and Thailand Institute of Justice, Bangkok.



Abstract:

The private sector in Thailand, as elsewhere, is diverse in size, productivity, labour needs, market penetration and inclusion in global supply chains. Documented and undocumented migrant workers are found working in all major economic sectors, including agriculture, construction, fishing and services. Labour migration has the potential to offer win-win outcomes. Employers often consider migration to be positive, as it fills labour supply gaps and transfers skills. To migrants, it offers jobs and better salaries not available in their home countries. Despite this, research and media reports point to widespread exploitation and abuse of migrant workers by employers and labour recruiters. Increasingly over the years, business actors have started to promote fair and ethical recruitment and employment in their operations and supply chains. The importance of private sector engagement in preventing exploitation and abuse of migrant workers is now recognized in all major global and regional frameworks. The private sector also spearheads a number of initiatives at the national level, including the Thai Seafood Task Force. This chapter argues that while business-led initiatives must be part of any serious effort to address exploitation of migrant workers, they are not a silver bullet. To improve protection of workers, they need to be accompanied and further incentivized by strengthening national and transnational government regulation; and strengthening the capacity of civil society, trade unions, media and consumers to provide oversight, exert pressure to take action and partner on solutions.

Introduction

Private sector actors, including migrant workers' employers and recruiters, are key to the processes of migration and migrant inclusion in destination country labour markets and host communities. Their needs, perceptions and behaviour have significant influence over the patterns and outcomes of migration.

Expensive, cumbersome and lengthy migration procedures may discourage employers and migrant workers from pursuing recruitment through legal migration channels, particularly if labour needs are temporary or seasonal. Additionally, if migrant workers do not perceive that their labour rights are better protected through legal migration, choosing an irregular channel may appear to be a rational choice. Furthermore, legal frameworks need to be accompanied by well-functioning implementation mechanisms to make effective job matching possible. Demand-driven labour migration systems impose an obligation on employers to identify an appropriate worker abroad and take on the responsibility for bringing them into the country of destination. Only large, prominent firms with broad networks and significant resources have capabilities to engage directly in international recruitment.

Many companies, including businesses in South-East Asia, rely on networks of private recruiters and labour providers who often operate in an opaque transnational environment with little oversight and transparency. Some work in accordance with internationally accepted standards of ethical recruitment but unethical practices are widespread, including charging of exorbitant recruitment fees to jobseekers, false promises of jobs and deception about working conditions. When workers who are on the move are poor and low-skilled, desperate to find work and unable to negotiate the conditions of their recruitment and employment, they can be particularly vulnerable to various forms of exploitation and abuse by unscrupulous recruiters, employers and government officials before and during migration, as well as in their new workplace and community. Discrimination and lack of intercultural knowledge may translate into further disadvantage for migrant workers in accessing remedies to uphold their rights.

Businesses in Thailand have benefitted in recent decades from labour provided by migrant workers, in particular from neighbouring Cambodia, the Lao People's Democratic Republic and Myanmar. Nevertheless, effective protection of migrant workers' rights remains a challenge, and concerns have been raised about the productivity and competitiveness implications of the current labour migration model (OECD and ILO, 2017).

Fully 99.8 per cent of all Thai firms are small and medium-sized enterprises (SMEs), providing 83.9 per cent of all jobs and 40.4 per cent of GDP. By contrast, large corporations comprise just 0.2 per cent of all firms but represent 48.2 per cent of GDP (Abonyi, 2013). This is largely due to greater capability to participate in the export market.

Small businesses that act as suppliers to export manufacturing companies typically operate at low levels of skill and technology. Most small companies do not have firm-level capacities to take part in global value chains or compete directly in international markets. Thailand's economy is facing the challenge of transformation, moving from a growth model driven by manufactured exports that relies on low-cost labour to a knowledge-based economy fostering value creation (Abonyi, 2013). This imperative is enshrined in the Thailand 4.0 strategy that seeks to move the country towards a development model based on creativity, innovation and technology.

Migrant workers are employed in all sectors of the Thai economy, most notably in manufacturing, construction, agriculture, fisheries and services (including domestic work and entertainment). Almost 35 per cent of migrant worker jobs are at elementary skill level (OECD and ILO, 2017). Employment of migrant workers at low-wage levels has contributed to the international competitiveness of Thai businesses, including in the seafood and garment industries. Some studies have pointed to a lack of motivation for migrant-employing industries in Thailand to foster higher productivity through investment in skills and technology so that they can move up the value chain (OECD and ILO, 2017).

Existing data on labour exploitation, including forced labour and human trafficking, suggests that no economic sector or industry is unaffected, though the highest concentrations have been found in domestic work, construction, manufacturing, agriculture and fishing. Forced labour is most prevalent in Asia compared to other global regions, with an estimated 16.6 million victims of forced labour, or 4 out of every 1,000 people (ILO, Walk Free and IOM, 2017). Commodity production and lower tiers of global supply chains are at heightened risk. Where migrant workers are present, irregular migration and unethical recruitment and employment practices exacerbate conditions of vulnerability.

Supply chains worldwide are closely linked to unscrupulous labour practices and human rights abuses. Vulnerable workers, often internal or international migrants, are involved in the production, processing and distribution of commodities and goods. Due to the high number and diversity of suppliers and subcontractors involved, keeping track of how workers are treated can be difficult.

In recent years, the Thai seafood industry has come under fire for failing to stop human trafficking and forced labour. The private sector, including several major multinational corporations, has been implicated in allowing labour exploitation of migrant workers within their supply chains. Efforts have been made to strengthen labour protection in the fisheries sector and other industries where exploitation of migrant workers is widespread but many SMEs continue to struggle with implementing better practices without adequate resources and capacity (Grossman et al., 2018).

Global and regional frameworks and processes

Increasingly, private sector actors are becoming more aware of the risks of exploitation for workers in their operations and supply chains, including migrants, and started to more actively promote fair and ethical recruitment and employment. The importance of private sector engagement in preventing exploitation and abuse of migrant workers is now recognized in all major global and regional frameworks and processes.

Key global processes, including the 2030 Agenda for Sustainable Development and the Global Compact on Safe, Orderly, and Regular Migration, have incorporated significant roles for private sector businesses. The 2030 Agenda recognizes the importance of well-managed migration to sustainable development, and fully acknowledges the importance of collaborating with the private sector to realize its 17 goals. In a similar manner, the private sector was involved in all stages of the intergovernmental conferences, preparatory processes, and negotiations on the Global Compact for Safe, Orderly and Regular Migration.

The importance of reducing recruitment fees and costs has been emphasized repeatedly during in global migration discussions during the past decade. For example, one of the indicators for the Sustainable Development Goals – Recruitment cost borne by employee as a proportion of yearly income earned in country of destination (10.7.1) – aims to measure an expected reduction in worker-paid recruitment costs. Several ILO Conventions also provide guidance on the issue of private sector recruitment. The Private Employment Agencies Convention, 1997 (No. 181) covers issues of labour recruitment, including for migrant workers. One of the key provisions of Convention No. 181 is Article 7, which prohibits private employment agencies from charging any fees or costs to workers. Other ILO Conventions that form part of the international legal framework against abusive and fraudulent recruitment practices include the Domestic Workers Convention, 2011 (No. 189), the Migration for Employment Convention (Revised) 1949 (No. 97), the Forced Labour Convention, 1930 (No. 29) and its 2014 Protocol, and the Work in Fishing Convention, 2007 (No. 188) (Andrees, Nasri and Swiniarski, 2015).

International organizations are working closely with the private sector in various ongoing initiatives on the issue of fair and ethical recruitment. In 2014, the ILO introduced its Fair Recruitment Initiative, a multi-stakeholder initiative involving governments, employers'

and workers' organizations, the private sector, international organizations and civil society. It aims to enhance global knowledge on recruitment practices; improve laws, policies and enforcement mechanisms; promote fair recruitment practices; and protect workers. In 2016, the ILO's non-binding General Principles & Operational Guidelines for Fair Recruitment were developed at a meeting of experts, reinforcing the principle that no recruitment fees or related costs should be borne by workers or jobseekers (ILO, 2016).

IOM is leading a multi-stakeholder process towards the development of the International Recruitment Integrity System (IRIS), a social compliance scheme aimed to promote ethical international labour recruitment by identifying and supporting ethical recruiters. IRIS will define and set a benchmark for ethical recruitment (the IRIS Standard), establish a voluntary certification process for international labour recruiters, and certify recruiters through a monitoring and compliance mechanism. The goal of IRIS is to transform the international recruitment industry to make it fair for workers, recruiters and employers by promoting payment of recruitment fees by employers, greater transparency in international labour recruitment and migrant workers' rights (IOM, 2014).

The Global Compact for Safe, Orderly and Regular Migration was formally endorsed by the United Nations General Assembly in December 2018. It emphasizes the importance of adhering to the ILO General Principles & Operational Guidelines for Fair Recruitment, the United Nations Guiding Principles on Business and Human Rights, and the IOM's IRIS Standard in developing and improving policies and programmes to facilitate fair and ethical recruitment and ensure decent work. The Global Compact also highlights the importance of establishing public-private partnerships to spearhead change (United Nations General Assembly, 2018).

At the regional level, several frameworks and processes shape government and private sector action against the exploitation of migrant workers. In 2016, the governments participating in the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime decided to engage more closely with the private sector to combat these crimes, establishing the Bali Process Government and Business Forum as a business track. The 2018 "AAA Recommendations" sets out a framework for government and business to take action to eradicate human trafficking, forced labour, modern slavery and the worst forms of child labour across the Indo-Pacific region (Bali Process, 2018).

The ASEAN Confederation of Employers (ACE) has developed a strong programmatic response to various issues linked to labour migration, including occupational safety and health, skills recognitions and labour mobility, fair recruitment practices, managing reputational risk and supporting diversity. ACE is working with its members from all 10 ASEAN Member States to advance these issues, with the overall aim to promote the human rights of women and men migrant workers within the region.

The ASEAN Intergovernmental Commission on Human Rights has also taken steps to foster regional dialogue and capacity building on business and human rights. Most recently, the Commission convened an interregional dialogue on "Sharing Good Practices on Business and Human Rights" in June 2018.

The Colombo Process is a regional consultative process on the management of overseas employment and contractual labour for countries of origins in Asia. In November 2015, it established the

Thematic Area Working Group on Fostering Ethical Recruitment, consisting of six members: Bangladesh (Chair), Nepal, the Philippines, Sri Lanka, Thailand and Viet Nam. The Working Group aims to ensure decent work and safe migration for migrant workers from Colombo Process Member States (CPMS) through promoting fair and ethical recruitment, harmonizing policies and regulations in CPMS with international standards, and addressing gender-specific needs and vulnerabilities of migrant workers.

As part of the Working Group on Fostering Ethical Recruitment, three annual symposiums on ethical recruitment have been convened to provide avenues to discuss opportunities and challenges for promoting regulatory harmonization of recruitment intermediaries, as well as to identify recommendations and action points among the CPMS and for enhanced cooperation with countries of destination. The Working Group also provided inputs to the discussions on the Global Compact for Migration, highlighting the importance of the “employer-pays model” in international recruitment.

Furthermore, the Alliance of Asian Associations of Overseas Employment Service Providers (OESPAAA) is a platform created under the Colombo Process to promote ethical recruitment by engaging recruitment industry leaders from each CPMS. OESPAAA members commit to ethical practices, in accordance with the relevant international standards and applicable national laws, to ensure protection of migrant workers’ rights and the interests of employers. OESPAAA has taken the initiative to organize a regional capacity building workshop on the IRIS Standard and is planning further IRIS roll-outs at the national level by interested OESPAAA members.

What can businesses do?

Exploitative labour practices and human rights abuses in direct operations and supply chains can damage the reputation, productivity and profits of businesses. High migration costs, including excessive fees charged to workers for recruitment services, are among the key causes of debt bondage and forced labour for migrant workers.

In response to attention brought to these practices by media and civil society, brands within consumer industries were among the first to take action. Many efforts have been focused on South-East Asia, including Myanmar and Thailand. One such example is the Seafood Task Force established in Thailand in 2014. The Task Force shows how the business sector can be incentivized to change, particularly for lower-tier suppliers, in cooperation with civil society.

The business case for private sector leadership in alleviating labour exploitation of migrant workers comprises considerations of legal compliance across various supply chain jurisdictions, mitigation of reputational damage, managing investor and stakeholder relations, ensuring access to developed country markets, avoiding supply chain disruptions and meeting consumer expectations, among others. In addition, compliance with labour and human rights standards is linked to more productive workplaces due to better job-matching, higher morale, lower staff turnover and fewer workplace accidents (ILO and IFC, 2015).

While the global discussion on addressing labour exploitation has heavily focused on supply chain solutions, it is important to note that the approach has limitations. The structure of the global economy makes securing transparency and accountability in lower tiers of supply chains

extremely difficult – where much exploitation takes place. Supply chain solutions also almost exclusively focus on export industries. Producers of goods and services for domestic consumption, including the highly vulnerable domestic work sector, do not have the same incentives to take action as export industries supplying global buyers. Among multinationals, recent experience suggests that companies that systematically work to uphold human rights in their supply chains are those with close proximity to the final consumer, and therefore face a combination of regulatory requirements from governments and stakeholder pressures from civil society, trade unions and media. This is reflected, for example, by the involvement and public commitment of companies working together to combat forced labour under the umbrellas of the Consumer Goods Forum¹ and AIM-Progress².

While it is clear that addressing supply chains must be part of any comprehensive action to combat labour exploitation, such activities need to be programmed alongside interventions aimed at identifying and supporting victims, securing more and better convictions, reducing the vulnerabilities of migrants, enforcing labour legislation and regulating recruitment agencies, and addressing the power structures and attitudes that help to normalize exploitation.

The current strong push for due diligence in supply chains is often coupled with limited awareness of the complexity of international migration processes, as well as the related architecture of national regulatory frameworks and formal and informal intermediary networks in countries of origin and destination. Functional solutions to protect and empower migrant workers still need to be developed and contextualized for various migration corridors through multi-stakeholder partnerships. For instance, many migrant-specific concerns, such as those related to identifying rights violations in the recruitment process, have not previously been captured by traditional workplace audits.

Many businesses are trialling different approaches, including on monitoring of social compliance and complaint mechanisms, and some have grown more confident in sharing the methodologies and results with other companies and the broader community of like-minded actors. Companies invest in risk assessments and labour supply chain mappings in order to gain a better understanding of how migrant workers journey to and are employed in their operations and supply chains, as well as where to prioritize company responses. These efforts often go hand-in-hand with developing codes of conduct and accompanying training programmes for suppliers, recruiters and (sometimes) workers themselves to enable more effective and sustainable solutions.

Private sector initiatives to prevent exploitation

Sectoral partnerships to improve social and environmental conditions have been forged in the electronics sector, where brands have come together with industry peers to establish the Electronics Industry Citizenship Coalition. Now working under the name of the Responsible Business Alliance, the association has maintained a priority focus on forced labour, and recently launched the Responsible Labour Initiative to tackle unethical recruitment practices in the industry.

¹ The Consumer Goods Forum brings together over 400 consumer goods retailers and manufacturers globally to collaborate alongside other key stakeholders to secure consumer trust and drive positive change.

² AIM-PROGRESS is a forum of leading consumer goods manufacturers and suppliers, which has been assembled to enable and promote responsible sourcing practices and sustainable supply chains.

In 2014, the Responsible Business Alliance Code of Conduct was developed to provide a set of standards on social, environmental and ethical practices for the electronics industry. The standards set out in the Code of Conduct reference international norms and standards, including international labour standards, the Universal Declaration of Human Rights, the OECD Guidelines for Multinational Enterprises, ISO and SA standards and others (RBA, 2014).

In the service sector, the International Tourism Partnership recently adopted guidelines to promote ethical recruitment. Building Responsibly is another new initiative coordinated by the US-based Business for Social Responsibility, which brings together global construction and engineering companies to improve recruitment practices, working and living conditions, and supply chain practices.

More broadly, the 2012 Dhaka Principles for Migration with Dignity is a set of principles to enhance respect for the rights of migrant workers during their recruitment, employment and return home. The Dhaka Principles, based on the United Nations Guiding Principles on Business and Human Rights and core ILO labour standards, were developed at a multi-stakeholder consultation led by the Institute for Human Rights and Business (IHRB, 2012).

Global partnerships such as the Leadership Group for Responsible Recruitment (box 11.1) and Consumer Goods Forum have also advanced business collaboration on ethical business practices, pushing for concrete progress in preventing labour exploitation and eradicating recruitment fees being charged to workers.

Box 11.1: Leadership Group for Responsible Recruitment

Launched in May 2016, the Leadership Group for Responsible Recruitment is a collaboration between companies and international organizations to drive positive change in the way that migrant workers are recruited. Their objective is the total elimination of fees being charged to workers to secure employment.

The Leadership Group is led by a steering committee of member companies (Coca-Cola Company, Hewlett Packard Enterprise, HP Inc., IKEA, M&S, Unilever, Vinci and Walmart) and expert organizations (Interfaith Center on Corporate Responsibility, IOM, Verité and Migrant Forum in Asia). Its secretariat is managed by the Institute for Human Rights and Business. The Group is also supported by a Stakeholder Advisory Panel with trade union, civil society and intergovernmental representation.

The Group leverages the power of business to push for change in the prevailing model of international recruitment, applying three strategies:

1. Creating demand for responsible recruitment by raising awareness about the positive benefits of ethical practices and developing tools to help companies implement the Employer Pays Principle;
2. Increasing supply of ethically sourced labour by creating an enabling environment and supporting the development and implementation of systems to identify and use ethical recruitment agencies; and
3. Advocating for improved protection for migrant workers by brokering dialogue to promote the effective regulation of the recruitment industry.

In 2018, the Leadership Group will be piloting its work in promoting ethical recruitment, including the Employer Pays Principle, in specific recruitment corridors. This has been kicked off with a series of regional roundtables in partnership with the Consumer Goods Forum, bringing together brands, their suppliers and recruitment agencies to share ideas on the implications, challenges and opportunities of shifting to the new recruitment model. In Thailand, the meeting was co-hosted by the Ministry of Labour and gave member companies and expert organizations an opportunity to exchange views and improve coordination and information sharing on efforts to strengthen migrant worker protection. The second annual Global Leadership Forum for Responsible Recruitment was held in Singapore in June 2018 to solidify mutual commitment to piloting the ethical recruitment model.

In the recruitment industry, global brands such as Manpower and Adecco, recruitment and employment agencies, national-level trade associations, the World Employment Confederation³ and others are engaged in promoting ethical recruitment and proposing practical pathways towards industry reform. In South-East Asia, the Viet Nam Association of Manpower Supply, the Association of Cambodian Recruitment Agencies, the Manpower Association of Cambodia

³ The World Employment Confederation adopted a code of conduct in 2015 on fair recruitment that closely adheres to the Private Employment Agencies Convention, 1997 (No. 181).

and the Myanmar Overseas Employment Agencies Federation have adopted ethical codes of conduct. The Manpower Group and Verité have also developed an ethical labour recruitment framework (Verité and Manpower Group, 2016).

As many of these initiatives move to implementation stage, successful concrete experiences along specific migration corridors are very valuable in showcasing functional approaches to multi-stakeholder partnerships that uphold the human and labour rights of migrant workers and move towards creating a level playing field with market incentives for ethical employers and recruiters. In this regard, the efforts of the Seafood Task Force (box 11.2) serves as an example of a private sector initiative addressing exploitation of migrant workers in Thailand.

Box 11.2: Seafood Task Force

The Seafood Task Force is a group of seafood processors, feed producers, buyers, retailers, government representatives and NGOs, who have come together to address issues surrounding labour and illegal fishing in Thailand's seafood supply chains. Its approach recognizes that issues of forced labour and human rights abuses and marine conservation challenges are closely linked to illegal, unreported and unregulated fishing.

The Task Force was formed in 2014 as the Shrimp Sustainable Supply Chain Task Force but since then the group has evolved and its membership has grown. It was renamed in October 2016 to reflect these changes and equal emphasis is now placed on tuna and other seafood products. There are thirty-five commercial fee-paying members, including Andaman Seafood, CP Foods, Bumble Bee Seafoods, Starkist, Mars Petcare, Nestle Purina, Sodexo, Sysco Corporation, Thai Union Group, Tesco, Albertsons, Target, Costco and Walmart. In addition, 17 NGOs and advisory organizations participate, such as the Ethical Trade Initiative, Fishwise, International Justice Mission, International Seafood Sustainability Foundation, Sustainable Fish Partnership, Verité and the World Wildlife Fund.

Though it includes both government and NGO representatives, the Task Force is an industry-led initiative, with buying power that exceeds USD 7 billion in the United States and USD 145 million in the European Union. The work of the organization is divided into eight focus areas: (1) verification of progress; (2) surimi and electronic traceability; (3) vessel behaviour monitoring; (4) fishery improvement projects; (5) independent validation; (6) tuna oversight; (7) farm to plant; and (8) responsible recruitment oversight.

Conclusion

The private sector in Thailand, as elsewhere in the region and beyond, is diverse in size, productivity, labour needs, market penetration and inclusion in global supply chains. Documented and undocumented migrant workers can be found working in all major economic sectors, such as manufacturing, construction, agriculture, fisheries and services (including domestic work and entertainment).

Private sector entities – in their capacities as recruiters, employers and service providers to

migrant workers – are important actors in the design and implementation of well-regulated migration systems, as their business models and behaviour shape job opportunities and recruitment processes for migrant workers.

Increasingly over the years, private sector actors have become more aware of the reputational risks associated with exploitation of migrant workers, and some have initiated action to promote fair and ethical recruitment and employment in their operations and supply chains. The role of private sector businesses in preventing the exploitation and abuse of migrant workers is now recognized in all major global and regional frameworks and processes, including the Sustainable Development Goals and the recently concluded Global Compact for Migration. Importantly, the private sector is also spearheading a number of its own initiatives at global, regional and national levels, such as the Seafood Task Force established in Thailand.

At the same time, many current private sector efforts revolve around actions by global brands with close proximity to final consumers and by export-oriented industries that need to comply with buyer requirements. These initiatives are important examples of private sector leadership on combating labour exploitation and have the potential to develop functional multi-stakeholder solutions. Nevertheless, much work remains to be done to trickle down the incentives for action to businesses in lower tiers of supply chains, as well as for companies that produce goods and services for domestic markets in countries that have less notable regulatory, consumer and media pressure on their practices.

Recommendations

1. Business-led initiatives must be part of any effective framework to address migrant worker exploitation but they need to be accompanied and further incentivized by strengthening national and transnational government regulation; as well as strengthening the capacity of civil society, trade unions, media and consumers to provide oversight, exert pressure to take action and partner on solutions to improve worker protection. Critical areas of focus should include reducing the structural vulnerabilities of migrant workers, developing and enforcing comprehensive labour legislation and transnational regulation of recruiters, and addressing negative attitudes that normalize exploitation and abuse of migrant workers.
2. Existing forms of formal private sector engagement mechanisms, such as public–private partnerships, MOUs and codes of conduct, can be effective; but formal, semi-formal and informal engagement should also be considered, according to circumstances, commitment and risk.
3. Multinational and national businesses can contribute to protecting and upholding the human and labour rights of migrant workers by incorporating human rights due diligence processes in their direct operations and supply chains. However, many migrant-employing businesses are lower-tier suppliers or do not participate in global supply chains altogether, thus remaining outside of the majority of current efforts driven by multinationals. Further steps are required, in partnership with governments, civil society, trade unions and media, to strengthen the incentives and capabilities of these lower-tier businesses to provide migrant workers with decent employment opportunities.

4. Risk analyses of labour supply chain recruitment processes for migrant workers from community of origin to destination, as well as workplace assessments, can set the stage for mitigation strategies to be developed. These include interventions related to procuring ethical recruitment services, verifying recruiter compliance, improving workers' access to remedy and integrating relevant practices into management systems.
5. To improve their capacity to uphold workers' rights, managers and staff of buyer and supplier companies, as well as their labour recruitment and employment service providers, can be trained to develop and monitor the implementation of ethical codes of conduct and to take effective action if these codes are breached. Third-party verification is critical to ensure robust oversight and effective responses to the remaining gaps and challenges – in partnership with other stakeholders, such as civil society, governments and international organizations.
6. Private sector engagement should not only be considered in the context of the role of business as actual or potential employers of migrant workers. It should also apply to them as entities that provide services to migrant workers and members of their families, who thus can play a crucial role in protection and empowerment. For example, private recruitment agencies can provide pre-departure training for migrant workers, financial institutions can be tapped to deliver financial literacy training and develop financial products for migrant workers, and local businesses can volunteer as mentors for returning migrant entrepreneurs. The transportation and hospitality industries in many countries have already taken initial steps to build their own capacity on combatting the use of their services by human trafficking networks and supporting victim identification and response. The financial industry can also help to identify traffickers and unscrupulous migration intermediaries through stringent monitoring of financial transaction data.
7. Development partners can work with the private sector by facilitating private sector engagement and buy-in for the design of solutions and their implementation, building the capacity of private sector actors, and jointly developing and delivering services to migrant workers and their family members.

References

Abonyi, G.

2013 Thailand: Private Sector Assessment 2013. Asian Development Bank.

Andrees, B., A. Nasri and P. Swiniarski

2015 *Regulating Labour Recruitment to Prevent Human Trafficking and to Foster Fair Migration: Models, Challenges and Opportunities*. ILO, Geneva.

Bali Process

2018 *AAA Recommendations*. Bali Process. Available at: <https://cdn.baliprocessbusiness.org/content/uploads/2018/08/03040352/AAA-Recommendations-20181.pdf>.

Drauth, C.

2017 *DAX-Firms and Human Rights. Understanding Institutional and Stakeholder Pressures along the Value Chain*. Springer VS, Wiesbaden.

Grossman, N., B. Kulthanan, M. Crosbie-Jones and N. Wegner

2018 *Thailand's Sustainable Business Guide: How to Future Proof Your Business in the Name of a Better World*. Editions Didier Millet, Paris.

Institute of Human Rights and Business (IHRB)

2012 Dhaka Principles. Available at: https://www.ihrb.org/uploads/member-uploads/DPs_-_English_Short_Version.pdf.

International Labour Organization (ILO)

2016 General Principles and Operational Guidelines for Fair Recruitment. ILO, Geneva.

International Labour Organization (ILO), Walk Free Foundation and International Organization for Migration (IOM)

2017 *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*. ILO, Walk Free Foundation and IOM, Geneva.

International Organization for Migration (IOM)

2014 IRIS Standard. Available at: <http://iris.iom.int/iris-standard>.

Organisation for Economic Co-operation and Development (OECD)

2016 *Financing SMEs and Entrepreneurs 2016: An OECD Scoreboard*. OECD, Paris.

Organisation for Economic Co-operation and Development and International Labour Organization (OECD and ILO)

2017 *How Immigrants Contribute to Thailand's Economy*. OECD and ILO, Paris.

Responsible Business Alliance (RBA)

2014 Responsible Business Alliance Code of Conduct. Available at: <http://www.responsiblebusiness.org/standards/code-of-conduct/>.

United Nations General Assembly

2018 Global Compact for Safe, Orderly and Regular Migration. United Nations General Assembly, New York, NY.

Verité and Manpower Group

2016 *An Ethical Framework for Cross-Border Labour Recruitment*. Verité and Manpower Group, Amherst.



CONCLUSION

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As meticulously documented by the United Nations agencies that contributed chapters to this report, there have been many significant developments in Thailand's migration landscape during the last few years. The situation continues to evolve at such a rapid pace that a report such as this can only hope to accurately capture the events occurring during a brief period of time. Nevertheless, it should be acknowledged that some important progress has been made on migration governance, particularly in terms of improved cooperation with NGOs and international organizations, expanding access to public services and ratification of relevant international standards.

But as much as the situation for migrants in Thailand has changed since the last Thailand Migration Report was produced in 2014, many of the biggest challenges remain the same. Despite efforts to regularize migration to Thailand, the majority of migrant workers continue to live and work in a precarious legal status that is almost entirely at the discretion of their employers. Attempts to reduce exploitation of migrants have led to enforcement of a stringent regulatory regime in the fishing sector but there are many indications that severe abuses remain entrenched within the industry. Voluntary return to Myanmar for the refugees in the nine temporary shelters continues to proceed at a halting pace, and it is unclear if the programme in its current form will prove effective as a durable solution for the situation. Hundreds of thousands of stateless persons continue to wait for decisions to be made on their citizenship applications while enduring serious restrictions on their basic rights.

Policy responses that leave migrants perennially vulnerable and unsure of their status are a common thread running through these disparate migration issues in Thailand. Moving forward, the political will to put in place lasting commitments to protecting the human rights of migrants and refugees is essential if these challenges are to be managed more effectively. The five sections below provide a brief synthesis of the key findings for each thematic area of the report, followed by a select set of recommendations for changes to policy and practice that would help to improve conditions for migrants living and working in Thailand.

Migration policy and profile

Although migration patterns are capricious by nature, the broad trend of increasing labour migration to Thailand has continued for more than two and a half decades and seems unlikely to change in the coming years. The number of non-Thai residents within the country has increased from an estimated 3.7 million in 2014 to 4.9 million in 2018, which includes approximately 3.9 million migrant workers from Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. This suggests that migrants currently constitute over 10 per cent of Thailand's total labour force. With the demographic profile of Thailand's population indicating there will be a

sustained demand for migrant workers to fill labour shortages, it is more critical than ever that Thailand work towards the development of a long-term and coherent framework for labour migration governance. If migration is to contribute to greater labour market efficiency and decent work for migrant workers, short-term fixes that do not sustainably address the gaps in policy and implementation are likely to prove insufficient.

At the same time, the weight of evidence shows that migration cannot be wholly controlled by states. Historical experience has demonstrated that reducing irregular migration is unlikely to be achieved through increased enforcement alone. Unless coupled with efforts that address the root causes in Thailand – including the high cost, long duration and procedural complexity of the MOU process with countries of origin – migrant workers are likely to continue to make use of irregular channels. In addition, without greater flexibility to change employment, it will remain difficult for migrants to retain regular legal status after entering the country.

Thailand has taken a significant step forward with the recent revisions to the Royal Ordinance on the Management of Foreign Workers Employment. Exhibiting greater openness to the contributions of social partners and international organizations, the new law incorporates several critical improvements. These include the elimination of worker-borne recruitment fees, increased opportunities for mobility within the labour market, establishment of a guarantee deposit and clearer licensing requirements for in-bound recruitment, creation of a fund to assist migrant workers while employed in Thailand, prohibition on withholding of identification documents and the formation of a tripartite committee to oversee the development of migration policy. If implemented effectively, these changes could substantially improve protection of migrant workers' rights in Thailand.

The Cabinet Resolution on the establishment of Migrant Worker Assistance Centres (MWACs) in Thailand is also a positive development, providing migrants with information and assistance, particularly for labour rights violations. Allocation of government funding to setup MWACs in 10 pilot provinces helps to fill a key gap in implementation of policy, acknowledging that specialized staff, outreach and translation support are necessary to make public services more migrant-friendly. While the ILO's assessments of the institutional capacity of MWACs suggest that additional guidance and training is needed to build the model's effectiveness, the collaborative approach that has been applied between government agencies and NGOs has shown promise in building greater trust with migrant communities.

Though migrant workers in Thailand are commonly viewed as a temporary source of labour rather than full members of society, their presence contributes to the development of Thailand socially as well as economically. Examining the extent to which migrants are practically able to be a part of Thai society shows that despite some efforts by policymakers, many challenges remain. As workers, migrants often do not receive equality of treatment with nationals in terms of wages and working conditions. As clients of the public service system, they often face difficulties in making effective use of education and health-care services. Negative public attitudes towards migrants – partially shaped by one-sided portrayals in the media – have resulted in misconceptions and xenophobia about migrant workers among many Thai nationals.

These issues are not unique to Thailand as many countries are struggling to develop effective policies that maintain social cohesion. However, there are important matters that government policy has yet to adequately address, such as whether the status of temporary migrant workers

remains appropriate given the long-term need for workers in Thailand's labour market. As migrant workers have now been coming to Thailand for decades and staying for many years at a time, policies that treat them only as short-term labourers may no longer be sufficient. Supporting migrants to become more active members in the economic, social, cultural and political life of Thailand would benefit not only migrants themselves but also Thai society as a whole.

Working conditions for migrants

Applying a sectoral lens to the working conditions of migrant workers in Thailand reveals that substantial gaps continue to exist in fundamental labour rights protection. Despite some signs of progress in the fishing sector, persistent labour abuses against women and men migrant workers continue, including indicators of forced labour such as deceptive recruitment practices and withholding of wages. While concerted efforts have been made to amend the legislative framework and monitor compliance with these new regulations, enforcement remains uneven – especially in relation to wage protections.

Much less consideration has been given to regulating the working conditions of migrants employed in agriculture. Although year-round workers have some of the same labour rights protection as other workers, seasonal agricultural workers do not receive even basic protections, including the minimum wage, overtime pay, rest time, annual leave, sick leave and social security. With few regulatory standards in place, the sector continues to be characterized by high levels of informality, low wages, unsafe living and working conditions, and lingering problems with child labour.

The insufficient quality and scope of labour inspections carried out for agricultural workplaces is an important contributing factor to the poor working conditions for migrants within the sector, limiting effective enforcement of the applicable labour laws. In addition, insufficient provision of occupational safety and health training and personal protective equipment for migrant workers places them at an increased risk of pesticide overexposure and workplace injuries.

Due to the criminalization of their work and the implementation of anti-trafficking interventions, migrant sex workers in Thailand face the regular threat of harassment and arrest, severely damaging their ability to earn a livelihood and support their families. Employment in the sex industry is not covered by Thailand's labour laws and is instead criminalized under the Prevention and Suppression of Prostitution Act.

Because sex work is often conflated with trafficking for the purpose of sexual exploitation, police raids on workplaces to identify victims are a common occurrence. Migrant sex workers caught in such raids are typically either arrested and detained as criminals or taken to shelters as victims of trafficking, with their agency considered of little importance. In spite of this law enforcement approach, studies have found that the vast majority of people working in the Thai sex industry are employed there by choice, with the ability to earn a higher income a key motivating factor. Decriminalization and expanding recognition of sex work as a form of work is an essential first step to better protecting the labour rights of migrant workers employed within the sector.

Thailand's ratification of the Protocol to the Forced Labour Convention, 1930 (No. 29) in June 2018 may be an important step towards ameliorating exploitative working conditions for

migrants across all sectors. An amendment to the Anti-Trafficking in Persons Act is expected to meet Thailand's obligations under the Protocol, which should begin to address the structural risks of exploitation for vulnerable workers within the labour market – particularly for migrants and those employed in the informal sector.

One of the most notable gaps to be filled in Thailand relates to assistance and compensation for labour rights violations by employers. The Protocol stipulates that “all victims of forced or compulsory labour, irrespective of their presence or legal status in the national territory, have access to appropriate and effective remedies, such as compensation” (Article 4). Ensuring fair compensation will provide a crucial financial deterrent to abuse and encourage more migrants to pursue justice, reducing impunity for offenders who violate their labour rights.

Access to services for migrants

Progress on providing migrant workers with fair access to public services has been substantial under law but with limitations in practice. Regular migrant workers are entitled to receive subsidized care from Thailand's public health system, and irregular migrants are able to enroll for health insurance coverage by paying an annual fee. However, utilization of public health services remains relatively low among migrants due to a number of social and financial barriers. An estimated 64 per cent of regular migrants (1.97 million) are enrolled in a public health insurance scheme but the share drops to 51 per cent if irregular migrants are also included. The specialized NGO and United Nations service providers who fill many of these gaps have proven very effective in reaching migrants regardless of their legal status but the long-term sustainability of these programmes continues to be a concern.

The right of migrant children to access public services is also well-established under Thai law, particularly in relation to education. Migrant children are allowed to attend primary and secondary school free of tuition expenses. There are also options for non-formal education and migrant learning centres that provide services to migrants unable or unwilling to attend public schools. Through these educational opportunities provided by the Thai Government and NGOs, more than 164,000 migrant children are enrolled in school within Thailand. At the same time, it is estimated that 200,000 migrant children remain out of school and are not receiving any form of education.

Similar to the challenges with the health service system, informal restrictions in access keep many migrant children away. Although tuition is covered by the Government, the indirect costs of education for migrant children can still be unaffordable for migrant workers, such as the expense of travel, school uniforms and stay in dormitories. Attitudes and understanding of policy on education of migrant children are poor among educators in some cases, with informal age, language and documentation requirements established that prevent enrollment. In addition, many migrant parents view their stay in Thailand as temporary and are reluctant for their children to study in Thai schools.

Though consultations have been held on developing an alternative, long-term detention of migrant children continues to be a significant problem in Thailand. For the children of asylum seekers who cannot be readily deported from the country, they often remain in over-crowded immigration detention centres until their cases are resolved. For some children, this has meant

being detained for years under squalid conditions; without access to public education and separated from their parents based upon gender after reaching puberty. Ad hoc release of some children occurred during 2017 and 2018, and standard procedures for the release of children with an accompanying parent or into foster care homes are currently being finalized.

Migration and development

Remittances sent home by migrants to their countries of origin are a critically important and sometimes lone source of income for their family members. Many families who are reliant on unstable seasonal agricultural earnings use the remittances generated by labour migration as a means of ensuring that they receive a regular income. They have the potential to improve standards of living and reduce poverty at the household level, as well as contribute to economic development more broadly. In the aggregate, migrant workers in Thailand send a combined USD 2.8 billion in remittances through formal channels to Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam.

However, this amount represents only a portion of the total remittance account, as the majority of migrant workers in Thailand continue to send remittances through informal channels, such as the *hundi* system, brokers or hand carrying remittances home. The primary reasons for migrants using informal channels include greater trust, ease of use, flexibility and accessibility. Conversely, migrants attempting to send money through formal channels, such as banking institutions, are often discouraged by the identification documents required, large amount of paperwork and disrespectful treatment they receive. These barriers to financial inclusion may detract from the ability of migrants to fully leverage their remittances for the long-term benefit of their households.

It can be estimated that informal remittance flows from Thailand to countries of origin are potentially double the size of formal flows and contribute between USD 6–10 billion to the economies of Cambodia, the Lao People's Democratic Republic, Myanmar and Viet Nam. Given the profile of the majority of remittance recipients – women in rural areas – providing access to safe and low-cost formal remittance options to migrants in Thailand would help to contribute to inclusive economic growth within the region. Research suggests that putting more resources into the hands of women would have lasting benefits, as women tend to allocate more of their remittances for the benefit of their children.

Many women are the main breadwinners for their families through their employment in Thailand. Official data shows that about half of the migrant workers in Thailand are women (50.2 per cent), which may be an underestimate given that more women than men are employed irregularly in the informal sector and are not fully captured in labour migration statistics. In particular, women employed as domestic workers and sex workers are frequently undocumented due to protectionist policies and laws that restrict the migration of women through legal channels. As a result, women's migration to Thailand is largely invisible in comparison to men.

Though they play a vital role in filling labour market demands in Thailand, women migrants experience intersectional discrimination that often finds expression in less favorable working conditions. Women's work is undervalued, with wages systemically lower than for nationals or men migrants. Moreover, the lack of formalization of several major sectors of women's

employment, leads to women not being afforded basic labour rights, such as the minimum wage, regular working hours, overtime pay or social security.

Because most women migrant workers are employed in low-skilled work within the informal economy in Thailand, they are largely excluded from the benefits of increased labour mobility provided by the ASEAN Economic Community. Even for professional women, the highly-skilled occupations covered by the Mutual Recognition Arrangements are primarily male-dominated fields (with the exception of nursing and accounting). Gender must be more thoroughly mainstreamed into the mechanisms that form the basis for the ASEAN Economic Community for its impact on women migrants to be beneficial.

Exploitation of migrants

Human trafficking in Thailand primarily occurs in the context of large-scale labour migration from neighbouring Cambodia, Lao People's Democratic Republic and Myanmar. Because effective recruitment systems and migration governance frameworks have not been established to facilitate the movement and regulate the employment of this workforce, they remain vulnerable to exploitation at various points during the migration process.

A total of 455 individuals in Thailand were officially identified as trafficked persons in 2017. However, the real scale of the problem and whether responses have been effective in reducing its prevalence have been difficult to ascertain. There are no reliable estimates available on the total number of people trafficked in the country and most cases are not likely to be identified. Limitations in the validity and comprehensiveness of data collected on human trafficking continue to be substantial. Reports are typically based upon analysis of secondary sources or a small number of identified cases when empirical data is used. In other cases, they rely mostly upon emotionally-charged rhetoric and hyperbole.

In this regard, the Thai Government's Trafficking in Persons Country Report has become a significant contribution in recent years, bringing together the counter-trafficking efforts of all line ministries on an annual basis. Even so, more independent primary data collection – particularly critical and nuanced qualitative research – is an acute need to fill in obtaining a better understanding of the causes of the exploitation occurring and the effectiveness of anti-trafficking responses.

Increasingly, it has been recognized that the private sector in Thailand is not only chiefly responsible for the exploitation of migrants but can also be a vital partner in efforts to encourage more ethical business practices. Many private sector actors have begun promoting fair and ethical recruitment and employment in their operations and supply chains. However, much skepticism remains about whether such voluntary initiatives lead to real improvements in the situation of migrant workers, as they often stop short of making the more difficult changes that are needed – such as paying workers a living wage.

While it is clear that initiatives to change private sector business practices are necessary if exploitation of migrant workers is to be addressed, they should not be viewed as a magic bullet. Self-regulation by the private sector must be accompanied by meaningful oversight and effective action by the Thai Government, trade unions, civil society, media and consumers if the race to

the bottom on cheap labour provided by migrant workers is to be definitively reversed.

Recommendations

- 1. Establish regular migration channels that are cheaper, faster and easier to access:** To encourage regular migration to Thailand, the slow, complex and expensive bureaucratic process involved needs to be streamlined and made more affordable. One option worth considering is an open-ended admission process at borders that would allow migrants to enter with a jobseekers pass and register after finding employment.
- 2. Ensure fair and ethical recruitment of migrant workers:** Through bilateral cooperation, improve transnational regulation and oversight of recruitment agencies, and prohibit recruiters and employers from charging recruitment fees or related costs to migrant workers at origin or destination. Establish partnerships with relevant stakeholders, including employers, civil society and trade unions, to ensure effective monitoring of the recruitment process and fair access to remedy.
- 3. Provide coverage by labour and social protection laws to women and men migrants in all sectors of work:** To ensure that migrant workers receive fair wages and working conditions, labour and social protection laws should be enforced for all employment sectors, including domestic work, sex work and seasonal agriculture. Exclusion of informal sector workers – who are disproportionately women – from statutory protection makes them highly vulnerable to abuse and unduly exposes them to social and economic risks.
- 4. Allow migrant workers greater agency to change employment:** Work permits and visas in Thailand remain too firmly tied to one employer, and the lack of flexibility to change jobs contributes to increased vulnerability to abuse. Migrant workers should be able to exercise greater agency in deciding to change employers, expanding the restrictive set of conditions that are currently in place.
- 5. Expand access to complaint mechanisms for migrant workers and enforce stricter penalties for violation of their labour rights:** Continue to expand the reach and effectiveness of the migrant worker assistance centres to resolve migrant worker grievances. Reduce impunity of recruitment agencies and employers who abuse the rights of migrants through the enforcement of appropriately severe sanctions.
- 6. Decriminalize sex work and increase protection of sex workers' rights:** Decriminalizing sex work is a crucial first step to recognizing sex workers as right bearers entitled to legal and social protection by the State. By amending or repealing laws that directly and indirectly criminalize sex workers, labour protection mechanisms can be developed to eliminate recruitment and employment misconduct. It is essential to ensure that sex workers' voices are heard throughout the process of legislative reform and the development of protection mechanisms.
- 7. Review anti-trafficking responses that increase the risk of exploitation and violence for migrant sex workers of all genders identities and sexual orientations:** It is vital to review and amend anti-trafficking laws, policies, and mechanisms that institutionalize harassment, racial and gender profiling and violence by state actors against women, men,

and transgender sex workers. Instead, the Thai Government should explore the possibility of building cooperation with sex worker rights organizations to support the identification of genuine cases of exploitation and abuse within the sector.

- 8. Improve the capacity of the labour inspectorate to enforce the provisions of the Labour Protection Act, the Occupational, Safety, Health and Environment Act and the relevant ministerial regulations in the fishing and agricultural sectors:** Strengthening enforcement of labour rights protection for migrants will require the establishment of an effective system of labour inspection for hard-to-reach sectors such as fishing and agriculture. This should include the improvement of labour inspection tools and procedures for identification of violations and data collection and analysis to inform management and planning.
- 9. Extend responsibility of employers to protect the occupational safety and health of all agricultural workers:** The Occupational Safety, Health and Environment Act should be amended to provide coverage for migrants who are employed seasonally in agriculture, including the legal responsibility of employers to prevent workplace accidents. The law should require provision of personal protective equipment to all migrant workers at no cost, as well as training on occupational safety health in migrants' native languages.
- 10. End the detention of migrant children:** As soon as possible, finalize and implement the guidance and standard operating procedures for the removal of children from immigration detention in Thailand. The policies developed should maintain a focus on the best interests of the children and maintaining family unity.
- 11. Develop bilateral recognitions for the educational credentials of migrant children and provide accreditation for migrant learning centres:** To support the educational transitions of migrant children, mutual recognition agreements should be reached between Thailand and countries of origin. In addition, accreditation should be provided for migrant learning centres so that children can continue their education beyond the primary school level in Thailand or in their home countries.
- 12. Ensure that migrant workers are able to make practical use of their entitlements to health coverage:** Providing migrants with the opportunity to enrol in health insurance as a safety net for financial risk is not automatically equivalent to health coverage. Physical, attitudinal and procedural barriers to accessing health services in Thailand have proven to be significant obstacles to translating entitlements on paper into effective service coverage. Measures to expand enrolment and utilization should be implemented, including establishing migrant-friendly health services, improving communication with migrant workers and their families, ensuring that formal sector employers comply with requirements to enroll migrant workers, and continuing multi-sectoral collaboration to insure undocumented migrants.
- 13. Provide government funding for NGO service providers to deliver health services to irregular migrants:** The Government should explore alternative financing options for providing services to irregular migrants, many of whom are likely to be uninsured and reluctant to access public services. In particular, expansion of successful NGO programmes through government grants may provide a more strategic means of delivering services to these populations.

- 14. Expand skills recognitions for the sectors of work in which women migrants are employed:** The establishment of the ASEAN Economic Community has the potential to bring positive impacts to Thailand and its countries of origin in the region. However, the eight recognition arrangements that currently exist provide only limited scope for women migrants to benefit. Expanding bilateral or regional agreements for low- and semi-skilled work in the garment, care work, domestic work and manufacturing sectors would fill labour market needs and expand the channels available for women to migrate legally, in line with the objectives of the Global Compact for Migration.
- 15. Increase understanding of the contribution of migrants among the news media:** To build more positive attitudes towards migrants in Thailand, there is a need to provide training to media who report on migration issues. Biased news reports that portray migrants in a negative light can lead to discriminatory treatment within society, creating an environment where exploitation of migrants is viewed as justifiable behaviour.
- 16. Strengthen the multi-disciplinary approach to anti-trafficking:** The limited effectiveness of stand-alone criminal justice responses to human trafficking has been made clear by the repeated failure of such initiatives in the past. A multi-disciplinary approach involving all relevant stakeholders, including civil society organizations and the private sector, is necessary to achieve progress in preventing and responding to trafficking in vulnerable sectors of work.
- 17. Build capacity to implement and independently monitor ethical codes of conduct for the private sector:** Additional training is needed for businesses to establish and effectively monitor the implementation of ethical codes of conduct. Acceptance of third-party verification is particularly critical to ensure robust oversight and that action is taken for non-compliance. Partnerships with external stakeholders, such as civil society, governments and international organizations, should be established to support their participation.



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