



# Thailand Bound:

An Exploration of Labor Migration  
Infrastructures in Cambodia, Myanmar,  
and Lao PDR

With the generous support of



# **Thailand Bound:**

## **An Exploration of Labor Migration Infrastructures in Cambodia, Myanmar, and Lao PDR**

May 2019

Verité® provides the knowledge and tools to eliminate the most serious labor and human rights abuses in global supply chains.

Copyright © Verité 2019

Verité, Inc.  
44 Belchertown Road  
Amherst, MA 01002 USA  
[verite.org](http://verite.org)

# Contents

1. Executive Summary.....	4
Key Findings .....	6
Recommendations .....	9
2. Objectives and Approach .....	11
Analytical Framework .....	12
3. Thai Legal and Regulatory Dimension.....	14
Thai Migration Policy .....	14
4. Migration Infrastructures in Sending Countries.....	18
Cambodia .....	18
Myanmar.....	34
Lao PDR .....	50
5. Conclusions and Recommendations.....	59
6. Annex: Study Design, Methodology, and Respondent Demographics.....	63
References .....	69
Endnotes .....	72

# 1. Executive Summary

The risks to migrant workers using informal and unregulated labor migration channels are well documented: forced labor, including labor trafficking; debt bondage primarily due to high recruitment fees; child labor; excessive work hours; underpayment and withholding of wages; denial of social benefits; and unchecked health and safety hazards are all among the risks migrant workers face.

Regulation and explicit, enforced protections are widely recognized as critical to mitigating such abuses. Reforms have been urged by industry and NGO initiatives, and government actors have taken steps to make the formal, so-called Memorandum of Understanding (MOU) channel, more responsive, efficient, and effective.

Yet despite these well-documented risks and efforts to curtail recruitment abuses, informal recruitment channels continue to thrive; a remarkably high number of workers are still using informal means to enter and work in Thailand.

The focus of this paper is to explain why this is occurring.

Verité conducted an exploratory study of the recruitment practices in Cambodia, Myanmar, and Lao PDR for workers destined for Thailand to map the critical intervention points in these sending countries where the risks to jobseekers begin. Our findings represent a snapshot of a dynamic process and depict the current environment in which labor migration in these corridors is happening. These findings and observations are intended to complement existing research efforts to further inform strategies for removing barriers to safe, transparent, and sustainable pathways to employment in Thailand.

Between March and May 2018, Verité conducted desk research and on-site interviews with 168 stakeholders, including workers, employers, formal and informal labor agents, and other labor intermediaries, NGOs, government officials, and community leaders in the three sending countries. The scope of our research included those involved

in the migration to Thailand for jobs in seafood and other sectors, such as electronics, apparel, poultry, and service, among others. Our intent was to explore the drivers of informal labor migration to Thailand, the factors that contribute to jobseekers' decisions to migrate formally or informally, the touchpoints on these journeys, and some of the key gaps and weaknesses in the regulatory framework regarding the promotion of worker protections and ensuring safe migration. We examined the linked institutions (government, commercial and community actors, and technologies) that mediate labor migration, and the relationships among various recruitment actors (private recruitment agencies, labor brokers, subagents and other intermediaries, and employers) in all the phases of recruitment, transportation, and placement of foreign workers to Thailand.

The following are our key findings and recommendations.



## DEFINITIONS OF TERMS

### **Memorandum of Understanding (MOU)**

Bilateral Agreements between Thailand and each of the sending country governments that regulate the process by which jobseekers legally migrate for employment in Thailand.

*For the purposes of this paper, the following are the main intermediaries on a migrant's pathway to work in Thailand. Their domains and functions often overlap, and in some cases, the distinction between them is blurred.*

### **Private Recruitment Agencies/Agents (PRAs)**

Third-party companies in sending countries licensed or approved by their governments to recruit and place workers in jobs in other countries.

### **Informal Agencies**

Third-party bodies operating outside the formal, government-approved MOU system that provide services to jobseekers, such as preparing documentation for submission to a PRA and securing documents or transport, among other needs to help them migrate for work.

### **Labor Brokers**

Informal intermediaries operating outside the formal approved MOU system that provide services, such as securing documents or transportation, to enter Thailand.

### **Subagents and Village-Level Agents**

Informal intermediaries between the jobseeker and authorized PRA. Subagents can be based in villages or cities. Village-level agents refer more particularly to those in the villages where jobseekers are from. For example, in Myanmar, a jobseeker can be liaising with both a village agent and a subagent who is based in the city (e.g., Patheingyi) and who has a direct link to the recruitment agent in Yangon.

### **Irregular Migrants**

Jobseekers who migrate for work outside the formal/MOU process.-

# Key Findings

1. **Based on our research, we found that, irregular migration in the three corridors of Cambodia, Myanmar, and Lao PDR to Thailand remains fully active** and the MOU process has not succeeded in “drying out” options for irregular migration or the market for unregulated recruitment and migration intermediaries.
  - In these three countries, only a small population of jobseekers and migrant workers use the formal, intergovernmental MOU process due to the costly, complicated, and lengthy procedures involved.
  - Migrants in the three sending countries cross both formal and customary borders using various documents that grant their entry to Thailand under different degrees of legal protection. Their travel to and stays in Thailand are facilitated and enabled by social networks in the receiving country.
  - Despite the overall trend towards the “employer pay” principle which removes the recruitment cost burden from workers, the MOU process remains costly to workers, in addition to being complicated and lengthy (which contributes to indirect costs.) It also does not afford workers flexibility in employment arrangements or choice of employer, nor the ability to terminate employment and return home without penalty.
  - In contrast, irregular “repeat migrants” reported relatively low costs, no waiting time, flexibility to depart for Thailand as soon as they were able to travel, and the freedom to return home when desired. Through social networks and technology, they also reported being able to gain a more accurate picture of the working and living conditions in jobs referred by personal contacts. This compares favorably to the limited information provided through the MOU process.
  - Informal recruitment and migration channels, compared to the MOU process, in effect categorize workers using these channels as “irregular” in the eyes of the law and MOU framework, leaving them vulnerable to denunciation by employers and eventual deportation.
  - While “regular” migrants are entitled to healthcare and social services, legally mandated wage and benefits, and freedom of movement without fear of being apprehended, the debt created for MOU jobseekers as a result of high recruitment fees can inhibit the workers’ abilities to walk away from a potentially abusive working situation.
  - While Thai Royal Ordinance No. 2 regulating migration addresses the primary risks related to forced labor and human trafficking, there remain significant gaps: (a) unless previously agreed upon, foreign workers are expected to pay for the transportation expenses from their home country to the worksite, (b) there is no ceiling on these expenses, and (c) there is no explicit designation as to who bears the cost of repatriation, which in effect allows the agency who recruited or placed the worker or the employer to require payment for repatriation in advance from workers that will be kept in reserve, sometimes in the form of “forced savings.”
2. **Formal and informal elements in the recruitment and labor migration process interweave.** Complexities and gaps in the formal, legal process have opened up spaces for the involvement of various intermediary actors — subagents, village agents, community contact persons, and others — to provide myriad services to both workers

and licensed private recruitment agents.

- These informal and unregulated elements weave in and out of the formal, linear recruitment process, and have become entrenched in the migration regime. Yet the costs of their services and the impact of their involvement are not fully recognized.
- Recruitment-related costs, including the service fees of labor intermediaries, are charged fully to workers, as they are neither borne by the Thai employers nor regulated in the sending countries. The result is migration intermediaries often determine the actual price of “legal and safe” migration.

3. Apart from the interweaving of informal and formal elements in the recruitment and labor migration process, we saw **a conflation of regulatory and commercial dimensions** due to the full outsourcing of formal migration by sending country governments to private recruitment agencies (PRAs).

- In the three countries studied, private recruitment agencies have become the gatekeepers of the formal migration process although jobseekers are technically free to apply for a job through the MOU process directly.
- There are no controls in place to ensure that information provided by private recruitment agencies to jobseekers is sufficient or accurate.
- In Lao PDR, the village heads — who are themselves government representatives — facilitate the pooling process for private recruitment agencies, which are inadequately regulated.
- In Myanmar and Cambodia, the requisite predeparture orientation for workers hired through the MOU process — which is intended to reduce workers’ vulnerabilities by enhancing their knowledge of and access to labor protections — is provided by private recruitment

agencies and commonly found to be inadequate.

4. **There are several positive and advantageous features of informal migration that the MOU process can absorb and build on:**

- The heavy reliance of jobseekers on family and friends for information makes an argument for finding a way to harness peer-to-peer channels that can provide accurate job information and an awareness of potential risks.
- The widespread use of social media platforms, and the implicit trust and reliance jobseekers place on social media for information, can also be leveraged.

5. **Cambodia-specific findings**

- Few Cambodian workers enter Thailand through the MOU process due to the complicated, lengthy, and expensive procedures involved. As a result, accountability of actors, monitoring, and meaningful regulatory protections are absent for most migrant workers.
- While the Cambodia sub-decree regulating migration describes the responsibilities of private recruitment agencies, it remains weak on the rights of workers (e.g., who bears the costs of migration) and is silent on forced labor, discrimination, and restrictions on freedom of association and collective bargaining.
- There are specific provisions in the Thailand-Cambodia MOU that, in practice, discourage formal migration: requirements to contribute 15 percent of salary to a savings fund managed on the Thailand side that is refunded only under certain conditions; taxes required by Thailand and/or Cambodia; a set limit of four years of work in Thailand; and a mandatory three-year “cooling off period” during which a foreign worker who has just returned from Thailand cannot re-embark to Thailand for work.

- The MOU provisions require no transparency concerning, nor set any limit on, the costs that can be charged by private recruitment agencies.
- Low literacy rates mean there is low reliance on written contracts compared to jobseekers' reliance on friends and relatives to describe the job's terms and conditions to them.

## 6. Myanmar-specific findings

- To apply for a job through the MOU process, a Myanmar worker has no alternative mechanisms for migrating formally and legally but to engage the services of a private recruitment agency.
- An unintended outcome of the imposition of recruitment and service fee limits is the practice of Thai recruiters to bid out and "sell" job orders to Myanmar private recruitment agencies that can supply labor at the lowest cost. There are reports of Myanmar agents paying their Thai counterparts to win job orders.
- Myanmar jobseekers to Thailand through the MOU system need to make numerous trips to Yangon — most workers reported making at least three trips — to lodge applications, process documents, and attend mandatory training. As Yangon-based recruitment agencies cannot open branches in other parts of Myanmar, these trips are unavoidable and compound the cost of recruitment to workers, encouraging them to rely on services offered by unregulated and informal agents.
- The complexity of MOU document requirements and application procedures has led jobseekers to need the additional, and often costly, services of informal subagents and document brokers to ensure that they have the appropriate documents for overseas employment. By contrast, informal channels used by Myanmar jobseekers necessitate only that they have a personal contact in

Thailand and the resources to pay someone to process a passport and/or help transport the worker across the border.

- Existing law does not cover other recruitment-related expenses, such as transportation, initial application fees, training, accommodations, guidance, and chaperone services, all of which are typically charged by various actors to jobseekers coming from Myanmar towns that are remote from Yangon.
- PRAs are observed to be circumventing a Myanmar law that prohibits job advertisement by posting job information on social media platforms that are not subjected to strict scrutiny as a pooling channel. Social media has thus become commonly used by jobseekers as it has the potential to make information about jobs and employers in Thailand more accessible, thereby potentially offering an alternative to unregulated subagents. Social media also holds potential as a predeparture awareness raising platform and grievance channel.

## 7. Lao PDR-specific findings

- Informal migration to Thailand from Lao PDR is mediated by historical, geographical, and particularly strong kinship factors.
- The MOU process is associated with high recruitment-related costs, forced savings for repatriation, and a complex and protracted processing time that has been observed to compel jobseekers to pay extra for the earlier release of documents.
- Lao jobseekers commonly use their passports or border passes to gain legal entry into Thailand, then remain in the country to work as irregular workers.
- Many Lao migrant workers in Thailand are "repeat irregular" migrants: They navigate the system on their own and report not seeing the need to apply for a work permit to Thailand unless the sectors in which they are employed are strict in implementing the legal migration



requirements.

- It is commonly observed that numerous employers across various sectors — service, domestic work, agriculture and construction — continue to hire outside of the MOU process, especially as there is little incentive for both employers and repeat irregular migrants to shift to more formal arrangements.

## Recommendations

### FOR POLICY MAKERS

There is a need for governments/policy makers, industry players, and other stakeholders who develop program interventions to recognize the complex realities of the recruitment and migration of jobseekers from Cambodia, Myanmar, and Lao PDR to Thailand. To become a viable as well as safe channel for migration, the MOU process needs to account for these realities, including the direct and indirect costs to migrants, and undergo streamlining that delivers on protections against common abuses seen in the informal labor market while reducing the financial burden on migrants.

### WE RECOMMEND:

1. Sending country governments should not continue to outsource their responsibilities to private recruitment agents who are not accountable for their policies and practices, including the costs they charge jobseekers.
2. Sending country governments should not withhold legal protections and remedy from those who have chosen to migrate outside the regulated process due to the cumulative costs of the formal mechanism, which remain prohibitive for the majority of jobseekers.
3. Beyond the element of legality, the MOU process needs to be a more compelling and viable option for both jobseekers in the Mekong region and Thai employers. It must provide ethical, safe, transparent, and cost-efficient recruitment and placement for migrants; guarantee stronger worker protection while on the job; and assure workers of cost-efficient, easy, and secure returns and repatriation.

To make the MOU process affordable, both receiving and sending country governments should:

- a) set limits on recruitment fees and expenses, including identifying the rates and service fees of private recruitment agents and other recruitment intermediaries, both formal and informal (see publication of rates on page 16);
  - b) require private recruitment agents to provide a detailed cost breakdown to employers and jobseekers at the start of the recruitment process, including during the pooling stage; and
  - c) adopt the “employer pay” principle, which requires employers bear the full cost of recruitment and placement and is aligned with the UN Sustainable Development Goal of ensuring decent work for all.
4. The MOU process should be simplified and streamlined so jobseekers can navigate the system on their own; seeking employment via a private recruitment agency or informal recruitment intermediary should be a choice rather than a necessity.
    - a) Given the current inaccessibility of information about job opportunities, the processes of formal migration channels, and the geographic inaccessibility of private recruitment agents at the beginning of the migration process, prohibiting the use of unregulated village-level agents or subagents at the pooling stage is not practical at this time as it could drive the transaction underground. The transaction might then become less visible and more costly to jobseekers.
    - b) The MOU model should build on the most effective and advantageous features of informal migration, including developing a way to leverage peer-to-peer channels that can provide jobseekers accurate information about jobs and an awareness of potential risks.

- c) Social media platforms and micro-messaging services should be explored as channels for information on job opportunities, the application process, and predeparture guidance.
- d) Predeparture information sharing needs to be decentralized so actors that interact with jobseekers early in the process, such as commune officials and village chiefs, can be mobilized to advise jobseekers on what questions they need to ask regarding job terms and conditions.
- e) Rather than build a layer of regulation to an already heavily-regulated process, governments should publish recommended rates for particular services provided by private recruitment agencies and informal sub-agencies, along with a clear breakdown of what employers must pay, what jobseekers can pay, and what selected workers can pay in advance that will be recoverable/reimbursable from employers at a later date.

## 2. Objectives and Approach

The intent of this project was to explore the recruitment and hiring practices in Cambodia, Myanmar and Lao PDR<sup>i</sup> to Thailand, and the relationship among government agencies, private recruitment agencies, informal brokers, and other intermediaries and employers in all the phases of recruitment, transportation, and placement of foreign workers to Thailand. We also sought to understand the factors that contribute to a jobseeker's decision to migrate formally or informally, the sources of worker vulnerability, and the gaps and weaknesses in the sending countries' legal frameworks in terms of promoting worker protections and ensuring safe migration.

In mapping specific dynamics in the overall recruitment chain, the research does not focus on labor migration into specific industries in Thailand. Instead, it examines country-specific features that may be generalized to each of the three migration corridors.

A second objective was to map the social and institutional support networks and communication and grievance channels

available to migrant workers and jobseekers in sending countries and available to foreign workers in Thailand. We also sought to explore a would-be migrant worker's decision-making process as the worker selects a country/sector of destination.

The research team originally intended to focus on the experience of jobseekers from Myanmar, Lao PDR, and Cambodia in the Thai seafood sector, however an insufficient number of jobseekers applying, recruited, or hired to work in that industry led us to expand our scope<sup>ii</sup> to work in services, domestic work, and poultry processing.<sup>iii, iv</sup>

We prioritized Cambodia and Myanmar as the primary sending countries of workers to Thailand and conducted only preliminary research in Lao PDR.

# Analytical Framework

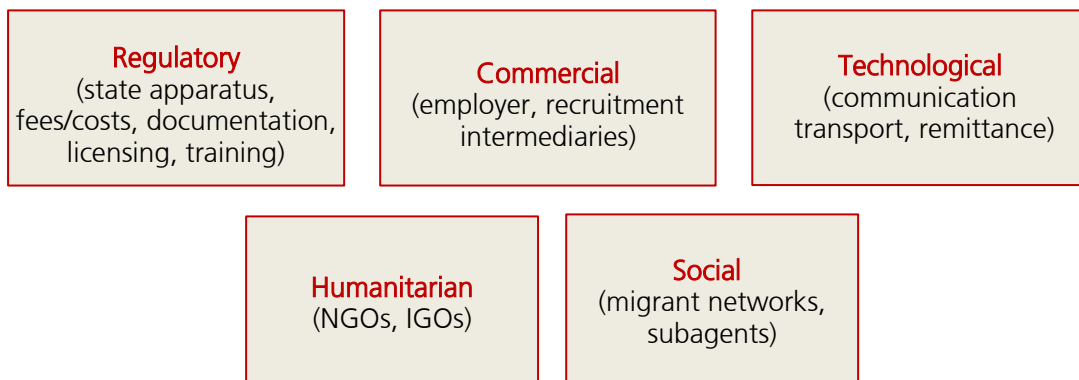
The prevailing international labor migration model encourages maintaining global competitiveness in labor-intensive production by keeping wage costs low and putting the cost and burden of migration on foreign workers.<sup>v</sup> However, documented labor abuses<sup>vi</sup>— ranging from labor trafficking, child labor, forced labor, excessive working hours, underpayment and withholding of wages, debt bondage mainly due to high recruitment fees, and inadequate health and safety protections, among others — brought international pressure to bear on receiving countries like Thailand and Malaysia, and on the companies buying goods from these countries, to look at the situation of foreign workers more closely.

The locus of any examination of the situation or condition of workers, especially foreign workers, is the question of vulnerability, specifically the factors that create and/or compound an individual or group’s vulnerability.<sup>vii</sup>

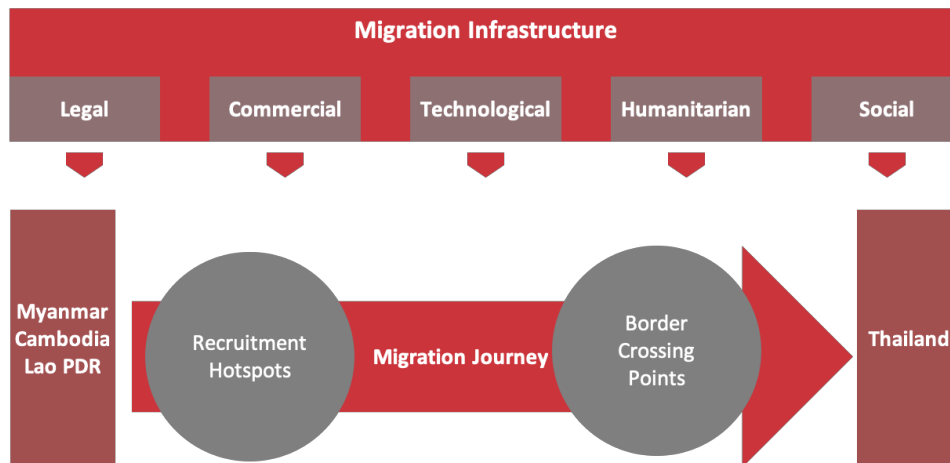
Our exploratory study assumed that the migrants’ vulnerabilities start in their home countries. We thus<sup>viii</sup> located our field research in Poipet, Prey Veng and Phnom Penh in Cambodia; Yangon, Kaw Thauung, and Patheingyi in Myanmar; and Vientiane, Pakse, and Savannakhet in Lao PDR. The intent was to chronicle transactional relationships and bureaucratic processes from the jobseekers’ standpoint — from thinking about migrating to work to finding out what they need to prepare in terms of documents and logistics, costs, and accessing the necessary funds to preparing to leave for the destination country, including how they negotiate and interact with all the actors involved. Some of the specific questions that guided the research included:

- How do jobseekers learn about available jobs in Thailand?
- How do workers both formally and informally migrate for work to Thailand?
- What formal and informal routes do the jobseekers take to cross the border to Thailand from their home countries?
- What costs/fees are associated with migrating formally and informally? How do the jobseekers manage costs?
- How are jobseekers pooled and screened in the sending countries?
- What kinds of labor intermediaries are involved in the migration process and how much does each interaction generally cost?
- What are the key laws in Thailand, Cambodia, Myanmar, and Lao PDR, that regulate the travel of migrant workers to and from their home countries?
- How much information do jobseekers have about the nature of the work and working conditions in Thailand before they leave their home countries?
- Given the various legal channels available, why do jobseekers still decide to work in Thailand informally?
- What kind of risks and vulnerabilities are created through the interplay of formal versus informal migration?

In our data gathering and analysis, we were guided by the migration infrastructure<sup>ix</sup> framework introduced by Xiang Biao and Johan Lindquist, which looks at five intersecting dimensions (see below).<sup>x, xi</sup>



In both migration hotspots and border crossing points, the team studied how various components within the migration infrastructure create unique realities that shape migration journeys and establish sets of associated vulnerabilities faced by jobseekers.<sup>xii</sup>



# 3. Thai Legal and Regulatory Dimension



## REGULATORY BACKGROUND

To manage the influx of foreign or migrant workers — particularly from Cambodia, Myanmar, and Lao PDR into Thailand — and to articulate the general migration policy of Thailand, the Alien Employment Act (B.E. 2551) was issued in 2008. The law requires all aliens (non-Thai nationals) who want to work in Thailand — except those enumerated under section 4<sup>xvi</sup> or those aliens coming into Thailand temporarily — to acquire a work permit (Section 9). Under section 21, a work permit is valid for two (2) years from the date of issuance. Prior to the expiration of a work permit, the application for renewal should be submitted. Renewal is allowed for a period of two (2) years, however the total length of time permitted to work cannot exceed a consecutive period of four (4) years unless otherwise prescribed by the Council of Ministers.

In response to the growing concerns about forced and trafficked labor and the abusive treatment of both documented and undocumented workers, the Royal Ordinance on Foreign Worker Management was issued in 2017. The Ordinance imposes heavy fines and penalties on both employers found to be employing foreign workers without a work permit, and foreign workers working in the country illegally. Registration offices on the Thai side were opened for undocumented workers to register in compliance with the Ordinance. Foreign workers, even those who had not gone through the nationality verification process, were urged to report to a center to receive visa approval allowing them to work in Thailand until a specified date, depending upon the circumstances (see box below). The implementation of the Royal Ordinance was suspended for 180 days to allow workers and employers to secure the proper documents.

## Thai Migration Policy

Based on the most recent available non-government data,<sup>xiii</sup> there are approximately four million migrants, constituting 5.76 percent of the total population living in Thailand, 90 percent of whom come from the countries of Cambodia, Lao PDR, and Myanmar. Migrants work in a range of labor-intensive industries, including agriculture, fishing, construction, manufacturing, domestic work, hospitality, and sex work.

Thailand currently has a Memorandum of Understanding<sup>xiv</sup> (MOU) with each of these sending countries, governing the work of migrants in various sectors – with the exception of work on fishing vessels. Based on Thai government statistics, as of November 2017, approximately 1.7 million out of four million migrants are registered, indicating that more than half remain as undocumented migrant workers. y.<sup>xv</sup>

## Cabinet Resolution on Management of Migrant Workers Employment in Thailand (16 January 2018)

The Cabinet approved proposals made by Ministry of Labor, which provided grace periods for migrant workers from Cambodia, Myanmar and Lao PDR to continue working in Thailand in three cases:

- Case 1:** Migrant workers in the fishing and seafood processing sectors currently participating in the nationality verification process were allowed to stay in the kingdom and work until June 30, 2018 to complete the process. Upon completion of verification, these workers are allowed to stay in the kingdom until November 1, 2019.
- Case 2:** Foreign workers holding Non-Thai ID Card (Pink Card) are allowed to stay in the kingdom and work until March 31, 2018.
- Case 3:** Under the temporary measures on tackling management of migrant worker employment through the screening of employer-employee relations, migrant workers from Lao PDR, Cambodia, and Myanmar are allowed to work in the kingdom until March 31, 2020 after completing the national verification process. Those who have not gone through the national verification process are allowed to stay in the Kingdom and work until June 30, 2018 to complete the process.

Foreign workers left Thailand in large numbers following the Ordinance, putting a strain on their employers. As a result, the 2017 Royal Ordinance was amended and the Royal Ordinance on Foreign Worker Management (No. 2) (hereinafter Royal Ordinance 2) came into effect on March 28, 2018. Some of the provisions relevant to this research are as follows:<sup>xvii</sup>

- No foreigner shall work without a work permit or work outside of the work which he or she has the right to do (Section 8).
- No person shall accept a foreigner to work without a work permit or assign such foreigner to work outside the one for which he or she is permitted to do under the work permit (Section 9).
- Labor or wage contractors are not allowed to be the employers of foreign workers, and the authority/contract to bring foreigners to work on behalf of the employer shall be part of the application pack submitted to the Thai Registrar. The ordinance likewise authorizes the Registrar to certify the contract, the existence of the employer, and availability of the work (Section 41).
- Recruitment/placement agents cannot collect any fee from Thai employers or foreign workers, except for the service fee and expenses collected from the Thai employer, as indicated in the list and based on the rate prescribed by the Director-General (Section 42) [See table on page 17].
- Thai employers cannot collect any recruitment-related fees from foreign workers, except those expenses that are the responsibility of workers and were advanced by the employer, such as passport fees, medical examinations, work permits, and other similar expenses as prescribed by the Director General. The employer is allowed to deduct said advanced expenses from the worker's wages, but not more than 10% of the monthly wage. In cases where there was no prior agreement regarding the transportation expenses of the workers and the employer has paid for said expense in advance, the employer is also

- allowed to deduct it from the workers' wages (Section 49).
- Thai employers violating Section 49 on collecting recruitment-related fees in excess of what is legal will be liable for imprisonment for a term not exceeding six months and a fine of twice the money or fee requested, accepted, or deducted from the foreign worker. The Court will order the return of said excessive fee/deduction to the foreign worker or levy the guarantee bond upon the request of the foreign worker (Section 114).
  - A foreign worker who resigns before the expiration of the employment contract cannot work for another employer, except when the resignation is due to the employer's fault or if the worker has paid the previous employer for any recruitment-related expenses, to be calculated in proportion to the time or period that the worker has served. In such case, the Registrar shall issue a new work permit or indicate on the back of the work permit the right of the worker to change employers. Said worker must start working for the new employer within 30 days from the date of resignation from the previous employer, and the new employer must post a guarantee bond (Section 51).
  - The responsibility to repatriate the foreign worker to their original country upon the expiration of the employment contract shall be borne by the recruitment/placement agent or the last employer under whose bond the foreign worker was brought to Thailand (Section 55).
  - The Thai government can levy the guarantee bond or claim reimbursement from the recruitment/placement agent or employer for expenses incurred in the repatriation of workers (Sections 56-58).
  - A foreigner, who is a national of a country sharing a border with Thailand and who enters with a border pass or any similar document, can be permitted by the Registrar to work in Thailand temporarily during the specified time period, season, and area (Section 64).
  - Foreigners found to be working without a work permit or outside the permitted work scope may be subject to a fine from THB 5,000 to 50,000 and/or repatriation. The penalty, however, will not apply to victims of human trafficking or witnesses in a human trafficking case (Section 101).
  - Employers found to be employing foreign workers without a permit or outside the permitted work scope will be penalized with a fine of THB 10,000 to 100,000 per foreign worker. Repeat employer-offenders may be subject to a maximum of one-year imprisonment and/or a fine from THB 50,000 to 200,000 per foreign worker. The employer will also be prohibited from employing foreigners for a period of three years from the date of the final court decision (Section 102).
  - Any person who recruits or places a foreign worker in Thailand to work for a labor contractor will be liable for imprisonment for a term not exceeding one year and/or a fine not exceeding THB 200,000. Failure to notify the Registrar of bringing foreigners to work in Thailand will be liable for imprisonment for a term not exceeding six months and/or fine not exceeding THB 100,000 (Section 110/1).

While Royal Ordinance No. 2 is comprehensive and addresses the main points relating to forced labor and trafficking, there are still some gaps that represent cost burdens on migrants: (a) unless previously agreed upon, foreign workers are expected to pay for the transportation expenses from home country to worksite; (b) there is no limit on the amount of transportation expenses, making it an expense where agents can hide recruitment-related costs and service fees; and (c) responsibility for who bears the cost of repatriation is not explicit, i.e., there is no prohibition on the recruitment/placement agent or the employer from requiring it in advance from the worker, to be held in reserve, for example, in the form of savings.



Official Recruitment Fee Structure in Thailand (March 2018)	
Items	Fee (TBH)
Visa	500
Work permit (2 years' validity)	1,900
Re-entry visa	1,100
Medical exam	500
Annual fee paid for the recruitment of foreign workers	10,000

### INTER-GOVERNMENTAL MOUs

The Thai government signed Memoranda of Understanding (MOUs) to create legal channels for the recruitment of workers with Cambodia in May 2003, Myanmar in June 2003, and Lao PDR in October 2002. The bilateral MOU agreements between the countries of origin and Thailand regulate the process through which foreign workers must obtain legal work permits, passports, and visas through official channels.

In 2015, Thailand initiated a revision of the MOUs to broaden the cooperation on labor issues and to include skills development and reemployment.

Cambodia, Myanmar, and Lao PDR have all finalized a second version of the MOUs with Thailand, although these are pending the addition of sectors that will be opened for labor migration. However, to date, only a small proportion of migrant workers have entered Thailand through the MOU process.

## 4. Migration Infrastructures in Sending Countries



### Cambodia

#### OVERVIEW

Cambodian jobseekers typically enter into employment in Thailand through the following mechanisms: (a) they are referred by family and friends to Thai employers and directed to recruitment agencies to begin the MOU process; (b) they are referred by family and friends to Thai employers and directed to known informal brokers who can secure them documents adequate for legal entry into Thailand on a temporary pass; or (c) they are repeat irregular workers who can navigate the system on their own because they already have migrants' and/or employers' communities in Thailand.

Because of the diversity of these recruitment, hiring, and employment mechanisms, jobseekers engage with both social migrant networks as well as commercial recruitment agencies. In some cases, migrant workers reportedly prefer to operate through their social connections while seeking jobs. One recruitment agent interviewed noted that this prioritization of social connections can lead to challenges in filling specific job orders from potential employers with Cambodian migrants; the prospective workers prefer to wait until there is an opportunity to be placed at an employer already engaging their friends or family.

In addition to the prioritization of social connections, some migrants also appear to prioritize flexibility in seeking employment. This means that irregular migrants with valid travel

documents (but without valid work documents) may continue to work under an irregular status rather than pursue employment via legal, formalized migration channels. Interviewers found a perception that working without formal work documentation provided workers a valued flexibility on their length of employment in Thailand as well as their length of stay with any individual employer. Migrants who seek employment through social connections often have an opportunity to receive information on earnings and other working conditions from their network before leaving Cambodia, providing some confidence that conditions will be fair. According to the respondents, as they become more familiar with the options in Thailand, the more informed their decisions become.

The Cambodian recruitment agencies are the gatekeepers of the formal migration process, and the government has fully outsourced this function to them. While not a formal requirement of the MOU, a jobseeker will likely be unable to apply for a job through the MOU process without the help of a recruitment agency. Further, the formal recruitment/MOU process is generally more expensive (approximately USD 600) and lengthier than the informal process, adding additional barriers for potential migrants.

#### BACKGROUND AND CONTEXT

The Kingdom of Cambodia has a total population of 16,204,486 (July 2017), with a net migration of migrants/1,000 population based on 2015-2020 estimation.<sup>xviii</sup> The population is comprised of a majority Khmer (97 percent) followed by Cham (1.2 percent), Chinese (0.1 percent), and Vietnamese (0.1 percent).<sup>xix</sup> Cambodia has a labor force participation rate close to 81 percent or 7 million, with more than half employed in the agriculture sector (54.1 percent), followed by employment in services (29.6 percent).<sup>xx</sup>

Cambodia has MOUs with several countries, including the Republic of Korea, Japan, Qatar, Kuwait, and Saudi Arabia, but the majority of migrant workers seek work in Thailand.

Cambodian jobseekers commonly migrate into the fishing, agriculture, livestock, construction, manufacturing and service sectors, including domestic work.

Less than 10 percent of Cambodian workers who migrate to Thailand do so through legal channels established under the Cambodia-Thai MOU. Migrants entering Thailand through the MOU process increased from 4,116 in 2006 to 16,837 in 2011. However, based on a 2017 report, an estimated 200,000 Cambodians reside in Thailand irregularly at any one time.<sup>xxi</sup>

Cambodian migrants are largely concentrated in the eastern half of Thailand and in the central Bangkok area. The vast majority are temporary migrants, leaving home for periods ranging from a few months to several years. They often return to Cambodia annually for festivals, celebrations, or harvest, while other workers commute across the border daily.<sup>xxii</sup> Seasonal migrants who work in the farming sector in the nearby border area are classified as long-term migrants.<sup>xxiii</sup>

### Push Factors for Cambodian-Thai Migration

The Cambodian labor force is estimated to have increased 22 percent between 2007 and 2015, meaning approximately 250,000 to 300,000 new workers entered the Cambodian workforce each year.

With insufficient opportunity for work at home, increasing number of Cambodians seek work abroad. In Cambodia, migration is primarily driven by increasing landlessness, rural indebtedness, environmental insecurity, joblessness, inequality, and a growing mobile youth population. At the same time, Thailand experienced rapid economic growth, providing employment opportunities for the mobile Cambodian population. (Hing, Lun, and Phann 2011; Maltoni 2006; Bylander 2013; Bylander 2014a).

## REGULATORY DIMENSION

### LEGAL REQUIREMENTS

There are a number of legal requirements that govern Cambodian workers' overseas deployment. The relevant Sub-decrees,

*Prakas*,<sup>xxiv</sup> and MOU terms are briefly discussed below:

**Sub-Decree No. 190 (2011).** Sub-Decree No. 190 on The Management of the Sending of Cambodian Workers Abroad through Private Recruitment Agencies (PRAs) was designed to strengthen the regulatory framework for managing labor migration. It reflects the Government's policy of encouraging migration abroad for work as a means of poverty alleviation for Cambodians.

The Sub-decree identifies the Ministry of Labor and Vocational Training (MOLVT) as having the authority to grant licenses to Cambodian private recruitment agencies to send workers abroad. It outlines the conditions for obtaining a license (Article 7) and defines the framework of cooperation between the MOLVT and private recruitment agencies, which are charged to respect all applicable laws and regulations of Cambodia.<sup>xxv</sup> The law requires three contracts for the recruitment and job placement of Cambodian workers, namely:

- A contract between the MOLVT and the private recruitment agencies;
- A contract between the private recruitment agencies and Cambodian workers, which shall be titled as a Job Placement Service Contract and should be in Khmer and in accordance with applicable Cambodian laws and regulations; and
- A contract between foreign employers and Cambodian workers, which shall be titled as Employment Contract. It has to be written in Khmer, English, and the language of the receiving country, adhere to the applicable laws and regulations of the receiving country, and clearly specify working conditions, job status, and types of work, benefits, and key contact details.

The sub-decree describes the responsibilities of the private recruitment agencies but is silent or ambiguous on key aspects of the rights of workers. For example, it is unclear who bears the costs of migration. It also does not aim to fill key gaps in receiving country law, such as protection of foreign workers against deceptive recruitment, deception about the nature of the job, the confiscation of passports and other identity documents, discrimination, or restrictions on migrant workers' rights to freedom of association and collective bargaining.

Sub-Decree 190 is supplemented by a number of *prakas* on definitions, licensing, and reporting requirements for recruitment agencies; monitoring and issuance of commendations for agencies; standards in the delivery of predeparture training; use of the guarantee deposit; and standard contracts, among other terms. Eight *Prakas* were adopted between February and September 2013.

*Prakas* 252, which addresses the private recruitment agencies' responsibilities to migrant workers in destination countries and during repatriation processes. It states that each private recruitment agency is required to appoint a Cambodian permanent representative to each receiving country and provide a range of services, such as a dispute resolution mechanism and counseling and consultation services on worker rights and working conditions — including possible risks concerning occupational safety and health. Since the private recruitment agency representative is one of the few links migrant workers have to home, the role they play in recognizing potential labor abuses and violations is critical, highlighting the need for strong training protocols for the agents themselves.

Although *Prakas* 252 was intended to provide guidance on repatriation issues, it does not specify which party should bear the costs of repatriation.

## MEMORANDUM OF UNDERSTANDING (2003)

Under the 2003 Memorandum of Understanding, the governments of Cambodia and Thailand agreed to take all necessary measures to ensure the following:

- proper procedures for the employment of workers;
- effective repatriation of workers who have completed terms and conditions of employment or are deported by relevant authorities of the other party before completion of the terms and conditions of their employment to their permanent address;
- due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights that they are entitled to;

and

- protection of and effective action against illegal border crossings, trafficking of illegal workers, and illegal employment of workers.

This MOU contains some provisions that may, in practice, pose barriers to migrants seeking employment through formal channels. These provisions include:

- contribution into a savings fund managed on the Thailand side, equivalent to 15 percent of workers' monthly salary (or THB 135 per month), to be refunded only after completion of employment or upon termination prior to completion of employment. The savings fund may be used to cover bank charges and the cost of deportation. The right to refund the contribution is revoked if the worker does not return to their permanent address upon completion of the employment terms and conditions;
- taxes or other fees as required by Thailand and/or Cambodia;
- four-year maximum period of working in Thailand;
- mandatory three-year cooling off period; and
- the non-discrimination clause on wage and benefits has not included payment of recruitment fees.

There have been later labor-related MOUs signed between the two countries, but as of this writing this remains the main reference.

The four ministries involved in the labor migration management of Cambodian workers are the Ministry of Labor and Vocational Training (MOLVT), the Ministry of Interior, the Ministry of Foreign Affairs and International Cooperation, and the Council of Ministers (descriptions of each follow). There are also two inter-ministerial committees involved in labor migration issues: The Inter-Ministerial Working Group for Implementation of MOU with Thailand is a body formed to oversee the MOU, and the Inter-Ministerial Taskforce for Migration (IMTM) coordinates on migration issues and provides recommendations to the Cambodian government.<sup>xxvi</sup>

## COMMUNE LEADERSHIP

The commune interacts with jobseekers at the very early stage of the migration process. The commune's services include issuing residency certificates, family records, national identification, and birth certificates, which are usually required from jobseekers by potential employers or recruitment agents to be able to apply for a passport. They also issue certificates recognizing ownership of property so it can be used as collateral to borrow money to pay for recruitment fees.<sup>xxvii</sup> Given the centrality of this role, they are a potentially underutilized actor in the migration process; going forward, relevant stakeholders may consider how the commune could be more effectively integrated into the migration system within the parameters of their authority.

According to respondents in two communes in Pursat and Kampong Chhnang,<sup>xxviii</sup> information about jobseekers is collected by the commune for several reasons: (a) for census purposes, i.e., to determine how many people go to Thailand, Malaysia, China, Japan, and South Korea; (b) for general information purposes, e.g., who migrated to marry; and (c) to keep track of both legal and illegal work migration, as well as educational migration.

For the commune, *legal migration* means that the worker traveled with a Thai company representative, who may be from a Cambodian PRA, or that they traveled with documents. *Illegal migration* indicates that the worker traveled with informal brokers, such as individuals already working in Thailand who recruit family members, friends, or neighbors at the request of their Thai employer.

According to the commune councilors in Kampong Chhnang, the private recruitment agency usually prepares the documents, including residency verification, and the commune office's role is typically limited to stamping the certificate. Work migration through a private recruitment agency does not raise red flags for the commune councilors because they are perceived as "legal," thereby less likely to pose risk to jobseekers.<sup>xxix</sup>

Commune officials reported that Cambodian workers migrating to Thailand — both men and women — tend to work in chicken, meat, and electronics factories, and in construction. Females particularly work in chicken and meat factories. The respondents said that there are

**The Ministry of the Interior** issues passports and processes deportations. It is in charge of law enforcement, including employment law and worker protection. The Department of Anti-Human Trafficking and Juvenile Protection within the Ministry monitors the wellbeing of Cambodian workers abroad and provides specialized services aimed at preventing and eliminating human trafficking in Cambodia and abroad.

**The Ministry of Foreign Affairs (MFA)** works with foreign governments and Cambodian embassies abroad. It negotiates and maintains Bilateral Agreements and MOUs with countries receiving Cambodian labor migrants. Cambodian embassies are the first port of call for Cambodians experiencing difficulties in foreign countries and typically play a leading role in negotiating Cambodian citizens' rights in their country of operation and in citizens' repatriation.

**The Ministry of Labor and Vocational Training (MLVT)** is the licensing body for recruitment agencies. It issues permission for recruitment agents to operate and is the recipient of the USD 100,000 deposit required for the legal operation of a recruitment agency. It also has the authority to issue a *prakas* permitting a company to recruit Cambodian workers for jobs overseas.<sup>1, 1</sup>

**The Department of Employment** within the Ministry is responsible for providing sets of guidelines for the proper recruitment of Cambodian workers abroad. The guidelines cover predeparture procedures and services, regulation of recruitment agencies, fees for recruitment services, and working conditions and rights.

**The Manpower Training and Overseas Sending Board (MTOSB)** is a government agency that builds relationships with receiving countries, oversees the recruitment of Cambodians, and establishes recruitment and training procedures.<sup>1</sup> It recruits Khmer workers for the Korean EPS scheme, as Korea prefers not to deal with private brokers.<sup>1</sup>

many literate people in their commune, including teachers, and that this population tends to migrate through companies or recruitment agents. The respondents claimed that they are able to escalate cases of distressed migrants to the Ministry of Labor for assistance.

## TRAVEL DOCUMENTS AND BORDERS

The following travel documents that allow Cambodians to enter Thailand are described here based on government documents and respondent interviews. All of the costs noted are set by either the Thai or Cambodian government.

Cambodian respondents were often savvy about navigating border crossing and document requirements for various configurations of travel to Thailand. Therefore, the documents mapped below represent the diverse pathways through which a Cambodian can enter Thailand and seek employment — including pathways outside of legal migration channels.

Document	Application Details	Issuing Authority	Validity/Benefits
<b>Pink Card (TR 38)</b>	<b>Cost:</b> THB 80 Processed on the Thai side. No information if this is still being issued currently	Thai Ministry of Interior	Those issued in 2018 are reportedly valid until 2020; holder allowed to work in Thailand
<b>Immigration Card</b>	Free	No information	Adequate for crossing into Thailand for a day to areas near the border, such as a market
<b>Border Pass</b>	<b>Cost:</b> Local residents: TBH 200; Non-residents: up to TBH 1,200; excluding transportation costs. <b>Required docs:</b> National ID, Household Record <b>Processing time:</b> 1 day	Cambodian Immigration	Adequate for staying in Thailand for 7 days; typically adequate for short-term work
<b>Travel Card or Overseas Cambodian Worker Card (OCWC)</b>	<b>Cost:</b> USD 27 if applied for in Cambodia, or THB 950 in Thailand <b>Required docs:</b> national ID, birth certificate or family/household record <b>Processing time:</b> 3 to 7 days		Document issued under the MOU agreement between Thailand and Cambodia that allows Cambodians to legally work in Thailand
<b>Visitor Passport</b>	<b>Cost:</b> TBH 4,000, 2x for fast-tracking <b>Required docs:</b> National ID, Household Record <b>Processing time:</b> 1 month (issued in Phnom Penh)	Ministry of Foreign Affairs, Cambodia	Adequate for travel anywhere, but visa and work permit are needed to work in Thailand
<b>Work Passport (Black)</b>	<b>Cost:</b> TBH 12,000 for passport and visa, plus TBH 8,000 for transport <b>Required docs:</b> National ID, Household Record <b>Processing time:</b> 1 month (issued in Phnom Penh)	Ministry of Foreign Affairs, Thailand	Validity is 4 years; issued in Bangkok and allows holder to work in Thailand; reporting requirement every 90 days



Left and right: At the Poipet Border.

## MIGRATION ROUTES

The 2017 UNODC, which looked at the 800 km generally porous border between Thailand and Cambodia,<sup>xxx</sup> described one common route that migrants take from Prey Veng to Battambang and Poipet in Cambodia across to Aranyaprathet Province in Thailand. A second route involves crossing through Banteay Meanchey Province or Kampot to Koh Kong in Thailand. Upon visiting the sites, the research team verified the porousness of the border and ease of entry and exit. The formal border points are guarded, where there seemed to be a process of checking documents, however the crossings are extremely busy areas with hundreds of locals and tourists entering and exiting on a daily basis. The Poipet border is especially busy due to the nearby casinos and Chinese visitors who cross over to Thailand for shopping.



Left and right: At the Battambang Border.





*Informal border near Poipet.*

The team also visited an informal border point and were able to cross to Thailand using a tuk-tuk without showing any travel documents. It is difficult to conclude whether the border guard is usually this lax, because we were obviously going to go back after leaving our van on the Cambodian side. The guard was also acquainted with the tuk-tuk driver so that was evidently enough of a guarantee that we would be returning.

Based on information from repeat migrants and jobseekers waiting to be deployed, there are generally four ways by which they travel to Thailand:

1. legally, by going with the Cambodian private recruitment agency representative: The recruited workers go by vans rented by the Cambodian PRA and pass through the Poipet international border with valid passports and entry passes;
2. informally, by going with transportation brokers in a rental van and crossing through the informal check points in Pailen, Battambang, Banteay Mean Chey, and Prah Vihear provinces. Some respondents said they had to wait until nighttime to cross the informal checkpoint by foot;
3. by themselves, crossing the border by foot, then taking a public bus or van to their destination; and
4. riding their motorbikes across the border in the morning to work, then returning at night using a border pass.

## WORKER INTERVIEW

*"I went to Thailand the first time in 1995 with brokers, but then the Thai employer did the legal work permit for me. However, I was young and single and I did not think that the job that I was working — as sugar cane harvester — was right for me. So I left and came back to Cambodia in early 1997 with only 500 Baht in my pocket. I remember that I went to Thailand by crossing the forest and walked more than 24 hours.*

*"In 2004, after getting married and having three kids, I managed to migrate to Thailand again with my whole family by contacting the same broker who brought me back to Cambodia in 1997. This time I paid him 300 Baht each for the transportation to go into Thailand. There were 20 people put in a small car and were brought to the working place. I was told that I will work for the shrimp factory or construction work, but it did not happen. I was cheated and sold to the fishing boat. Luckily, I was rescued by Thai police but I needed to pay him 2000 Baht to get out and find another job. Finally, one of my friends in Thailand helped me find a job in a local market as a meat cutter. I received 300 Baht per day, but I needed to do the work permit and I spent my own money [6000 Baht] to do it. Then, I came back to Cambodia in 2011.*

*"When I returned to Thailand again, I did it on my own because I understand about the procedure of going in and out easily.*

*"In 2015, I heard that the government of Cambodia will help Cambodian people to do a passport in order to cross the border and work legally in Thailand, so I went to do a passport and I did it all for my children and wife. Each of us spent USD 115 to do it so we can travel freely. I heard from the passport officer that I can go to Thailand for two weeks without paying for visa but that I also can do the three-month visa for about USD 50, so I sent my passport and my family's passports to Phnom Penh to do the three-month visa. After getting the visa, I went back to Thailand to work as a meat cutter in the local market for my previous boss. This time I work more than 10 hours a day and I was paid 600 Baht per day, but my wife can get only 300 Baht a day. We know how to speak Thai but we never complain or ask our employer. I knew about recruitment agency, but I prefer going by myself so I do not need to spend much money and it is easy for me to go back to Cambodia, moreover I already have an employer who offer a daily fee for me. I think my whole family love working and living in Thailand because we can speak the language and it is easier for us to work. I find it difficult to work in Cambodia. Now, I am living in Cambodia for a while to make sure we can adopt living here and if we cannot, we will leave to Thailand again."*

Interviewed in Poipet, 13 May 2018

## COMMERCIAL AND SOCIAL DIMENSIONS

The Thai employer is the primary trigger of the recruitment process. Almost all of the jobseekers we interviewed had already identified potential employers through family members or friends; the only remaining decision to make was whether to migrate legally or informally. Knowing someone who is already in the job or working for a specific employer is usually the only encouragement needed to decide to migrate.

In most cases, the jobseekers have relatives or friends working in Thailand who tell them of employment opportunities. The relatives' employers then recruit the jobseekers directly or refer them to Cambodian private recruitment agencies that can help process their papers. In this case (formal process), the jobseekers will cold-call the PRA, ask whether the agency can facilitate placing them in the same job or factory where their family or friends work, and arrange for a time to come to Phnom Penh to pay the attendant fees to start processing their application. After payment, they will return home to wait for the private recruitment agent to phone about the release of the passport and when the job will become available. Normal waiting time is two to three months.

If the available work is in the markets, small businesses, or on farms (the majority of opportunities), the jobseekers are more likely to be directly recruited by the Thai employers, i.e., a family member or friend will call jobseekers about available work then refer them to an informal broker who they have previously used to help process their passports and tourist visas or give them instructions on how to apply for a tourist visa on their own.

In Poipet, Verité interviewed two women who returned in April 2018 from working in Rayong,

Thailand<sup>xxxii</sup> off and on for the last seven or so years. Both women worked as sellers in markets in Bangkok and had been migrating on their own after initially being smuggled into the country.<sup>xxxiii</sup> They said that they would usually just use a border pass, which they would throw away once they entered Thailand. They said that motorcycle drivers would refer them to personal contacts who could help with document processing. The respondents changed employers two to three times over the course of their stay, and they said that the change in employer happened when they came home to Poipet with no definite return date. Each time they decided to return, they would call up previous employers and potential employers to ask if they needed workers or market sellers. When we asked why they preferred this method, they said it allowed them to return home or change employers as they wanted.

In Prey Veng, another female repeat migrant worker had been working in Thailand for five years with intermittent exit and re-entry in a typical one-year employment cycle. Initially undocumented, she secured a three-month pink card at a cost of THB 3,500 using her sister's Thai husband as the designated employer. While in Thailand, she managed to secure a two-year pink card at a cost of THB 5,000. Transportation from her home to the border was facilitated by a friend the Thai brother-in-law at a cost of approximately THB 2,000. Her wage was THB 250 per day, paid every 15th day of the month. In Thailand, she stayed at an employer-provided accommodation with utilities paid by the employer.

Some other interviewed jobseekers heard about potential jobs through radio advertisements by PRAs.

## JOBSEEKER INTERVIEW

One jobseeker, interviewed at the coffee shop in Stoeng Mean Chey near the passport office told us:

*"I listened to the radio and there was an announcement about the recruitment company [XYZ] promising that if I contacted this company, I can go to work in Thailand and get at least US\$500 per month. There is a lot of work I can do such as construction, in the factories, or agriculture. I listened a few times and then I noted down the phone number and called the company. Since I was told the same things as I heard on the radio, I was convinced to come to Phnom Penh. I brought US\$300 to process my passport and other documents, as instructed. When I arrived in Phnom Penh, the staff of the recruitment company picked me up from the bus station and brought me first to their office and then to the passport office. I just gave them my ID, birth certificate, and the money. I was told to wait for about three months to pick up my passport and bring another US\$300 to the company in order to go to Thailand. I do not know the name of the factory or where I will work."*

## RADIO ADVERTISEMENT

*"Are you looking for a job in Thailand or Malaysia? Are you having difficulties in finding job or earning money in Cambodia? Are you in debt because of the low income you are receiving in Cambodia? Do you know that without skill or high education you can earn at least USD 500 per month and live a better life? Please do not worry now, our company can help you. Please call us via 01x xxx xxx or 09x xxx xxxx for any questions you have. You do not need to pay a lot of money to us to get a job. There are so many great working opportunities in Thailand or Malaysia as domestic workers, construction work, various factories work with fair working condition and good salary. Are you still hesitating? Please call us, we are happy to help you to reach your destination."*

## PRIVATE RECRUITMENT AGENCIES

Private Recruitment Agencies are key actors in the formal recruitment process. As of July 2017, there were 83 registered private recruitment agencies in Cambodia;<sup>xxxiii</sup> by the time of our field research, the number was closer to 100. According to one private recruitment agent, of the 100 agencies, approximately 35 agencies send workers to Thailand. The others send workers to Malaysia, Japan, and South Korea.

A recruitment agency is defined as any private legal entity duly established under applicable laws and regulations of the Kingdom of Cambodia and officially licensed by the MOLVT to be responsible for providing full job placement service abroad and charged to respect all applicable laws and regulations. To obtain authorization to place Cambodian workers abroad, a PRA is required to fulfill the following conditions (Article 7):

- have an office with a definitive address and sufficient staff, office materials, communication methods, and transportation means;
- have a training center of an appropriate size with (a) a building equipped with materials and equipment for vocational and language training to meet the standard skills and demand of the job market and for pre-departure orientation training in accordance with the guideline; (b) proper accommodation and dining areas that ensure good health, sanitation, and safety; and (c) internal rules to be recognized by the MOLVT;
- have language teachers to provide language training that meets the standard skills and demands of the worker receivers;
- enter into a contract with the MOLVT on the duty and procedures of job placement service operation;
- deposit guaranty in Riel, equivalent to USD 100,000, into the account of the MOLVT, which will be used to move or repatriate workers or settle any dispute arising from the contract between the agency and the worker/Ministry; and
- have a permanent representative in the receiving country.

One of the larger recruitment entities is the Association of Cambodian Recruitment Agencies (ACRA), founded in 2007 and operating under the direction of MOLVT. As of 2018, 50 registered PRAs in Cambodia are members of ACRA.<sup>xxxiv</sup> According to their website, ACRA works with government entities of Cambodia and receiving countries, private enterprises, unions, international agencies, and NGOs in order to create the most transparent, safe, and beneficial environment for Cambodian migrant workers and their families. ACRA, in consultation with the ILO, has a nonbinding, self-regulated Code of Conduct (2009) for its members. A second association, the Manpower Association of Cambodia (MAC), was founded in and registered with the MOLVT in 2015. Its purpose is “to contribute to human resource development, social economic development, and to seek new markets for its members by working with governmental organizations as well as other professional organizations to protect the basic rights of Cambodian migrant workers.”<sup>xxxv</sup> In November 2018, both ACRA and MAC signed an MOU with the Thai-Cambodian Relations Association to promote rights and welfare and protection for Cambodian migrant workers in Thailand, mainly by facilitating the legalization of all Cambodian workers in Thailand, providing transition houses as workers change workplaces, and establishing means to reach out when workers experience problems with their employers.<sup>xxxvi</sup> Both associations have an active presence on Facebook, but information is chiefly about their policy-related work.

According to several Cambodian recruitment agents interviewed, Thai employers will announce the job order and hire a Thai agent to find workers for the company. Thai agents will then “sell” (bid out) the job order to PRAs in Cambodia. One Cambodian PRA agent said his company has a representative in Thailand who scouts available job orders and factory partners to ensure that there will be jobs for the recruited Cambodian workers. He said that those agents must be very active and speak Thai. Another agent said that PRAs do not always have the job order in hand, but they have to pool potential candidates or recruit people in advance to make sure they can send workers to companies in Thailand on time. He said that it is a very competitive business and if he is late in sending workers, the Thai agents/companies will not contract his company again.

## SUBAGENTS AND “INFORMAL BROKERS”

Village subagents do not seem to be as common in the Cambodia-Thailand corridor as in the Myanmar-Thailand or Indonesia-Malaysia corridors. This was verified by commune officers interviewed for this project. Interest is reportedly more typically generated through radio ads, with jobseekers actively reaching out to formal recruitment agencies upon hearing ads. In some cases, a village subagent may become involved, but only after the jobseeker has reached out to a PRA and provided a means of contact (phone number or home address), and only if the village agent is located near the jobseeker. The more common intermediaries are what commune officers referred to as *informal brokers*, those who recruit family and friends on behalf of their Thai employers. It was not clear what financial benefit, if any, informal brokers derive from this mediation.

## FEES

PRA set the fees at approximately USD 600 per jobseeker to Thailand, including the costs of passport, overseas Cambodian worker card (OCWC), medical exam, entry visa, initial documents sent to Thailand to start the work permit application, predeparture training, and transportation from Phnom Penh/Poipet to Thailand. However, the jobseekers we interviewed were not clear on the cost breakdown. One of them said, “I gave them [USD] five hundred dollars to run documents and I did not know what I spent for, but maybe for passport? I dare not ask the company any questions because I think I can ask my sister and she told me not to worry.”

The PRA-set fee does not include expenses incurred by the jobseekers for travel to the recruitment center throughout the application process and the journey from their homes to the pick-up point prior to departure. It also does not include potential costs in Thailand. According to interviewed private recruitment agents and jobseekers, this transaction is not documented nor is it covered by receipts. Comparing the rates as published by respective government agencies (around USD 161) and the fee exacted by the PRA (USD 600), the profit calculates to at least USD 400 per jobseeker recruited.

In surveying the interviewed jobseekers, they said that they obtain the money needed for recruitment fees by (a) borrowing from parents/relatives/friends, (b) using their savings, (c) selling their rice field plot, or (d) borrowing from micro-financing institutions or micro-lenders, which they will pay back by remittances through their families. Individual lenders typically only need a property certificate as collateral, while micro-financing institutions require both the property certificate and a credit guarantor (witness). Remittance is mainly facilitated by the Cambodian PRA representative in Thailand who sends the money to jobseekers’ families in Cambodia through WING transfer, True Money, etc.

### PUBLISHED RATES (USD)

OCWC:	27
Photo:	4
Employment card:	10
Visa:	20
10-year passport:	100
<b>Total:</b>	<b>USD 161</b>

Note: Transportation from Phnom Penh to border usually costs USD 15. Passport expedited processing fees: USD 250 for one day, USD 150 for two weeks, for a total of USD 576.

### EFFECT OF FEES ON CHOICE

Jobseekers using the MOU process typically pay half the fee (approximately USD 300) at the PRA office in Phnom Penh to cover such documents and fees as a passport, overseas Cambodian worker card (OCWC), entry visa, and medical exam. They then wait between two to three months for their papers to be processed before being deployed, during which time, if they borrowed the money for the fee, they are paying interest. Once they are called, they return to Phnom Penh, usually on the day of their departure, pay the balance of USD 300, attend the predeparture training, receive information about their employer, and sign an employment contract. If they then learn they are not being deployed to the industry and/or the job they were expecting, they will lose at least USD 600 if they do not go through with the process.

### TRAINING

The PRAs conduct the government-required predeparture training. One expert informant said that a predeparture training manual is available covering the mandatory 12.5 hours of instruction for Malaysia-bound workers and 13 hours for Thailand-bound workers. However, he said that in reality the agencies are only able to conduct two to three hours of training on the day of departure because the workers do not want to come to Phnom Penh more frequently than necessary due to the expense; migrants only want to go twice: first to register with the recruitment agency and visit the passport office, and second to attend the predeparture training then leave for Thailand. The predeparture training is thus reduced to ensuring that the workers know how to cross the border and call the company's representative in Thailand if they have problems. Because the predeparture training is only available to those who are deployed through the PRAs, this leaves out the significant number of Cambodian workers who migrate informally.

### CONTRACTS

Our research included an exploration of the degree to which workers are familiar with employment contract terms before departure. We found that jobseekers did not generally exhibit much familiarity or ascribe significant weight to the contract. The main concern of the jobseeker was salary/projected earnings, level of overtime, deductions, and level of difficulty of the job. One recruitment agent described the practice of reading the contract to the worker but noted, "...they are only interested in the salary."

Low literacy levels seemed to contribute to the lack of importance placed on the written contract by the jobseeker. (*"I really do not know how to read and write. All my concern is about how much I earn per day or per month with overtime."*). Those who had family or friends already working in the same factories placed more importance on testimonies of those currently on the job: *"I think I will know about this information when I arrive in Thailand."*

This lack of emphasis placed on the contract by jobseekers suggests that additional means should be explored to educate workers predeparture as to the terms of their contracts and the importance of the written contract in ensuring good conditions and protecting their rights on-the-job.

Formal Recruitment Process	
Pooling	<ul style="list-style-type: none"> <li>• Use of radio to advertise for jobs</li> <li>• Referral through migrant network for specific employers</li> <li>• Ongoing basis, even without a job order</li> </ul>
Screening and Selection	<ul style="list-style-type: none"> <li>• Employer-specific or industry-specific, when directed by jobseekers</li> <li>• Main consideration is the ability or willingness of jobseekers to pay the recruitment fees</li> </ul>
Pre-departure Orientation	<ul style="list-style-type: none"> <li>• Agencies have their own standard per-departure training materials</li> <li>• Generally, only able to provide 2-3 hours of instruction, instead of the mandatory 12-13 hours</li> </ul>
Recruitment Fees	<ul style="list-style-type: none"> <li>• PRA fees at USD 600, excluding transportation from home to departure point</li> <li>• Transaction is not covered by receipts</li> </ul>



## HUMANITARIAN DIMENSION

Our study found that migrants placed a higher value on their social networks than humanitarian networks. The humanitarian networks are mobilized, to a limited extent, for predeparture: informing jobseekers of where to go for help and, to a larger extent, how to address a problem, e.g., nonpayment of wages, deception about the nature of the job, or when a recruitment agent does not produce the job. Nevertheless, the social networks seem to be a more accessible channel of information about employment arrangements, accurate working conditions, and methods for navigating the Thai system.

There are three types of Cambodian organizations that work on migrant workers' issues: (a) those that share information about safe migration; (b) those that receive and process complaints from, and provide legal support to, migrant workers on problems related to recruitment agencies and employment; and (c) those who rescue distressed, abused, or deported workers, including trafficked workers. Most of the organizations are also involved in policy advocacy.

The ILO has opened several Migrant Resource Centers (MRC) in areas where many jobseekers originate (Prey Veng, Kampot, and Kampong Chhnang) through its Triangle Project (2011 – 2016). In the MRC office in Prey Veng, we were told that they receive up to four calls to their hotline per day and take on about eight cases per year. They documented 24 calls from April 2017 to May 2018. Issues primarily concerned workers being cheated by recruitment agencies, delays in deployment, and/or wages not being paid. The MRC would then refer workers to the Legal Support for Children and Women (LSCW) that provides legal support to jobseekers and migrant workers or to other NGOs. In terms of outreach, they have monthly meetings with the

commune councilor and chiefs, distribute name cards with the hotline number, and conduct information sessions in schools.

Overall, while the humanitarian landscape is relatively mature, the focus of the NGOs seems to be more on responding to complaints or grievances, with fewer resources available or assigned to instilling empowerment through predeparture information and prevention. Almost none of the jobseekers we interviewed had heard about the MRC or other NGO programs. In Prey Veng, the research team visited a nearby village 15 minutes from the MRC office and not one of the jobseekers we spoke with had heard about the organization. Jobseekers and migrants rely more on their family or friends in Thailand who they can reach by mobile phone or on Facebook. The NGOs' materials produced for workers that we saw were in brochure form, rendering the information inaccessible to most Cambodians jobseekers given their low literacy level.

One key informant commented that although there is a good network of NGOs working on migrant workers issues, "the network is dominated by international organizations, which leave the local NGOs less space to talk about more practical strategies. The INGOs [International Non-Government Organizations] always mention about international standards and laws that are not that relevant in Cambodia yet." The recommendation was that local NGOs could benefit from more information about what safe migration means or focus on sensitizing jobseekers to forced labor so they could recognize it if it occurs.

Knowing that jobseekers place a good deal of trust in their social networks and a significant number of Cambodian workers migrate irregularly, a challenge — and opportunity — moving forward is how can stakeholders maximize the strengths of jobseekers' social networks to further ensure safe migration.



## Myanmar

### OVERVIEW

In Myanmar, the combination of complex government regulations and employer demand — exacerbated by such factors as geographical location, poor communication, worker demographics, and legal restrictions to set up local branches and advertise for jobs — have led PRAs to employ recruitment practices that often result in the exploitation of Myanmar jobseekers and workers. These same factors have also created space for the involvement of new recruitment entities in informal channels that operate outside the scope of regulation, and many jobseekers rely on their services to gain employment in Thailand.

As in Cambodia, workers in Myanmar are generally recruited through the following methods: (a) they are referred by family and friends to Thai employers and directed to recruitment agencies to go through the MOU process; (b) they are referred by family and friends to Thai employers and directed to known brokers who can provide them with documents adequate to legally enter Thailand; or (c) they are irregular workers who know how to navigate the system on their own because they already have a connection to migrants' and/or employers' communities in Thailand. In some instances, Myanmar workers cross the border to Thailand without a clear or certain employment expectation, or without knowledge of an actual worksite where they will be working.

A small percentage of the Myanmar labor migrant population is directly recruited by Thai employers and thus follows the MOU process. Among these workers, we saw an almost inevitable merging of the commercial and social dimensions. Out of necessity, jobseekers relied on both informal and personal migrant networks, including those developed by

recruitment agencies to facilitate and enable the jobseekers' recruitment through formal channels. This was particularly evident at the pooling stage but was commonly observed even when the jobseeker had officially entered the formal application process.

While the formal channel for legal work migration in the Myanmar-Thailand corridor is already well-established, jobseekers who can procure travel documents for Thailand (not suitable for employment), or who have connections in the destination country who can link them to employment, reported preferring the informal channel. Notwithstanding their irregular status and the growing awareness of the consequences of being an irregular migrant in Thailand, jobseekers reported that their decisions to migrate informally were driven by lower cost, shorter process time, and perceived flexibility and control over their experience as migrants.

The situation is compounded by the fact that in Myanmar, as in Cambodia, private recruitment agencies are the designated gatekeepers of the formal migration process. There are no alternative mechanisms for a Myanmar worker to migrate for work formally and legally without applying for a job through the MOU process and engaging the services of recruitment agencies. Moreover, because of the necessary involvement of informal intermediaries, the formal recruitment/MOU process is significantly more expensive than the informal process. Legality and documentation, and the attendance in the predeparture training to arm workers with information and protection, did not appear to have a significant impact on the decisions of jobseekers interviewed. Regarding the predeparture training, it is embedded as a service of recruitment agencies and this research did not detect the presence of sufficient controls to ensure that the information provided is adequate or accurate.

### BACKGROUND AND CONTEXT

The Union of Myanmar, located on the western side of Thailand, has an estimated total population of 55,123,814 as of July 2017. Its capital is Naypyidaw, north of the former capital, Yangon. Myanmar has a net migration rate of -1.5/1000 (2017) and is home to a number of ethnic groups: Burman (68 percent), Shan (9 percent), Karen (7 percent), Rakhine (4

percent), Chinese (3 percent), Indian (2 percent), Mon (2 percent), Other (5 percent).<sup>xxxvii</sup> According to the International Organization for Migration (IOM), Myanmar has grown to be the largest migration source country in the Greater Mekong Sub-region (GMS) with an estimated 4.25 million Myanmar nationals living in other countries. As a consequence, a significant number of the population migrate for work abroad.

Myanmar still stands as one of the most impoverished countries in Southeast Asia, having a Human Development Index of 0.556 (UNDP, 2016). The Employment to Population ratio, or the percentage of ages 15 and older, is at 74.3. Its Labor Force Participation ratio is at 78.0, which indicates a sizeable supply of labor available to engage in the production of goods and services. Nevertheless, being a low-income country, health issues such as malnutrition, chronic illness, and disability are factors affecting the population's labor force participation. The estimated total unemployment rate is at 4.7 percent.<sup>xxxviii</sup>

Based on the 2014 Myanmar Population Census, 70.2 percent of all migrants from Myanmar were located in Thailand. (Smaller but still significant numbers of migrants from Myanmar are working in Malaysia, China, and Singapore. Other countries of destination not specified in the census include South Korea, Japan, Qatar, Saudi Arabia, and the UAE.<sup>xxxix</sup>) The IOM reported there could be as many as three million Myanmar migrants living in Thailand as of 2016. The highest numbers of migrants, according to the 2014 census, are from the following states: Mon at 427,000, Kayin at 323,000, and Shan at 236,000. These numbers pertain only to documented migrants or recorded movements and, as such, it is safe to assume that the numbers are higher than what is stated in the census.

Migrants from Myanmar are found working in a number of sectors in various parts of Thailand, the highest being construction, followed by agriculture and husbandry, care services, and seafood. Other sectors include, garment production and sales, domestic work, food and beverage, and manufacturing (Chantavanich and Vungsiriphisal, 2012).

The primary sections of Thailand where Myanmar workers are documented are Bangkok, Samut Sakhon, Chiang Mai, Tak, Ranong, Surathani, and Kanchanaburi.

## RECRUITMENT

Myanmar migrants go through various informal and formal channels of recruitment, with the vast majority using informal pathways. According to the IOM study, some 43.3 percent of the migrants came to Thailand through arrangements made by family and friends, 37.7 percent through informal brokers, and 18.5 percent on their own. Only 0.5 percent of the respondents we interviewed came to Thailand through the formal recruitment process stipulated in the MOU between Myanmar and Thailand for jointly managing labor migration and the employment of migrant workers.<sup>xl</sup> This low uptake of formal processes underscores the barriers to regularizing labor migration so that it leads to decent and humane conditions of work and opportunities.

In the report developed by IOM and the Asian Research Centre for Migration in 2013, 74.9 percent of surveyed migrants cited economic reasons, such as a higher income or better employment opportunities, as the primary reason for migrating to Thailand. Another 13.4 percent cited personal reasons, such as the desire to follow family and friends, persuasion by family or friends to migrate, or the desire for personal experience and exposure. Security/safety issues were cited by 7 percent, and 4.6 percent cited better living conditions and services as the primary reasons for coming to Thailand.<sup>xli</sup>

Without the protections formal processes provide, Myanmar migrant workers suffer greater exposure to economic or physical hardship, or risk being vulnerable to exploitation, which runs counter to their aspirations. However, studies have shown that most workers traditionally use informal or unregulated migration channels rather than formal ones. This is especially true in the seafood sector, given it was only in 2018 that a formal recruitment framework for work on fishing vessels was developed. Prior to 2018, the MOU excluded this subsector, which has always been known to rely heavily on Myanmar for its vessel crews and fish port labor resources.

Under the latest iteration of the MOU system (2018), the Royal Thai Government hopes to recruit up to 42,000 workers from Myanmar to fill severe labor shortages in the sector. So, in addition to hiring new seafood workers from Myanmar, the Royal Thai Government has also

allowed migrant workers who were previously recruited based on Article 83 of the Royal Ordinance on Fisheries, B.E. 2558, and whose nationalities had been verified, to apply for an extension of their work permits for two more years at the one-stop service centers located in 22 coastal provinces (new expiry date will be 30 September 2020). As of September 2018, media reports indicate that seafood sector employers have submitted requests for 13,949 workers from Myanmar, Cambodia, and Lao PDR to be recruited through the system.<sup>xiii</sup> Data on the actual number of Myanmar workers processed through the MOU system could not be verified at the time of our study.

Despite efforts of the government to address labor shortages in the Thai seafood sector and drive recruitment activities into the MOU framework, there has been a marked slowdown of recruitment to the sector. This may be due to several factors: Some respondents in Myanmar reported that there is a “moratorium” or suspension on the approval of job orders for the

seafood sector, although there was no official ban on recruitment issued. It is unclear whether the reported moratorium has effectively stopped informal recruitment activities in Myanmar. Thai vessel owners/employers have reported hiring undocumented Myanmar workers who are already in Thailand.

Various media reports indicate that since 2015 when the EU issued the “yellow card” to the Thai government, efforts have been focused on monitoring fishing boats’ registration statuses and compliance with traceability requirements of marine fishery products. While reforms were being implemented, several vessels were dry-docked, penalized, or demolished. Regulatory and industry reforms in recruitment policy and processes may also have contributed to a downward trend in recruitment.



## REGULATORY DIMENSION

The recruitment of migrant workers from Myanmar to Thailand is governed by two national laws and the MOU between Myanmar and Thailand:

The *Law Relating to Overseas Employment (State and Peace Council Law 3/99)* explicitly defines terms related to overseas employment, worker, and service agent. It provides mandates of state agencies, which serve as Overseas Employment Central Committee and Supervisory Committee, such as the Ministry of Labor and related agencies. It also provides information on Registration of Overseas Employment Seekers, Service Agent Licensee obligations, and Duties and Rights of Workers. Under the law, a *service agent* is defined as a person or organization, who/which, for a prescribed service fee, acts as an agent in securing employment for those who seek overseas employment. The law also states that workers have a right to claim full compensation or damages to which they are entitled for injury sustained at a foreign worksite through the Service Agent, and the right to take civil or criminal action for loss of rights and privileges relating to overseas employment.

The *Anti-Trafficking Law of 2005 (Order Supplementing Order 1/1999,2000)[3]* criminalizes and prohibits trafficking in persons and forced labor and describes fair conditions related to labor, as follows:

- a) The work or service shall not lay too heavy a burden upon the present population of the region.
- b) The work or service shall not entail the removal of workers from their place of habitual residence.
- c) The work or service shall be important and of direct interest for the community. It shall not be for the benefit of private individuals, companies, or associations.
- d) It shall be in circumstances where it is impossible to obtain labor by the offer of usual rates of wages. In such circumstances, the people of the area who are participating shall be paid rates of wages not less favorable than those prevailing in the area.
- e) School teachers and pupils shall be exempted from requisition of work or service.
- f) In the case of adult, able-bodied men who are the main supporters of the

necessities of food, clothing, and shelter for the family and indispensable for social life, requisition shall not be made except only in unavoidable circumstances.

- g) The work or service shall be earned-out during the normal working hours. The hours worked in excess of the normal working hours shall be remunerated at prevailing overtime rates.
- h) In case of accident, sickness, or disability arising at the place of work, benefits shall be granted in accordance with the Workmen's Compensation Act.
- i) The work or service shall not be used for work underground in mines.

## MEMORANDUM OF UNDERSTANDING

The Memorandum of Understanding between the Government of the Kingdom of Thailand and the Government of the Union of Myanmar on the Cooperation in the Employment of Workers (2003)<sup>xiii</sup> states the following:

1. Myanmar, being a major sending country to Thailand, has entered into a Memorandum of Understanding to expound on the roles and responsibilities of both countries with respect to the recruitment of migrant workers from Myanmar. The MOU covers the following aspects related to the employment of a Myanmar National into Thailand:
  - a) proper procedures for employment of workers;
  - b) effective repatriation of workers who have completed terms and conditions of employment or are deported by relevant authorities of the other Party before completion of terms and conditions of employment to their permanent addresses;
  - c) due protection of workers to ensure that there is no loss of the rights and protection of workers and that they receive the rights they are entitled to; and
  - d) prevention of, and effective action against, illegal border crossings, trafficking of illegal workers, and illegal employment of workers.

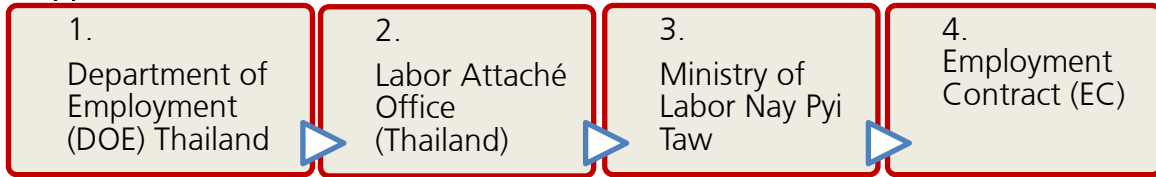
These regulatory requirements, applicable to recruitment actors in Myanmar and Thailand, cover fees, registration, job advertisement controls, formal entry requirements, health insurance, contribution into the savings fund, taxes, and employment contracts of employers

and workers. In addition to having a valid business registration, Myanmar private recruitment agents (*service agent licensees*) that intend to send workers for employment in Thailand are required to register for a Thailand-dedicated license and follow the steps below, which in practice take about 45 to 90 days:

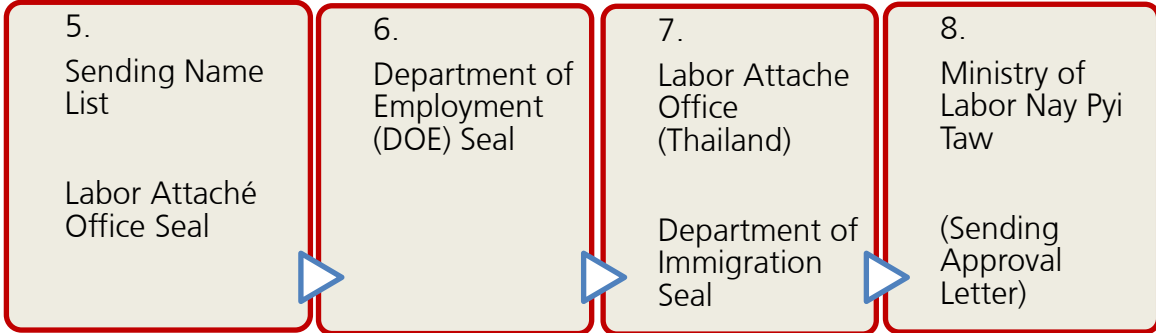
1. Approval of a demand letter by the Department of Employment in Thailand. The employer/agency in Thailand must submit documentation, including company photos, how many workers needed, types of work, company profile, Myanmar company license, etc. (this stage takes approximately 10 days).
2. Submission of documents to the office of the Myanmar Labor Attaché in Thailand, with a cover letter by the concerned Myanmar agency detailing the number of workers, as well as a declaration of responsibilities signed by both Myanmar and Thai agencies/employer. This will be checked if necessary (duration: a week to a month).
3. Submission of the documents from the Labor Attaché to the Ministry of Labor in Nay Pyi Taw (duration: two to three weeks, depending on the day of submission and given cabinet meetings take place every two weeks).
4. Employment contract signing in Myanmar with the presence of three Myanmar government officials (Director/Assistant Director, Staff Officer, and Deputy Staff Officer) from the Ministry of Labor, Thai agency representative or employer, Myanmar agency representative, and the jobseeker. The contract is signed at Pinlon Hall of Labor Department in North Dagon, Yangon (duration: one to two days, usually preceded by a day or two of interviews).
5. Provide list of workers to the Myanmar Labor Attaché in Thailand for seal (duration: One to two days).
6. Collection of approved documents from the Labor Attaché by Myanmar agency representative and delivery to the Thai agency or employer for DOE seal. (duration: 10 to 14 days).
7. Submission of documents to the Labor Attaché and acquiring seal from the Department of Immigration in Thailand (duration: one day).
8. Provide approved letter to the Ministry of Labor in Nay Pyi Taw (duration: three to 10 days).
9. Provide approved letter to Myawaddy Passport Office and collection of smart card. The person who signed the employment contract will pick up jobseekers at the Myawaddy border checkpoint (duration: one to two days).
10. The recruited workers are then transported to their Thai job site. The Thai employers and agents will have to accomplish the required paperwork on the Thai side, such as work permit and insurance for workers to get the two-year visa.

## PROCEDURE

### Approve of Demand Letter Process (Thai) (MOU)



### Recruiting Process



### Sending Process

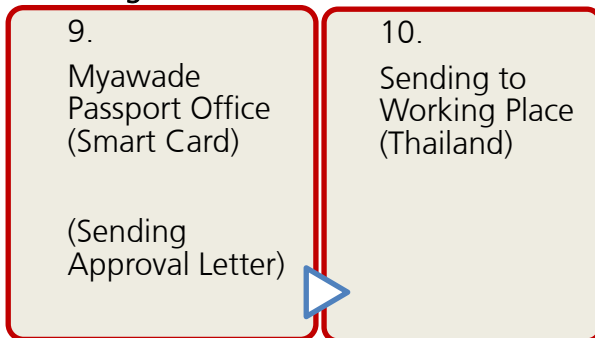


Diagram depicting the process that Myanmar overseas employment agencies must follow to send workers to Thailand.



*Selected jobseekers at a contract signing ceremony wearing company tee shirts.*



*Selected jobseekers with officials from the Ministry of Labor, Myanmar agency representative, and a Thai employer/agency representative.*

## FEES

In terms of recruitment fees, the regulatory trend is in the overall direction of the “Employer Pays Principle,” although existing regulations still do not guarantee that workers effectively pay zero recruitment fees. Rather, they are aimed at reducing the overall recruitment and repatriation costs.

Myanmar law allows recruitment costs to be charged to workers up to MMK 150,000 (~USD 150). In Thailand, the Foreigners’ Working Management Emergency Decree No. 2 (2018)<sup>xiv</sup> is reassigning portions of recruitment costs from workers to employers. According to the regulation: “An employer ..shall not accept or request any money or assets ..except if it is for

the expenses paid by the employer beforehand, such as passport fee, health checkup fee, work permit fee, or other fees in the same manner as prescribed in a notification by the Director-General” (Section 49).

This regulation still allows some fees to be recovered from workers, but employers, and by extension the private recruitment partners acting on their behalf, are not allowed to pass on recruitment service fees or any other costs beyond those mentioned in Section 49 above.

Per Ministerial Regulation on Fees and Fee Exemptions on the Employment of Alien/Foreign Nationals<sup>xiv</sup>, work permit costs are controlled as follows, as prescribed in Sections 3-5:

**Section 3.** The fees for alien/foreign employees working as domestic helpers and laborers are prescribed as follows:

### 1. Work Permit

- |  |         |
|--|---------|
| a) Validity: not exceeding three (3) months:   | THB 225 |
| b) Validity: more than three (3) months, but not exceeding six (6) months                                    | THB 450 |
| c) Validity: more than six (6) months, but not exceeding twelve (12) months                                  | THB 900 |
| d) For work permits with validity exceeding one (1) year, refer to the fees enumerated in (a), (b), and (c). |         |

### 2. Renewal of Work Permit

- |  |         |
|--|---------|
| a) Validity: not exceeding three (3) months  | THB 225 |
| b) Validity: more than three (3) months, but not exceeding six (6) months                                    | THB 450 |
| c) Validity: more than six (6) months, but not exceeding twelve (12) months                                  | THB 900 |
| d) For work permits with validity exceeding one (1) year, refer to the fees enumerated in (a), (b), and (c). |         |



**Section 4.** The fees for alien/foreign employees working in other occupations other than those contained in Section 2 are as follows:

**1. Work Permit**

- a) Validity: not exceeding three (3) months: THB 350
- b) Validity: more than three (3) months, but not exceeding six (6) months: THB 1,500
- c) Validity: more than six (6) months, but not exceeding twelve (12) months: THB 3,000
- d) For work permits with validity exceeding one (1) year, refer to the fees enumerated in (a), (b), and (c).

**2. Renewal of Work Permit**

- a) Validity: not exceeding three (3) months: THB 350
- b) Validity: more than three (3) months, but not exceeding six (6) months: THB 1,500
- c) Validity: more than six (6) months, but not exceeding twelve (12) months: THB 3,000
- d) For work permits with validity exceeding one (1) year, refer to the fees enumerated in (a), (b), and (c).

- 3. Temporary Work Permit: THB 500
- 4. Approval of the change/addition of industry: THB 1,000
- 5. Approval of the change/addition of employer: THB 3,000
- 6. Approval of the change/addition of employment location: THB 1,000
- 7. Approval of the change/addition of work permit conditions: THB 150

**Section 5.** The processing fee for a request of work permit is THB 100 per work permit.

Following these regulations, Thai employers (and recruitment agencies) are no longer allowed to make salary deductions (of up to THB 10,000), a common practice prior to enactment of the Foreigners' Working Management Emergency Decree (2017). While the legal basis for the common practice of salary deduction was never clear, Myanmar agencies reported that the deductions enabled both Thai and Myanmar agencies to recoup advances on costs and expenses made on the behalf of jobseekers during the recruitment process. Respondents reported that this was a system that allowed agencies in both Myanmar and Thailand to impose additional charges, or at the very least allow higher recruitment costs. This also allowed Thai agencies to offer employers low-cost foreign worker recruitment services because jobseekers shouldered a large portion of their recruitment costs. As well, the system encouraged the practice of paying kickbacks and commissions to the receiving country agency and employer.

Tighter cost-control regulations in Thailand and

Myanmar (such as placing a cap of MMK 150,000 on recruitment fees) mean that labor agencies and employers are accountable to limit costs paid by workers. However, the law does not cover or set limits to other recruitment-related expenses, such as transportation, initial application fees, training, accommodations, guidance, and chaperone services, typically charged by various actors to jobseekers coming from remote Myanmar towns to Yangon. According to PRAs in Myanmar, the new regulations have severely affected the ability of smaller to mid-sized agencies' to earn a profit. In order to continue offering low-cost recruitment services to employers, Thai agencies have reportedly auctioned or bid out job orders to Myanmar agencies that can manage the cheapest recruitment cost. In turn, some Myanmar agencies indicated that they have to pay Thai agencies in order to win contracts or receive job orders. As a result, Myanmar agencies reported they have a much narrower profit margin and are forced to bear — or pass on — much of the financial burden of recruitment.

## TRAVEL DOCUMENTS

The table on the next page shows a list of documents and each document's specific application requirements, processing time, validity, issuing authority, entitlements, and conditions. The information below is gathered from a combination of interviews with workers and jobseekers, private recruitment agents, and informal brokers in Ayeyarwaddy, and Kawthaung, and reflects people's understanding of how these documents work. Jobseeker interviews revealed that due to complex document requirements and application procedures, the jobseekers have resorted to seeking the services of subagents and informal documents brokers to ensure that they have the appropriate documents for overseas employment.

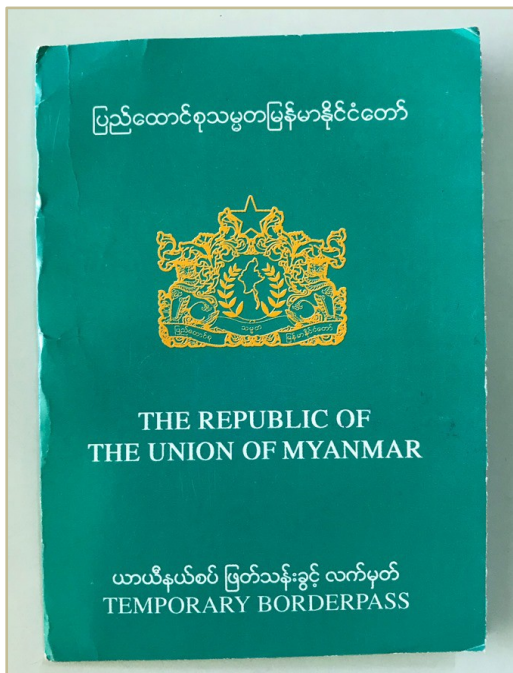
In addition to the recruitment fee regulation in Myanmar, another law relating to Overseas Work (1999) bars advertising by private recruitment agencies prior to receiving job order approval. The prohibition of job advertising prior to having processed demand letters can be untenable for private recruitment agencies given that pooling needs to occur year-round or on an ongoing basis in order to fulfill the turnaround time requirement of employers.

### According to a respondent from the Myanmar Overseas Employment Agency Federation,

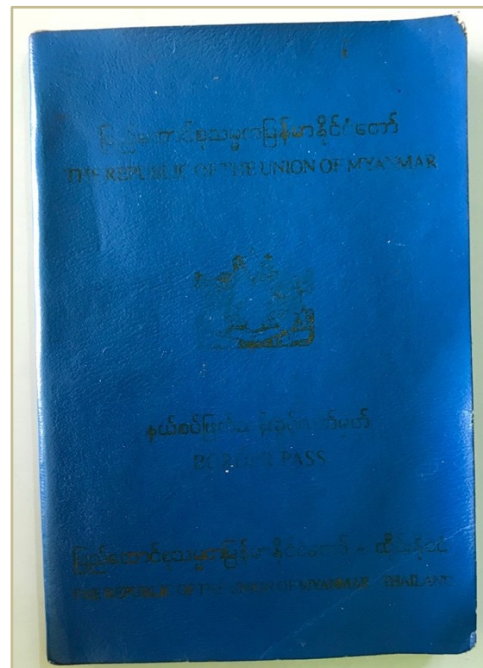
"Since the Thai government reduced the amount that Thai agencies can collect from jobseekers from THB 10,000 ( USD 300+) to 3,000 (USD 100), the difference has been absorbed by the Myanmar agents but passed on to the jobseekers. This has also driven Thai agencies to shop around and choose which Myanmar agency can offer the better package."

One agency sending 4000 migrant workers to Thailand, the majority of them to the seafood industry, claims to collect only USD 70 from each worker. The rest of the fee is obtained directly from the Thai employer, bypassing the Thai agents. He reported that a decreased recruitment fee is a screening criterion of the Thai employer.

Document	Application Details	Issuing Authority	Validity/ Benefits
<b>Pink Card (TR 38)</b>	<ul style="list-style-type: none"> <li>• Temporary passport (purple)</li> <li>• Reported: ~THB 10,000 to broker</li> <li>• Processing time: one week</li> <li>• Validity: one year</li> </ul>	Ministry of Interior Thailand	<ul style="list-style-type: none"> <li>• One-year validity</li> <li>• Previously, it could be used as an ID and work permit</li> <li>• Supposedly not being issued anymore</li> </ul>
<b>Certificate of Identity (CI)</b>	<p>Purple Passport, Pink Card, or document issued by Thai labor department indicating location of CI office.</p> <p>Fee: USD 300/THB 10,000</p> <ul style="list-style-type: none"> <li>• Work Permit and Hospital Card: THB 7,000</li> <li>• Visa: THB 600</li> <li>• Work permit (6 months): THB 550</li> <li>• Work permit (one year): THB 1,000</li> <li>• Medical exam: THB 1,600</li> </ul> <p>Processing time: one day</p>	<p>Myanmar Embassy in Thailand</p> <p>Counter operated by Counter Services</p> <p>Chiang Mai, Songkhla, and Nakhon Sawan</p>	<ul style="list-style-type: none"> <li>• NRC/National ID is not required to apply for CI, but there is a need to apply for proof of citizenship.</li> <li>• Eligible for medical exam, and can apply for visa and work permit</li> <li>• Still being issued</li> </ul> <p>Restrictions:</p> <ul style="list-style-type: none"> <li>• Movement restriction in Thailand</li> <li>• Can't be used to apply for bank account or driver's license</li> </ul>
<b>Temporary Passport (Purple)</b>	<ul style="list-style-type: none"> <li>• NRC/Household registration/ CI</li> <li>• Reported: THB 1,050</li> </ul> <p>Processing time: one week</p>	Myanmar embassy in Thailand	<p>2-6 years valid (expiration date seems to depend on nature of employment)</p> <p>It can be used to apply for a work permit</p> <p>Valid only for Myanmar workers already in Thailand</p>
<b>Border Pass (Blue)</b>	<ul style="list-style-type: none"> <li>• NRC/ Household Registration</li> <li>• Reported: MMK 500-2,000</li> <li>• Good for seven days, with extension eligibility of another seven days (14 days)</li> </ul>	Myanmar Immigration	<p>One-year validity with a two-month Thai work permit</p> <p>Monthly reporting in Kawthaung</p> <p>Can be used to apply for work permit; cost: THB 2,500</p> <p>Restrictions: Only Kawthaung residents can apply. Non-residents need a local guarantor's NRC and Household Registration.</p>
<b>Temporary Border Pass (Green)</b>	<ul style="list-style-type: none"> <li>• NRC and Household Registration</li> <li>• Reported cost: THB 50/1000 Kyat</li> <li>• Without NRC, "token of appreciation" is given (THB 500)</li> </ul> <p>Processing time: one day</p>	Immigration office in Myanmar	<p>Seven days with no renewal option. Needs to be reapplied.</p> <p>Not eligible to apply for WP.</p> <p>Restrictions: Only Kawthaung residents can apply. Non-residents can surrender NRC at immigration in exchange for TBP. Non-residents without an NRC need a local guarantor.</p> <p>Overstay can result in jail time of up to 45 days or a bail fine of THB 4,500 paid within three days of detention. After 45 days of jail time, fine of THB 1,000 is asked for release. Failing this, detainees can be sent to another border checkpoint (Myawaddy) or detained for two more months.</p>
<b>Passport for Job (PJ)</b>	<p>NRC and Household registration</p> <p>Labor card (issued by MOL)</p> <ul style="list-style-type: none"> <li>• Fee: MMK 65,000-80,000 (which includes agency rental fee of space in the passport office compound; MMK 20,000 as fee for the Myanmar special branch police; MMK 4,000-5,000 agency fee; MMK 25,000 official passport cost)</li> <li>• Processing time: 10 days</li> <li>• No fast-tracking</li> </ul> <p>All PJs processed and issued in Yangon</p>	Myanmar Ministry of Foreign Affairs	<p>Validity: five years</p> <p>Employers can transfer WP from pre-existing ID to the PJ</p> <p>Can apply for WP</p> <p>Employment not restricted to Thailand</p> <p>Ability to sue employer, broker, etc to claim damages</p> <p>Eligibility for driver's license application</p> <p>Full record of identity</p>



Temporary Border Pass



Border Pass

## COMMERCIAL AND SOCIAL DIMENSIONS

### PRIVATE RECRUITMENT AGENCIES

As of 31 October 2017, there were 263 licensed labor agencies in Myanmar registered under the Myanmar Overseas Employment Agencies Federation (MOEAF)<sup>xlvi</sup>. The MOEAF is a federation founded in 2012 with more than 260 members. It works with the Ministry of Labor, Migration and Population, and is the governing body of overseas employment agencies. Membership is mandatory for overseas employment agencies and disciplinary actions can be taken against members, including revoking licenses of agencies that violate the voluntary Code of Conduct (established in August 2016, approved by the federation, and endorsed by the Ministry of Labor, Migration and Population). To date, more than 100 agencies have signed up to uphold the Code. The federation has established the Code Compliance and Monitoring Committee and is in the process of rolling out a monitoring mechanism and implementation plan. The federation has also established a call center in Thailand and reported that since 2012 it has helped resolved more than 600 complaints/disputes. The federation is currently in talks with the Myanmar government regarding formalization of an employment process for Myanmar workers in the Thai fishing industry.

Notwithstanding efforts to formalize and smooth the process of supplying Myanmar workers to the Thai seafood sector, private recruitment agents interviewed reported that the recruitment business is driven primarily by turnaround time, number, and quality of workers. It is common practice for Myanmar PRAs to pool large numbers of applicants and short-list them to expedite the recruitment process once job orders are received. While Myanmar regulations prohibit job advertisements prior to the receipt of a demand letter, a member of the MOEAF revealed that this is “an impossible requirement as employers assess recruitment partners based on quick turnaround time.”

According to respondents, pooling a large number of workers helps PRAs to easily screen out applicants who do not have the proper documentation, and thus reduce operating cost and time required to secure basic documents like the national ID. The ability to comply with employer pays principles, based on the

experiences shared by the recruitment agents interviewed, is made easier with size and economies of scale, and the ability to afford other recruitment-related services, such as training venues and facilities, accommodation, and others.

One private recruitment agent interviewed shared that in order to meet clients’ demands, it has become a *modus operandi* to exclude jobseekers who do not have the proper work and travel documentation, such as the Passport for Job (PJ), in its prescreening process. This is so “worker selection” by employers can take place shortly after agencies receive the demand letter. In some cases, PRAs will assist jobseekers’ procurement of necessary documents when the documents’ validity has lapsed while jobseekers are waiting on the shortlist or in the case of return migrants who need to update their documents to continue employment with an existing employer. Otherwise, jobseekers requiring document processing services tend to be avoided while those with complete documentation are favored.

From the jobseekers’ perspective, therefore, document preparation is a sought-after service, as possession of these documents is a critical precondition for being considered for the prescreening. Community-level informal brokers and subagents have assumed this responsibility, advertising their expertise in quickly securing documents and promising better overseas employment opportunities through connections they have with trusted PRAs and employers in Thailand. Common services include securing jobseekers’ National Registration Card (NRC) and PJ and vetting employment opportunities for safety. The demand for documentation services has resulted in a proliferation of networks of loosely connected community-based informal brokers who leverage community trust in attracting jobseeker “clients.” However, this unregulated practice has also led to charging of excessive document and service fees, which jobseekers absorb in exchange for the promise of higher overseas income.

The private recruitment agents interviewed claimed that the employer-pays principle, as adopted by some of their employer clients in Thailand, is pushing them to gain more oversight into documents processing practices and to control costs that jobseekers bear prior to their application. In some cases, this means that PRAs have had to concentrate recruitment

activities in certain locations and take on document preparation responsibilities through batch-processing of jobseekers' documents in order to reduce costs. This approach requires a strong network of recruiters and agents with extensive local connections.

The private recruitment agents also said that interviews are even conducted by PRAs with jobseekers to verify actual fees paid during their application process. One large PRA supplying approximately 3,000 workers to seafood manufacturers in Thailand said that actual fees need to be mapped out and worker interviews conducted to ensure that workers are not being charged above the limit set by the employers and so that the PRA will not have to reimburse workers any excessive fees. It is unclear how many agencies practice this, what level of fees-charging is mapped, and whether any fees paid to village agents are included.

However, these additional steps in the recruitment process can only be afforded by larger, well-established agencies that supply workers to some of the biggest seafood companies. Private recruitment agents interviewed said that greater oversight and administrative costs can only be offset by very large batches of worker recruitment, in addition to a well-established "recruitment infrastructure," which can include dormitories and chartered transport services. One PRA deploying workers to a major Thai seafood manufacturer reported that it is only able to meet the employer pays requirements through standardizing worker-borne costs. By housing jobseekers in agency-administered accommodation in Yangon, for instance, the PRA is able to ensure that workers are not subject to uncontrolled or fluctuating costs of third-party providers. Correspondingly, smaller PRAs without a strong network of recruiters and recruitment infrastructure — and that only have smaller job orders — have great difficulty in meeting such oversight requirements.

In a prerecruitment orientation run by a PRA, the research team noted that the participants were not provided information specific to the terms and conditions of their job in Thailand or about limits to fees charging. Only general information about the following topics was provided:

**Most of the jobseekers interviewed reported being confused about fees and expenses charged to them by their agents and subagents.**

Jobseekers reported not always being informed of the total amount. The jobseekers interviewed made various payments ranging from K 200,000 to K 800,000. Only two of the interviewees talked about the breakdown of their fee payment — that the fees they paid covered transportation from their village, accommodation in Yangon and application fee for the work visa — while the rest could only mention the total expense. For example, one of them said that he only had to pay K 85,000 to the subagent and the rest of the fee (THB 2,420) would be deducted from his salary by the employer in Thailand over five to six months. Another interviewee reported that he had to pay K 150,000 to a Myanmar agent when he applied for the job and was told that he needs to pay THB 6,500 upon contract signing. Another jobseeker said that he paid K 200,000 in November 2017 and another K 450,000 when the contract was signed in December 2017. Others reported having to pay K 800,000 upfront.

Jobseekers in Ayerwaddy reported being told by village agents that the recruitment process in Myanmar would typically cost K 300,000 to 600,000 (USD 240-560). They often are not told of expected costs in Thailand. As most jobseekers are unable to make this payment, they reported relying on trusted members of the community to provide loans, typically at 7-10 percent interest. Loan payment schedules are negotiated, with monthly payments.

- Wage, benefits, and holidays
- Length of contract
- Regular work hours and overtime
- Overtime payment
- Accommodation
- Food

Most jobseekers interviewed seemed unconcerned with the details of the job or their contracts as they relied on information they had gathered from personal contacts with experience working in Thailand or from their informal village or community brokers. However, in another predeparture training observed, one worker who seemed to be representing a group of workers vocally disputed the information being provided by the trainer. The worker seemed to have first-hand information of the conditions of work in the company to which workers were being deployed.

## SUBAGENTS

It is unclear how Myanmar PRAs cope with regulatory restrictions and commercial realities, and how much of the financial burden is transferred to jobseekers and workers. A common observation of the recruitment chain is that while regulations impose cost-control responsibilities at the PRA level, usurious costs are still paid by jobseekers to various informal intermediaries and subagents. This is complicated by the fact that subagents operate within opaque and unregulated networks that offer jobseekers myriad services, such as job screening, document preparation, transportation, loans, and other related services prior to and during the formal recruitment process. Based on various reports, these unregulated agents can charge up to four times the actual cost of the documents required by the formal recruitment process. For instance, while the official cost of “Passport for Job” (PJs) is MMK 25,000, jobseekers have reported paying over MMK 100,000 for the passport alone, exclusive of transport and other processing fees the passport agents charge workers.

Nonetheless, considering the difficulty of pooling workers in Myanmar and communicating job openings and requirements to villages where jobseekers come from, the involvement of subagents, community agents, and other informal intermediaries was reported

by many to have become key for both the private recruitment agencies and the jobseekers. However, it should be noted that most of the Myanmar private recruitment agents interviewed denied having formal links with subagents.

Workers or jobseekers using formal channels of labor migration or seeking jobs through the MOU system would need to make a number of trips to Yangon to lodge an application, process documents, and attend mandatory training (most workers reported making at least three trips). Most workers bound for Thailand typically come from areas remote from Yangon, thus multiple trips compound the cost of recruitment to workers and, in effect, encourage them to rely on the services offered by unregulated and informal agents. Workers reported that informal channels only require that they have a personal contact in Thailand and the resources to pay an intermediary to process a passport or transport them across the border.

## COMMUNITY INVOLVEMENT AND VILLAGE RECRUITMENT

Despite efforts to formalize and regulate overseas employment, centralized regulatory and commercial infrastructures have not reached most communities where jobseekers reside. As a result, the community remains the most significant locus where labor migration dynamics unfold. These dynamics are based primarily on trust.

Generally, jobseekers in the provinces do not have access to official information on job opportunities or to PRAs that can offer guidance on options and the processes required to obtain out-of-country employment. The Myanmar Ministry of Labor, Employment and Social Security does not have local branches in all provinces, and travel to local offices, where they exist, can be prohibitively long.

While larger PRAs have regional representatives tasked with pooling and prescreening applicants, their large geographical responsibility makes establishing community relationships difficult. With neither the reach nor the requisite community trust, PRAs are faced with having to build referral relationships with community influencers in order to pool applicants. In this context, community influencers can be village leaders or former migrants.

From the jobseekers' perspective, the official formal labor migration process tends to be long and complicated, discouraging them from initiating it on their own. As a result, they place high trust in experienced community members to broker the process. This results in jobseekers requesting services from different individuals at different junctures in the recruitment process and consequently paying a higher recruitment cost overall.

Based on interviews with jobseekers and workers, there is a general distrust of PRAs and their agents — a skepticism stemming from hearing stories of exploitative recruitment practices, unsuccessful applications, indebtedness, unexpected harsh working conditions, and wage deductions, among other topics. With low awareness on safe migration or ways to assess risks, jobseekers consult community leaders and members who they believe have knowledge of and experience with the recruiter, employer, and industry.

With labor migration perceived as potentially dangerous and precarious, it was reported that men in the community tended to be the first to migrate, even in childless families, while women were cautioned against migration. Women tend to migrate for work once safety is assured by a relative, friend, or spouse working in Thailand. (There is still a strong expectation around their domestic role. Some female respondents reported that when they were working in Thailand, some of them had been pressured by the family or community to return to bear a child.)

Jobseekers find employment in Thailand in a number of ways, with varying degrees of linearity. "Village-to-worksite" is one common channel, wherein jobseekers are alerted to job vacancies by relatives, friends, and acquaintances currently working in Thailand and are referred to local informal agents who can assist with preparing the necessary documents or to a PRA in Yangon with a preexisting service agreement with the employer. Jobseekers appeared to feel most secure securing employment in this manner since they can receive a first-hand account of the migration process and working conditions from a source they trust.

Employment referral from community contacts is another way to gain employment. Jobseekers who do not have connections in Thailand

reportedly rely on village-level or community agents to refer them to PRAs in Yangon or their provincial representatives, where these exist. Village-level agents are trusted by jobseekers to vet reputable PRAs and favorable employment opportunities, providing the assurance of non-exploitative migration and working conditions. Sometimes connected with multiple PRAs, village-level agents give jobseekers multiple employment options across industries. At this point, jobseekers typically receive broad, high-level descriptions of working conditions and expected recruitment costs. Once the jobseeker has expressed interest, the informal agent will either assist in the preparation of documents or connect jobseekers with brokers who can facilitate the process. These documents typically include the NRC and a PJ — which are usually required by PRAs to prescreen applicants. The jobseeker is then referred to the PRA's provincial/regional representative, as available. Where there is none, village-level agents typically accompany jobseekers to the PRA's office in Yangon to initiate the recruitment process. In addition, there are individuals who offer paid services as chaperones or transport brokers. They charge fees to accompany first-time migrants to Yangon for application procedures and documents processing.

## HUMANITARIAN DIMENSION

Non-government organizations, UN Agencies, labor resource centers run by the ILO and IOM, and government labor offices are promoting safe migration through information campaigns and predeparture training. There is also a network of CSOs providing emergency assistance to migrant workers in distress.<sup>xlvii</sup>

The ILO office in Myanmar is focused on policy engagement on reforming the Overseas Employment Act and the protection of domestic workers at home and abroad. Migrant Worker Resource Centers exist as part of the TRIANGLE Project. To promote safe migration awareness among jobseekers, the ILO has developed a safe migration training material delivered by local CSOs in targeted migration hubs. The ILO is also working with the MOEAF Code of Conduct. At the time of this report's writing, MOEAF and the ILO were developing a rating system to score PRAs based on legal compliance and services offered to jobseekers and migrant workers. The expected outcome is a performance ranking of PRAs.



## TECHNOLOGICAL DIMENSION

In 2011, Myanmar’s mobile cellular penetration, fixed telephone lines, broadband fixed lines, and mobile broadband penetration had been among the lowest in the world. Low access to information, large geographical area, and analogue government processes intersect to form complexities in the recruitment chain where vulnerabilities arise. As adoption of digital and telecommunications technologies increase, dynamics in the recruitment are expected to change.

PRA’s are increasingly using new technology as part of their recruitment strategy. Social media platforms have been leveraged by PRA’s as a pooling channel, reportedly with significant improvements turnaround time and creation of a larger applicant pool. It is common for PRA’s to advertise employment opportunities and services through their Facebook page, generating membership growth as migrant workers and jobseekers refer friends and relatives to the page. Despite a Myanmar law that prohibits job advertisement on social media, some PRA’s reported they have successfully leveraged social media platforms like Facebook and drastically reduced pooling turnaround time, receiving 200 to 300 applicants within two days compared to weeks through traditional pooling methods. They said that as they grow their network of prospective jobseekers who trust these platforms as an information source turnaround times appear to improve.

One PRA reported that it maintains a Viber group, composed of 50 recruitment staff and village-level agents, to share information on employment opportunities and other marketing communications. Migrant workers are also increasingly using Viber and Facebook to stay connected with relatives in Myanmar. Photos and videos of their accommodation, worksite, and general living conditions are shared, giving prospective jobseekers a better view of the overall employment conditions in Thailand.

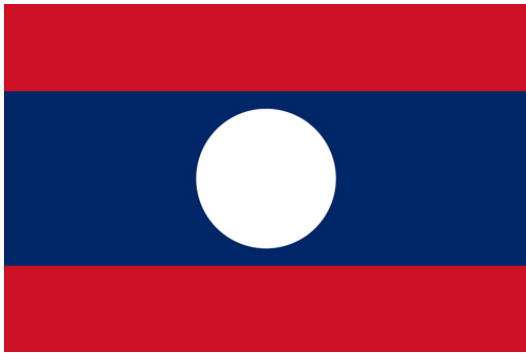
Some NGOs employ technology such as phone applications, hotline services, and social media for sharing important labor and migration-

related news and information, and for communicating complaints and concerns. Local organizations have created mobile applications to increase jobseekers’ and migrant workers’ access to information, develop grievance channels during the recruitment process, and gather insights on recruitment actors.

Yet despite these advances in ways to providing workers information and access to support, almost all jobseekers interviewed demonstrated low awareness of their legal rights, and, in most cases, of the working and living conditions that awaited them in Thailand. Many jobseekers interviewed said they had no clear idea of the nature of the work to which they were being deployed, much less the name of the company/employer. Most jobseekers only mentioned “factory work.”

**Foundation for Education and Development’s (FED) mobile application provides migrant workers with information on safe migration**, with links to news on relevant laws in Myanmar and Thailand, contact details of relevant government offices in different areas in Myanmar and the Myanmar embassy in Thailand, as well as a direct line to the Myanmar Labor Attaché in Thailand.

Issara Institute has likewise developed Golden Dreams, a Burmese-language smartphone app for migrant workers to rate and review recruitment agencies, employers, and service providers.



## Lao PDR

### OVERVIEW

Among the three countries studied, the inadequacies of the formal migration process (i.e., the MOU process) is most notable in Lao PDR. Outside of the historical, geographical, and kinship factors that enable informal migration, evidence indicates that the MOU process is as yet a largely impractical option for Lao jobseekers given that there is little to no financial benefit to following official channels to secure a work permit for employment in Thailand. This is due to a combination of factors associated with the MOU process that include recruitment-related costs, forced savings for repatriation costs, complexity and inaccessibility of the MOU process that force jobseekers to work with PRAs that charge as much as USD 800 to migrate for work to Thailand, and the protracted processing time that reportedly compels jobseekers to pay extra for an earlier release of documents.<sup>xlviii</sup>

As in Cambodia and Myanmar, a significant number of Lao workers receive information about jobs in Thailand from family and friends who are already working in the country. They use their passport or border pass to gain legal entry into Thailand and stay on to work as irregular migrant workers. Most of them are repeat irregular migrants who can navigate the system on their own and who are reportedly unlikely to see the need to apply for a work permit to Thailand unless the sectors they are working in become stricter in implementing the legal migration requirements. While these sectors — service, domestic work, agriculture, and construction — continue to hire outside of the MOU process, there remains little incentive for repeat migrants to enter a more formal recruitment channel.

### BACKGROUND AND CONTEXT

As of December 2018, the Lao People's Democratic Republic (Lao PDR) had a total population of approximately 6.8 million, with 3.6 million in the labor force. It has a net migration rate of -1.1/1000 (2017 estimate). The country comprises a number of ethnic groups: Lao (53.2 percent), Khmou (11 percent), Hmong 9.2 percent, Phouthay 3.4 percent, Tai (3.1 percent), Makong (2.5 percent), Katong (2.2 percent), Lue (2 percent), Akha (1.8 percent), Other (11.6 percent).<sup>xlix</sup> According to the UNDP Human Development Index, Lao PDR carries an index of 0.586 (2016), making it one of the least developed countries of Southeast Asia. Its Employment to Population ratio (percent ages 15 and older) is at 76.1, and Labor Force Participation ratio is at 77.4. The total unemployment rate throughout the country is at 1.6 percent.<sup>i</sup> Following a recent visit to Lao PDR on in March 2019, the UN Special Rapporteur on Extreme Poverty and Human Rights highlighted the extent of poverty in Lao PDR, with a quarter of the population remaining below the official poverty line, especially in rural areas where the poverty rate is four times higher than in urban areas.<sup>ii</sup>

With regard to the Lao PDR-Thailand migration corridor, there is almost universal agreement that at the moment it is impossible to approximate the number of Lao migrant workers in Thailand due to the long history of cross-border<sup>iii</sup>, extensive cross-border trade, a long and porous border (UN ODC 2017), and the social, cultural, linguistic, and kinship ties along the shared border, with more ethnic Lao living in Thailand than in Lao PDR as a result of the enslaving and resettlement of about 6,000 Lao families in 1826.<sup>liii</sup> The IOM, in 2010, estimated that 6,000 migrants cross from Lao PDR into Thailand every day.<sup>liv</sup>

### REGULATORY DIMENSION

#### MEMORANDUM OF UNDERSTANDING

The Lao-Thai migration regime was formalized in 2002 with the MOU on Employment Cooperation, which has the following key objectives: (a) appropriate employment procedures; (b) effective repatriation and return of migrant workers who have completed the duration of their work permit; (c) proper labor protection; and (d) prevention and intervention in illegal migration, trafficking, and illegal employment. These objectives are based on the

“drying out” model, i.e., that the promotion of legal and safe migration will steadily reduce the market for traffickers and irregular migration.

The MOU mandates the withholding/collection of an amount equivalent to 15 percent of a worker’s monthly salary, ostensibly as funds to be used for their return/repatriation (Article 11). While it states that workers can have the accumulated amount returned in full with interest by submitting a request to withdraw the money, this right will be voided if the workers do not identify themselves with the authorities in their home country after the termination of their employment (Article 15). This provision is widely seen as forced savings, also referred to as “runaway insurance.”

At approximately THB 1170 per month (against

a projected monthly income of THB 7,800 [at THB 300 x 26 days]) multiplied by 12 months, the forced savings can amount to THB 14,000 annually. In a four-year contract (two years plus renewal), the accumulated savings can be as much as THB 56,160 (USD 1,800). This is the amount that can be withheld from a worker for his/her return and repatriation, which creates a particular burden when considered against the cost of overland transportation from Thailand to Lao PDR is factored in.

Another reported barrier to formal migration is recruitment fees as high as THB 24,000 (USD 800) if a worker does not have a passport. According to one subagent registered with one of the largest PRAs in Vientiane, their fee schedule based on service type is as follows:<sup>iv</sup>

Service Type	Fee (THB)	Fee (THB 30:USD 1)
To process existing/ returning workers through the MOU	7,000-8,000	233-266
To recruit new workers, where the Thai employer already has all the necessary documents from the Thai side (e.g., approved job orders, etc.)	15,000	500
To recruit new workers, where the Thai employer does not have any of the MOU-required documents yet. The Lao recruitment agency will work with Thai agents to secure all the necessary MOU documents on both sides	20,000	666
Brokered passport fee (release in 6-7 days); charged on top of all fees if the workers don’t have passports yet	5000	166
To transfer to another job while already in Thailand	5,000–7,000	166-233

The subagent noted that this fee is claimed by the Lao PRA from the employer in full, installments, or a combination of down payments plus installments, which are taken from the salaries of workers through monthly deductions of THB 3,000 per month. Combining this with the monthly deduction for the repatriation fund of about THB 1000, MOU workers will potentially only have a disposable monthly income of THB 3,800 for the first eight months of their contract to pay for accommodations, food, and sundries.

According to the UNODC<sup>vi</sup> report: “The available information further suggests there is little to no financial advantage for Lao nationals to go through official channels and secure a work permit for employment in Thailand. Research in 2012 found irregular migrant workers from Lao PDR earned on average USD 1,331 in Thailand over a two-year period, while regular workers only received USD 960 for the same period.”

## COMMERCIAL AND SOCIAL DIMENSIONS

### PRA/LABOR RECRUITMENT SERVICE COMPANIES

As a result of the MOU, the Decree on the Export of Lao Workers Abroad (Law No. 68/2002) was issued and introduced PRAs (“labor recruitment service companies”) into the Lao migration system. The PRAs are required to submit the following documents (Article 9): (a) a proposal to export the Lao workers working abroad; (b) license to export workers abroad; (c) recruitment contracts between the Lao workers and the PRA; and (d) the “labor supplied” contracts between the PRA company and the company that will hire the Lao workers in foreign countries. An

employment contract between the worker and the employer-company is not included.

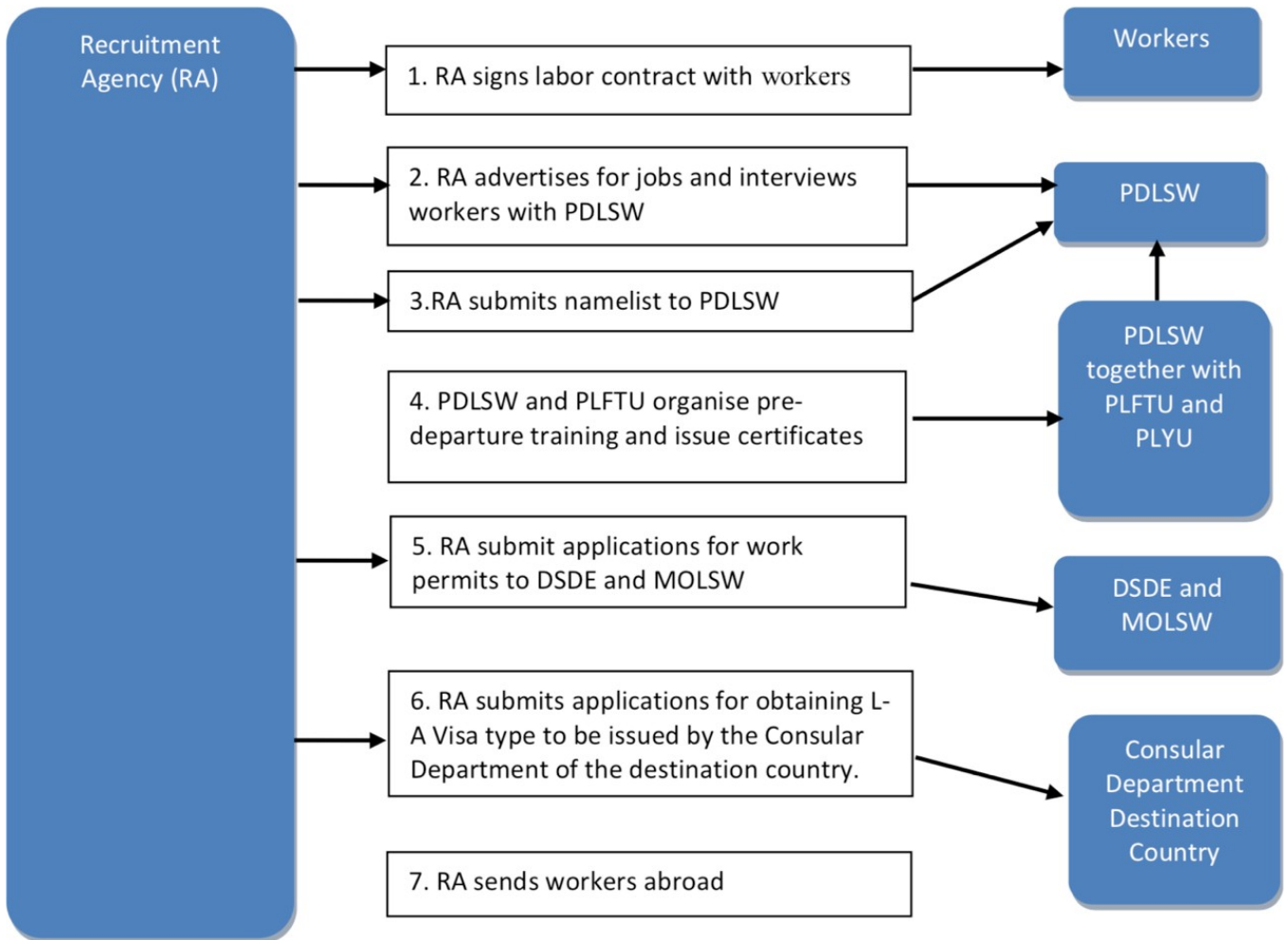
The fee provision does not state an amount to indicate the service fees of PRAs, however, it was reported that a recruitment agency, either the sending or receiving country agent, is allowed to charge a service fee equivalent to 5 percent of the net monthly income over the duration of the contract. This study was not able to identify the legal basis for this practice.

A PRA is permitted to (Article 7): (a) to carry out its activities to seek the labor markets in foreign countries and conclude the contracts with foreign companies; (b) to export the Lao workers to work in foreign countries as provided in the contracts; and (c) to receive service fees. However, Law No. 68 does not indicate the allowable range of service fees.

In turn, the PRA is required to (Article 8):

- provide protection to Lao workers exported to work abroad in accordance with the employment contracts;
- obey and respect the traditions and laws and regulations of the country and the hosting countries that import the Lao workers;
- provide information to the Ministry of Labor and Social Welfares;
- be responsible for the benefits of the Lao workers working abroad that were sent by the PRA;
- organize the training for Lao workers before exporting under supervision by the Ministry of Labor and Social Welfares; and
- perform its obligations to the State as provided by law.

## Procedures for document processing for working in Thailand



Lao-Thai MOU Process Flow

The MOU process can only be accessed by jobseekers through registered PRAs; as of December 2018, there were only 16 in Lao PDR, several of which were wholly or partially state-owned.<sup>lvii</sup> It can reportedly take up to 40 days from the time the jobseeker applies for a passport to departure. The passport alone can take more than three weeks by regular processing. Applicants reportedly must pay LAK 350,000 passport fee plus LAK 150,000 expedited processing (USD 60) to receive their passports within 10 days. Interviewed passport applicants said their brokers pay passport staff between THB 300-350 (USD 10-16.6) per applicant to fast track the application and secure interviews on the same day.

### POOLING SYSTEM

Based on interviews, jobseekers are pooled through referrals from subagents or village chiefs to PRAs. In Pakse, the research team interviewed the owner of a food shop near the passport office. The shop owner said that jobseekers who apply for a passport would come and ask about jobs in Thailand. The shop owner said that they usually referred these jobseekers to three recruitment agencies — one in Pakse and two in Vientiane. They said that they received the same referral fee of THB 1,000 per every worker successfully hired. This shop owner is known in the villages, which is another source of contacts. Even though the shop owner has a commercial relationship with the recruitment agencies, they often advised jobseekers to pay their own way instead of relying on the PRA because, in their view, the jobseeker will retain more control of their options that way.

Another subagent said that there are three subagents working in Savannakhet and that they coordinate with the village chiefs to organize pooling at the village head offices, i.e., the village chief would announce that recruitment agents would be coming to their area and those interested in working abroad should come to the event. He said that through this method, they are usually able to secure 10 interested jobseekers per pooling event. This subagent said that most jobseekers prefer Thailand because of language similarities, proximity, and ease of transportation.

Below are notes from an interview with a private recruitment agency representative in Vientiane:

*“Advertising for jobs is general in nature, e.g., register here if you want to work in Thailand, Japan or South Korea.*

*“But there are also job-order specific advertisements. We receive almost 200 applications per day, and in general the screening criteria include age and sex. We have accommodations that can fit up to 200 people, and we provide accommodations to recruited workers for as long as three days.*

*“We also reach potential jobseekers through labor brokers. They are registered with us, but I cannot share the total number of labor brokers we have on record because that is confidential. Registered labor brokers tend to work in teams to reach various villages, and they are certified by village heads before they are allowed to recruit workers. Labor brokers are paid a percentage of every successful candidate who stay in Thailand for at least one month. Agents will be fined when workers run away, equivalent to the cost of recruitment plus fine.*

*“The recruitment cost is THB 24,000 per worker. This cost is deducted from the salary of workers at THB 3000 per month. The Thai employer will deduct this amount and send it to the broker. The broker then remits the money to us. Thai agents tend to deduct more, on top of what the workers are already paying to the Lao agents. Workers have contract with the brokers, not with us. Workers who returned and still owed money will have to deal with the brokers and repay the money somehow.”*

Field notes, Vientiane, 23 April 2018.

## VILLAGE CHIEFS

The village chief is part of the government's local administration, with the role of managing the villages as development units. This comprises local implementation of national programs, priority development projects, and projects covered in the Public Investment Programs (PIP) relative to the local needs and priorities, good governance and socio-economic management of local administration, and improved public service delivery.<sup>lxiii</sup> The village chiefs are directly elected by the villagers.<sup>lix</sup>

In the migration system, according to interviews, the village chief attests to the validity of the family registration card that is required for the passport application of a jobseeker and signs the application form. The fee for the passport is LAK 100,000.<sup>lx</sup> While a village chief who we interviewed denied the involvement of subagents, the subagents we interviewed reported that they coordinate with the village chiefs to organize the pooling. A scholar mapped out the village chiefs' role in the migration process<sup>lxi</sup> as follows:

"Recruitment practices differ between agencies and include advertising of migrant work over the radio and in printed media, and recruitment through formal channels of command. The latter was the dominant mode of recruitment in *Baan Naam*, taking the following shape: First, the village head would travel to the district center to be briefed about migration through employment agencies. He, in turn, would announce a 'call for migrant workers' over the village speaker system and invite interested villagers to attend a meeting in the village temple where he would elaborate on further details. After the meeting, interested villagers would register with the village head for a particular form of migrant work in Thailand and pay an initial fee to start processing the required documents (e.g., passport). The village head would report these details at the district center and documents would then be processed. Once passports were ready, the prospective migrants would be invited to the employment agency in Vientiane for a briefing and to sign the contract that tied them to a Thai employer."

This appears to be an effective pooling strategy, as the village chiefs have political and social capital and trust in the community. They are also able to influence villagers to follow whatever process the PRAs have in place. The

team was unable to verify if the village chiefs receive a fee for their work.

Types of Brokers and Corresponding Fee		
Type of Brokerage	Brokerage Fee	Official Rate
National ID broker	THB 500	THB 500
Passport broker	THB 4,000-5,000 (6-7 days)	THB 1,800-2,000 (10 days processing)
Immigration form brokers	LAK 5,000 – 10,000	-
Subagent Referral	THB 1,000	-

## TRAVEL DOCUMENTS AND BORDERS

According to the ILO Operations Manual,<sup>lxii</sup> three types of border checkpoints were identified:

1. International checkpoint: a checkpoint for entry or departure for Lao citizens, aliens, foreign citizens and stateless persons holding passports, travel documents, passbooks, or border pass papers with valid status.
2. Local checkpoint: a checkpoint to enter or depart by using the checkpoint officially following a bilateral agreement for Lao citizens and citizens of neighboring countries of the local checkpoint sharing borders with the province concerned who are holding passports, passbooks, or border pass papers with valid status.
3. Traditional checkpoint: a checkpoint to enter or depart in accordance with the bilateral agreement for Lao citizens and the citizens of neighboring countries with permanent residence in border areas or within the district(s) located just opposite the border checkpoint who hold passbooks or border pass papers with valid status.

Considering the high costs, complexity, and the length of time of the MOU process, most Lao jobseekers choose to migrate outside of this process. (A 2012 World Bank report noted only 10 percent of Thailand's requests for migrant workers from Lao PDR were met through formal processes under the existing MOU.<sup>lxiii</sup>) With a passport, it only costs THB 40 to cross the border at the Friendship Bridge and migrants typically manage the border crossing on their own. If they need help completing the Thai immigration forms, there are individuals at

the border who can help them for LAK 5,000-10,000 (USD 0.58-1.16) who, from what we observed, would jot down inaccurate random information on the form.<sup>lxiv</sup> At the customary border, passports are not required to be presented, and daily crossings are common. Here, the crossing fare is LAK 10,000 (USD 1.16)

and the processing fee is LAK 25,000 (USD 2.89).

During festivals, it is much easier and cheaper to cross over to Thailand. One NGO worker said that it only costs LAK 5,000 (USD 0.58) for a “festival ticket,” which allows people to cross the border without need of a border pass.



*Customary border at Band.*



*Typical layout of shops near passport offices.*



Similar to Cambodia, a significant number of Lao workers receive information about jobs in Thailand from family and friends who work there. They would use their passports or border pass to gain legal entry into Thailand then stay on as irregular workers. Most would work in the service sector, domestic work, agriculture, and construction. Lao workers tend to do seasonal work in agriculture, which is mostly outside of the formal migration process.

The research team interviewed one worker who recently returned from Thailand after working for seven or eight years and had opened her own beauty salon in a village in Champasak. She said that her sister was already working in a beauty salon and she just followed her. She said the agents she used were all based in Thailand.

In terms of cost, she paid: THB 50 for transportation, THB 1500 for a worker card, THB 2000 for a passport, and THB 500 for passport renewal, a total of THB 4,050 (USD 135).

Some types of migrant workers have no option to use the formal migration process since the jobs they work in are classified in the Ministerial Decree as forbidden occupations,<sup>lxv</sup> which include any manual labor; those contrary to national culture and tradition like prostitution; selling of arms or engaging in drug trade; or hazardous occupations like working in small boats at sea or working with loud or dangerous machines. Migrant workers are highly sought after for these types of jobs in Thailand, as demand for these jobs among Thai citizens is low.



Champasak passport office.

## HUMANITARIAN DIMENSION

Lao PDR is widely seen as one of the most restrictive countries in Southeast Asia for civil society organizations. All local groups are required to register as non-profit associations, and the Decree on Associations No. 238 of 2017 gives the government broad authority to prohibit the activities of non-profit associations, dissolve and suspend associations, and criminally prosecute associations or their members. Article 72 of the Penal Code prohibits any person from organizing or participating in the gathering of groups of persons to conduct protest marches, demonstrations, and other activities with the intention of causing social order. In recent years, there have been high-profile instances of arrests and disappearance of Lao citizens who have publicly criticized the government. This has resulted in a small civil society movement unable to adequately cover the many needs of marginalized and vulnerable communities in the country, including Lao migrant workers.

To specifically meet the needs of Lao migrant workers, the Lao Women's Union coordinates with the IOM and other international organizations on awareness-raising, safe migration, and providing shelter to victims of trafficking. The ILO has recently opened its

fourth Migrant Worker Resource Center (MRC) in Luang Prabang. The MRC shares information about migrant workers' rights, support services in destination countries, and access to legal counselling. Village Focus International (VFI), with offices in Champasak, Vientiane and Savannakhet, raises awareness on safe migration and legal requirements for overseas employment through brochures, posters, and radio broadcast. It also runs a hotline to receive calls on labor abuses, human trafficking cases, deception by labor brokers, and other labor-related issues like underpayment of wages. VFI refers cases to its network of government agencies (Social Development Office) and NGOs in Thailand and Lao PDR (e.g. Raks Thai and Labor Right Promotion Network Foundation (LPN)) to process and take appropriate action. In the past, VFI has primarily referred cases for legal action, rescue, and repatriation of workers to the police. Baan Sang Fan (*Dream House*) is a shelter for victims of sexual trafficking who are referred by the police or their families. The shelter provides skills training to help victims reintegrate into their communities. The objective is to ensure that victims will become self-sustaining, either through skills training and/or psychological counselling, and obtain stronger survival and negotiation skills.

## 5. Conclusions and Recommendations

### CONCLUSIONS

This exploration of labor migration infrastructures entailed a literature review and field research to map out how jobseekers in Cambodia, Myanmar, and Lao PDR learn about available jobs in Thailand, both through publicly-available information and through their respective social networks in Thailand. This research also traced how workers from these sending countries migrate through formal and informal routes, including physically moving across regulated and traditional/customary border crossings. To the extent possible, the research has identified the labor intermediaries involved in both the formal and informal migration processes and the attendant costs. All this information is contextualized by the laws that regulate the exit and return of migrant workers from and to their home countries.

The results of our information gathering suggest that irregular migration in the three corridors — involving Thailand as the receiving country and Cambodia, Myanmar and Lao PDR as sending countries — is still active and, in fact, thriving. Migrants in these three sending countries are crossing through both formal and customary borders, using a variety of documents that lend at least a semblance of legality to the entry, facilitated and enabled by their respective social networks in the receiving country.

Instead of replacing irregular migration and the market for labor intermediaries, stakeholders observe that the complicated MOU process appears to have discouraged jobseekers from regular migration due to high costs (as much as USD 800 in Lao PDR); lengthy process (45-60 days processing time); a rigid arrangement that ties workers to their employers for the duration of the contract unless they are willing to pay a transfer charge (of THB 3,000 for Myanmar workers and THB 5,000-7,000 for Lao workers); uncertainties about repatriation; and lack of control over who the employer will be. In contrast, irregular repeat migrants reported a cost to migrate of only USD 50-100, no waiting time (i.e., they can leave as soon as they are able to travel), a flexible arrangement that allows them to go back home when desired, and being able to choose, to the extent possible, their prospective Thai employers. Currently, the only negative factor countering the benefits of

the informal channel is that irregular workers in Thailand are vulnerable to deportation — a vulnerability created by immigration rules and the MOU framework. There is nothing inherent about this type of vulnerability.

The MOU process is so complex that jobseekers report needing the assistance of migration intermediaries (i.e., unauthorized/unregulated sub agents, informal intermediaries, and other informal recruitment players) to provide a myriad of services to help them navigate the system. Since the MOU process does not reflect all the aspects of the recruitment process (i.e., village-level pooling, documents processing, and transactions that need to take place prior to jobseekers formally entering the recruitment process), these intermediaries have become critical and necessary to mediate the migration process between jobseekers, sending country governments, and the receiving country entities. The migration intermediaries we describe herein are informal and unregulated elements who weave in and out of the formal linear recruitment process that the MOU is supposed to control. MOU regulation appears to have resulted in intermediaries becoming further entrenched in the migration regime, but with no accounting for their fees in the officially recognized recruitment-related costs. The costs of intermediaries are neither being borne by the Thai employers nor being regulated in the sending countries, so the migration intermediaries have a significant impact on how much “legal and safe” migration will cost workers.

The formal process of migration, framed by the MOUs that Thailand signed with the three sending countries profiled in this report, is meant to provide a safe and legal channel for migrant workers to work in Thailand. The assumption is that a transparent, regulated, and controlled process contributes to increased worker protection and mitigates vulnerability while addressing the supposed need of employers for workers who match the job requirements.

This project’s findings suggest that the MOU process as currently implemented has not replaced the traditional, unregulated, irregular channels of migration from these sending countries. The MOU jobseekers interviewed seemed to know less about the employment

terms and conditions than their irregular counterparts, and the debt that is created because of the high recruitment fees compromise the MOU workers' ability to walk away from a potentially abusive working situation. The MOU process, it seems, may offer a more costly and cumbersome barrier to safe migration and people's mobility.

By using the migration infrastructure theory, we were able to be more deliberate in our data gathering to ensure that we obtained information on the five dimensions — regulatory, commercial, social, technological, and humanitarian. The information gleaned in this exploration was uneven across dimensions, not because the classification into dimensions was artificial, but because some dimensions were more developed than others, e.g., social as compared to technological or commercial as compared to humanitarian. It also helped us determine how, in the interaction of the dimensions, jobseekers' vulnerability is created, mitigated, or negated.

In working to understand the migration infrastructures in the three sending countries, we saw the conflation of regulatory and commercial dimensions that result from the roles played by private recruitment agencies in "safe and legal" migration. In the three countries, the recruitment agencies are, in practice, the gatekeepers of the formal migration process although there is nothing inherent in the process that prevents jobseekers from applying for a job through the MOU process on their own. In Lao PDR, for example, the village heads (who are government representatives) are involved in the pooling process for the recruitment agents, the latter a commercial entity that governments should be regulating.

Given that even the predeparture training — the goals of which include the reduction of workers' vulnerabilities and empowerment to protect themselves and recognize situations of labor rights violations — is embedded as one of the services of the recruitment agencies, only those who are deployed through the recruitment agencies are able to access it. This is problematic considering the significant number of Cambodian, Laotian, and Myanmarese workers who migrate informally.

We also observed that the migrant social networks in Thailand appear to function more effectively than the regulatory bodies in

enabling, mediating, and facilitating people's mobility to migrate for work. More jobseekers hear about available jobs in Thailand through their social networks, from village agents, or advertisements put out by recruitment agencies than via regulatory bodies. No workers we interviewed said they had learned about a job through a government channel. The jobseekers we interviewed report that they receive a more accurate picture of the working conditions (i.e., nature of the work, salary, benefits, hours of work, etc.) from friends and relatives who belong to these social networks. It is from social networks that jobseekers-turned-migrant workers learn how to navigate the immigration and work permit systems that enable them to frame and inform their migration experience.

Studying migration from the standpoint of the jobseeker allowed us to appreciate why they would choose to migrate irregularly despite the existence of a formal channel that is supposedly safer. They are more likely to believe testimonies about the working and living conditions in Thailand from people they know. They prefer the greater flexibility of their choice of employment and employer. They choose not to pay extortionate fees and fall into debt when there are cheaper options available. They like to travel as soon as possible so that they can earn as soon as possible. They prefer not to hand their future over to a labor intermediary system that obscures the migration process, including its financial structure. The only reason that jobseekers reported preferring the MOU process was in the case where the jobseeker wished to work for a Thai business that does not hire outside of it. Very few said that they chose to apply through the MOU process because they thought it was safer.

In sending countries where PRAs play a prominent role in migration management, governments should ensure that these actors are accountable for their policies and practices, including the costs charged jobseekers. Sending country governments should not withhold legal protections and remedy from those who have chosen to migrate outside the regulated process and should recognize that the cumulative cost of the formal mechanism remains prohibitive for the majority of jobseekers.

Given the combination of porous borders, the lengthy and complex MOU process, extortionate recruitment fees, and a large-scale labor shortage in Thailand that threatens the viability of industries, the trend in the near term

is toward a continuing increase in irregular migration, not less.

## RECOMMENDATIONS

### A WORKER-FOCUSED MOU PROCESS

In order for the MOU process to be fully embraced by would-be migrant workers, it needs to be a competitive channel for migration informed by jobseekers' and migrant workers' needs. The governments of Thailand, Cambodia, Myanmar, and Lao PDR should seek to rationalize both the process and the costs of the MOU system such that the MOU is a more compelling option for jobseekers in the Mekong region. Work should be done to ensure that it is ethical, safe, and cost-efficient for jobseekers; to ensure stronger worker protection while on the job; and to guarantee cost-efficient, easy, and secure return and repatriation.

### FEE LIMITS AND "EMPLOYER-PAYS"

To make the MOU process affordable, both receiving and sending country governments should: (a) set legal limits on recruitment fees and expenses, including identifying the rates and service fees of recruitment agents and other recruitment intermediaries, both formal and informal; (b) require recruitment agents to provide a cost breakdown to Thai employers and jobseekers at the start of the recruitment process, including during the pooling stage; and (c) adopt the employer-pay principle, which requires employers to bear the costs of recruitment and is aligned with the UN Sustainable Development Goal 8 of ensuring decent work for all.

### ONE-STOP JOB CENTERS

To simplify and streamline the MOU process, jobseekers should be enabled and empowered to navigate the system on their own such that working with recruitment agents and informal recruitment intermediaries becomes a choice rather than something unavoidable.

For example, jobseekers should be able to approach a one-stop center that gives them: (a) a checklist of documents they need to prepare from their end with the corresponding fees, and (b) a list of Thai employers that have been vetted by the government on their recruitment and employment practices (i.e., having an employers pay policy, sample contract that has been approved by the labor department, negative report on labor abuse, etc.) and on their specific company requirements (e.g.,

nature of the job, skills level, working experience, etc.). Once there are enough sign-ups, the Thai employer can organize an orientation meeting, whether in person or through a local recruitment agency, where jobseekers are informed of their rights while working in Thailand, employment terms and conditions, and the process that will occur before they arrive at the worksite.

### RECOGNIZE REALITIES ON THE GROUND

Given the current inaccessibility of information about job opportunities, the processes of formal migration channels, and the geographic inaccessibility of private recruitment agents at the beginning of the migration process, prohibiting the use of unregulated village-level agents or subagents at the pooling stage is not practical at this time as it will drive the transaction underground. If the transaction then becomes less visible, it will also likely become more costly for jobseekers. Rather than add another layer of regulation to an already heavily-regulated process, governments can publish recommended rates for particular types of brokerage service. However, this needs to be concurrent with an identification of what employers must pay, what jobseekers can pay, and what selected workers can pay in advance that will be recoverable/reimbursable from employers later on.

### HARNESS PEER-TO-PEER CHANNELS

The MOU model can adopt and build on the positive features of informal migration. Jobseekers' heavy reliance on family and friends for information makes an argument for finding a way to harness peer-to-peer channels that can provide accurate information about the job and awareness of potential risks. Predeparture information-sharing can be decentralized and broadened so other actors interacting with jobseekers early in the process, like commune officials and village chiefs, can be mobilized to advise jobseekers on what questions they need to ask their agents and potential employers, as well as what their rights are as migrant workers. Social media platforms and micro-messaging services now have heavy penetration even in rural communities and can be leveraged to distribute information.

### A DUTY TO PROMOTE AND PROTECT THEIR CITIZENS

In sending countries where PRAs play a prominent role in migration management, sending country governments should ensure,

that these actors are accountable for their policies and practices, including the costs charged jobseekers. Sending country governments should not withhold legal protections and remedy from those who have chosen to migrate outside the regulated process and should recognize that the cumulative cost of the formal mechanism remains prohibitive for the majority of jobseekers.

## 6. Annex: Study Design, Methodology, and Respondent Demographics

This project was designed to explore labor migration conditions in the Cambodia-, Lao PDR-, and Myanmar-Thailand corridors, tracing various pathways and key touchpoints in jobseekers' migration journeys.

The research was carried out in four phases: desk review, rapid appraisal, research workshop, and field research. A qualitative approach to information gathering was undertaken, including desk and legal review, direct observation at various recruitment sites, stakeholder consultation, and key respondent interviews. The interviews were not meant to be a representative sample of the population.

The field research approach was to trace the journey of a given jobseeker from place of residence to predeparture arrangements. As the MOU procedures and the resulting recruitment process have become complex and long, the decision to migrate can be characterized as neither singular, nor fully self-directed by jobseekers. The decision takes place in a series and as part of a web of interdependent forces that positions the "migrant" as an actor that is at times "moved," and at others, "the mover."

Desk research was conducted to analyze publicly available data on the Thai seafood industry and to inform (a) the design of a rapid appraisal, which was conducted to identify the potential research sites for the actual field-based data gathering and validate initial information on jobseekers' demographics, and (b) the formulation of the interview tools to ensure that the most relevant questions were asked in the most efficient way possible. Researchers consulted labor migration and human trafficking literature published over the past five years to identify existing information regarding the nature of risks migrant workers face in the recruitment journey and to narrow down research sites.

The objective of legal review was to evaluate: (a) based on law and regulations, the relationship between labor brokers, recruiters, intermediaries, and employers at all phases of recruitment, transportation, and placement of workers from sending countries, specified

below, to the Thai seafood sector, and (b) challenges, gaps, and opportunities in the legal and regulatory environments in the countries along the Thai-Mekong migration corridor that increase or mitigate workers' vulnerability to labor abuse or exploitation. The discussions in this report on regulatory dimensions were informed by the information gathered through this legal review.

A rapid appraisal was conducted in March 2018 to identify research sites and to assess respondent accessibility, including data collection risks and challenges that needed to be considered in the development of tools and over the course of the research. Interviews with jobseekers and return migrants were conducted in villages near the capital cities. Consultation sessions with local NGOs, recruitment agencies, overseas employment associations, government officials, and migrant resource centers were also conducted to identify key research and key recruitment sites for further investigation. The field teams visited and conducted key respondent interviews, including a sampling of jobseekers, to test the interview tools in a variety of environments in each country.

## FIELD RESEARCH

Based on the rapid appraisal, the scope of the formal investigation was expanded to cover more sites deemed as (1) “recruitment hotspots,” where local pooling and recruitment dynamics could be explored, and (2) “border crossing points” where migration activities take place both officially and otherwise. The field research was conducted on the following dates and in the following areas:

Dates	Countries	Sites
April 2018	Lao PDR	Vientiane, Pakse, and Savannakhet
May 2018	Myanmar	Yangon, Kawthaung, and Pathein
May 2018	Cambodia	Poipet, Battambang, Prey Veng, and Phnom Penh

We interviewed jobseekers, recruitment agents, subagents/village agents, passport brokers, transportation brokers, commune leaders, returned workers, and those offering auxiliary services around the border areas like motorcycle drivers or food sellers. We visited formal and informal borders to map out how jobseekers travelling to Thailand were crossing over and to determine the associated costs. We also interviewed NGO and intergovernmental organization representatives to map existing support networks and programs available to jobseekers, returning migrant workers seeking remedy, and migrant workers currently in Thailand.

The table below details key information-gathering sites and respondents that were part of this exploratory engagement.

Information-Gathering Sites and Types of Respondents		
Location	Sites	Respondent Types
<b>Myanmar</b>		
Yangon	<ul style="list-style-type: none"> <li>North Dagon Training Center</li> <li>Jobseeker accommodation sites</li> <li>Passport office</li> <li>Labor Exchange Office</li> <li>Recruitment agency offices</li> <li>NGO/INGO Offices</li> <li>Migrant Resource Center</li> <li>Community tea shops</li> </ul>	<ul style="list-style-type: none"> <li>Jobseekers, return migrants, current migrant workers</li> <li>Informal agents</li> <li>Passport applicants and brokers</li> <li>Recruitment agency management and staff</li> <li>Local authorities</li> <li>Local NGOs/INGOs</li> </ul>
Pathein, Ayeyarwady	<ul style="list-style-type: none"> <li>Village centers</li> <li>Migrant Resource Center</li> <li>Labor Exchange Office</li> <li>Community tea shops</li> </ul>	<ul style="list-style-type: none"> <li>Jobseekers, return migrants, current migrant workers</li> <li>Informal agents</li> <li>Village members and community leadership</li> <li>Local authorities</li> </ul>
Kawthaung	<ul style="list-style-type: none"> <li>Ordinary Passport Issue Office, Kawthaung branch</li> <li>Myoma Jetty</li> <li>Immigration Office</li> <li>Department of Fisheries</li> <li>Fishing ports</li> <li>Community tea shops</li> </ul>	<ul style="list-style-type: none"> <li>Jobseekers and return migrants</li> <li>Passport applicants and brokers</li> <li>Informal agents</li> <li>Village members and community leadership</li> <li>Local authorities</li> <li>Daily border-crossers</li> </ul>
<b>Cambodia</b>		
Phnom Penh	<ul style="list-style-type: none"> <li>General Department of Labor</li> <li>NGO/INGO offices</li> <li>Work Passport Office</li> <li>Recruitment agency offices</li> <li>Association of Cambodian</li> <li>Recruitment Agencies</li> </ul>	<ul style="list-style-type: none"> <li>Jobseekers, return migrants, current migrant workers</li> <li>Passport applicants and brokers</li> <li>Recruitment agency management and staff</li> <li>Informal agents</li> <li>Local NGOs/INGOs</li> </ul>



Battambang	<ul style="list-style-type: none"> <li>• Daung International Border Checkpoint</li> </ul>	<ul style="list-style-type: none"> <li>• Jobseekers, return migrants, current migrant workers</li> <li>• Daily border-crossers</li> </ul>
Poipet	<ul style="list-style-type: none"> <li>• Poipet International Border Checkpoint</li> <li>• Migrant Resource Center</li> <li>• Customary border</li> </ul>	<ul style="list-style-type: none"> <li>• Jobseekers, return migrants, current migrant workers</li> <li>• Informal agents</li> <li>• Local NGOs/INGOs</li> </ul>
Prey Veng	<ul style="list-style-type: none"> <li>• Migrant Resource Center</li> <li>• Community centers and village communities</li> </ul>	<ul style="list-style-type: none"> <li>• Jobseekers and return migrants</li> <li>• Informal agents</li> <li>• Village members and community leadership</li> <li>• Local NGOs</li> </ul>
Kampong Chhnang	<ul style="list-style-type: none"> <li>• Commune leadership office</li> <li>• Community centers and village communities</li> </ul>	<ul style="list-style-type: none"> <li>• Jobseekers and return migrants</li> <li>• Village members and community leadership</li> </ul>
<b>Lao PDR</b>		
Vientiane/ Nong Khai	<ul style="list-style-type: none"> <li>• Lao-Thai Friendship Bridge</li> <li>• Bandon Traditional Customs Checkpoint (Customary border)</li> <li>• Unofficial border crossing routes</li> <li>• Passport Office</li> <li>• Recruitment Agencies</li> <li>• Department of Labor and Social Welfare</li> <li>• Nong Khai Post-Arrival and Re-integration Center for Migrant Workers (Nong Khai)</li> </ul>	<ul style="list-style-type: none"> <li>• Jobseekers, return migrants, current migrants</li> <li>• Passport applicants and brokers</li> <li>• Daily border-crossers</li> <li>• Informal agents</li> <li>• Informal border-crossing brokers</li> <li>• Recruitment agency management and staff</li> <li>• Local authorities</li> </ul>
Savannakhet	<ul style="list-style-type: none"> <li>• Passport Office, Savannakhet branch</li> <li>• Department of Labor and Social Welfare, Savanakhet branch</li> <li>• Phonsim village administration office</li> <li>• Phonsim community center</li> <li>• Local recruitment and documents processing agencies</li> </ul>	<ul style="list-style-type: none"> <li>• Jobseekers, return migrants, and current migrants</li> <li>• Passport applicants and brokers</li> <li>• Informal agents</li> <li>• Village members and community leadership</li> <li>• Local authorities</li> <li>• Daily border-crossers</li> </ul>
Champasak	<ul style="list-style-type: none"> <li>• Champasak Immigration Checkpoint</li> <li>• Champasak Bus Terminal</li> <li>• Passport Office, Champasak branch</li> </ul>	<ul style="list-style-type: none"> <li>• Jobseekers, return migrants, and current migrants</li> <li>• Passport applicants and brokers</li> <li>• Informal agents</li> <li>• Local authorities</li> <li>• Daily border-crossers</li> </ul>

Verité interviewed 168 respondents, including jobseekers, return migrants, and current migrants; formal recruitment/employment agencies; informal agents/brokers; representatives of local NGOs and INGOs; local authorities such as government officials and township/commune/village leadership; and community members, including family members of jobseekers/migrants. The table below shows a breakdown of respondents per classification and gender by country.

<b>Types of Respondents by Country and Gender</b>			
<b>CAMBODIA</b>			
<b>Respondents Types</b>	<b>Total</b>	<b>Women</b>	<b>Men</b>
Jobseekers	20	4	16
Returning worker	15	5	10
Recruitment Agents/ Employment Agents (Formal)	4	1	3
Informal agents/brokers	3		3
Representative of local NGOs	10	4	6
Local authority	6	3	3
Current workers in Thailand	8	1	7
<b>TOTAL INTERVIEWED</b>	<b>66</b>		
<b>LAO PDR</b>			
<b>Respondents Types</b>	<b>Total</b>	<b>Women</b>	<b>Men</b>
Jobseekers	22	14	8
Returning worker	2	1	1
Recruitment Agents/ Employment Agents (Formal)	6	1	5
Informal agents/brokers	9	3	6
Representatives of NGOs/INGOs	7	4	3
Local authority	2		2
Current workers in Thailand	3	2	1
<b>TOTAL INTERVIEWED</b>	<b>51</b>		
<b>MYANMAR</b>			
<b>Respondents Types</b>	<b>Total</b>	<b>Women</b>	<b>Men</b>
Jobseekers	26	5	21
Returning worker			
Recruitment Agents/ Employment Agents (Formal)	12	6	6
Informal agents/brokers			
Representatives of NGOs/INGOs	4	3	1
Local authority			
Current workers in Thailand			
<b>TOTAL INTERVIEWED</b>	<b>51</b>		

## DATA CONTROLS

### TOOLS & TRAINING

The team implemented a number of data controls, which included standardized interview tools used with jobseekers, return migrants, and recruitment agencies. Members

of the research team participated in a field research training and a research workshop in order to standardize data collection strategies and approaches, including the appropriate use of research tools and the use of the “migration infrastructure” as an analytical framework.

The team conducted daily downloads and periodic overall strategy sessions during the Rapid Appraisal and Field Research to ensure that data gaps were bridged, and tools recalibrated to capture and further investigate emerging insights.

### **INFORMED CONSENT**

All interviews were conducted in the local languages of the respondents or translated, in cases where the interviewer did not speak the local language. Respondents were assured of confidentiality and anonymity and informed of the purpose and voluntary nature of the interview and their right to stop the interview at any point.

### **LIMITATIONS**

Verité observed a high degree of government surveillance during its research in Myanmar, where the movement of non-Myanmar research team members was monitored. This included occasional requests to surrender passports for inspection and being asked to leave the area. Due to this surveillance, the team had to shorten its information gathering in Kaw Thauung and Ayerwaddy.

In general, recruitment agents and subagents, particularly in Myanmar, were reluctant to be interviewed.

Interactions with jobseekers were attenuated by the limited ability to identify and interview them in places away from their brokers and the general public. While passport offices were obvious places to interact with jobseekers, it was difficult to engage freely and safely due to the near constant presence of agents or brokers. Follow-up interviews by phone were sometimes conducted when a full interview was not initially possible, and the respondent was willing to engage by phone. Interactions at border areas were similarly limited due to the presence of brokers who were shepherding workers through documentation checks. International borders were also heavily monitored, thus limiting the ability of interviewers to engage with workers unobserved. Interviewers exercised caution in engaging with workers, only delivering full interviews in environments that were deemed safe and secure.



## References

- Biao, X. (2014). "The would-be migrant: Post-socialist primitive accumulation, potential transnational mobility, and the displacement of the present in Northeast China." *TRaNS: Trans-Regional and National Studies of Southeast Asia* 2(2), 184.
- Biao, X. and Lindquist, J. (2014). "Migration Infrastructure." *International Migration Review*, (1), 122-148.
- Bopharath, S. (2016). "Current Status and Policy Challenges of Labor Migration in Cambodia." Retrieved from <https://www.jcer.or.jp/eng/pdf/Sry2016eng.pdf>.
- Bylander, M. (2016). *Cambodian Migration to Thailand: The Role of Environmental Shock and Stress*. Retrieved from <https://www.knomad.org/sites/default/files/2017-04/KNOMAD%20WorkingPaper%20CAMBODIAN%20MIGRATION%20TO%20THAILAND%20FinalJan19.pdf>.
- CSO Coalition for Ethical and Sustainable Production of Seafood (2018). *Falling Through the Net: A Survey of Basic Labor Rights among Migrants working in Thailand's Fishing Sector*. Retrieved from [http://ghre.org/downloads/Falling-through-the-net\\_en-version.pdf](http://ghre.org/downloads/Falling-through-the-net_en-version.pdf).
- David, A. & De Leon-David, N. R. (2016). "Legal system of the Lao People's Democratic Republic." GlobalLex. <https://www.nyulawglobal.org/globalex/Laos.html>.
- Drolet, N. (2013). "Domestic Workers and Sub-Decree 190: Time to Protect Cambodia's Migrants." Retrieved from [http://ticambodia.org/library/wp-content/files\\_mf/1452587009DomesticWorkersandSubDecree190.pdf](http://ticambodia.org/library/wp-content/files_mf/1452587009DomesticWorkersandSubDecree190.pdf)
- Errighi, L. et al. (2016). "Global supply chains: Insights into the Thai seafood sector." *ILO Asia-Pacific Working Paper Series*.
- Ford, M. et al. (2012). *Labor migration and human trafficking in Southeast Asia: Critical perspectives*. Routledge.
- Foreigners' Working Management Emergency Decree. (2018). Retrieved from [https://www.doe.go.th/prd/assets/upload/files/bkk\\_th/8fc0090bd1134d137003282ec70c9932.pdf](https://www.doe.go.th/prd/assets/upload/files/bkk_th/8fc0090bd1134d137003282ec70c9932.pdf)
- Huijsmans, R. (2008). "Children working beyond their localities: Lao children working in Thailand." *Childhood: A Global Journal of Child Research* 15(3), 331-353.
- Huijsmans, R. (2014). "Gender, masculinity and safety in the changing Lao-Thai migration landscape." In T.D. Turong et al. (Eds.), *Migration, gender and social justice: Perspectives on human insecurity, Hexagon Series on Human and Environmental Security and Peace* (9), pp. 333-349. doi:10.1007/978-3-642-28012-2\_19
- Human Rights Watch. (2018, Jan 23). *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry*. Retrieved from <https://www.hrw.org/report/2018/01/23/hidden-chains/rights-abuses-and-forced-labor-thailands-fishing-industry>
- IndexMundi. (2018, Jan 20). Burma Demographics Profile 2018 [Data file]. Retrieved from [https://www.indexmundi.com/burma/demographics\\_profile.html](https://www.indexmundi.com/burma/demographics_profile.html)
- IndexMundi. (2018, Jan 20). *Cambodia Demographics Profile 2018* [Data file]. Retrieved from [https://www.indexmundi.com/cambodia/demographics\\_profile.html](https://www.indexmundi.com/cambodia/demographics_profile.html)
- IndexMundi. (2018, Jan 20). *Lao PDR Demographics Profile 2018* [Data file]. Retrieved from [https://www.indexmundi.com/LaoPDR/demographics\\_profile.html](https://www.indexmundi.com/LaoPDR/demographics_profile.html)
- International Labor Organization. (n.d.) *Labor migration in Myanmar*. Retrieved from <http://www.ilo.org/yanon/areas/labor-migration/lang--en/index.htm>
- International Labor Organization. (n.d.) *Memorandum of understanding between the government of the Kingdom of Thailand and the government of the Union of Myanmar on cooperation in the employment of workers*.

Retrieved from  
[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_160932.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_160932.pdf)

International Labor Organization. (n.d.). *Operations manual on the protection and the management of migrant workers for the three ministries of Lao PDR*. Retrieved from <http://unact.org/wp-content/uploads/2016/02/Operations-Manual-on-the-Protection-and-Management-of-Migrant-Workers-for-three-Ministries-of-Lao-PDR-1-1.pdf>

International Labor Organization. (2018). *TRIANGLE in ASEAN Quarterly Briefing Note Lao PDR (October December 2018)*. Retrieved from [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614379.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614379.pdf)

International Labor Organization and Rapid Asia. (2018). *Ship to Shore Rights: Baseline research findings on fishers and seafood workers in Thailand*. International Labor Organization.  
[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_619727.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_619727.pdf)

International Organization for Migration. (2018). *Sources and Definitions for Country Facts and Figures*. Retrieved from <https://www.iom.int/sources-and-definitions-country-facts-and-figures>

International Organization for Migration and Asian Research Center for Migration, Chulalongkorn University. (2013). *Assessing potential changes in the migration patterns of Myanmar migrants and their impacts on Thailand*.  
[https://themimu.info/sites/themimu.info/files/documents/Assessment\\_Changes\\_in\\_the\\_Migration\\_Patterns\\_of\\_Myanmar\\_Migrants\\_and\\_their\\_Impacts\\_on\\_Thailand\\_IOM\\_2013\\_3x.pdf](https://themimu.info/sites/themimu.info/files/documents/Assessment_Changes_in_the_Migration_Patterns_of_Myanmar_Migrants_and_their_Impacts_on_Thailand_IOM_2013_3x.pdf)

Kaur, A. (2009). "Labor crossings in southeast Asia: Linking historical and contemporary labor migration." *New Zealand Journal of Asian Studies*, 11(1), 276-303.

Kun, M. (2010, Jan 18). "South Korea cuts number of workers by a third." *The Phnom*

*Penh Post*. Retrieved from <http://www.phnompenhpost.com/business/south-korea-cuts-number-migrant-workers-third>

Léone, E. A. (2012). *Cambodian Domestic Workers in Malaysia: Challenges in Labor Migration Policy and Potential Mechanisms for Protection*. International Organisation for Migration. Retrieved from <http://webcache.googleusercontent.com/search?q=cache:zoJlPgjcl4IJ:usfca.edu/law/docs/cambodianworkers/+&cd=1&hl=en&ct=clnk&gl=us>

Maltoni, B. (2006). *Review of Labor Migration Dynamics in Cambodia*. International Organization of Migration. Retrieved from <http://piasdgserver.usp.ac.fj/apmrn1/fileadmin/files/docs/cambodia/LMReportCambodia.pdf>

Manpower Association of Cambodia. (2016). Retrieved from <http://www.mac855.com/about/whoweare>

McKeown, A. (2012). "How the Box Became Black: Brokers and the Creation of the Free Migrant." *Pacific Affairs* 85(1), 21-45.

Meta, K. (2019, Nov 9). "MoU aims to protect migrants in Thailand." *The Phnom Penh Post*. Retrieved from [https://www.phnompenhpost.com/national/mou-aims-protect-migrants-thailand?fbclid=IwAR1Lhqdl2Ju5OtyMNK08L50k0gJh\\_gGIYRRvs6TWMNpfxHcYeRHZ37F3MQg](https://www.phnompenhpost.com/national/mou-aims-protect-migrants-thailand?fbclid=IwAR1Lhqdl2Ju5OtyMNK08L50k0gJh_gGIYRRvs6TWMNpfxHcYeRHZ37F3MQg)

Ministry of Foreign Affairs, Kingdom of Thailand. (2018, Oct 11). Press Release: Thailand uses MOU system to recruit migrant workers to fill jobs in marine fisheries sector. Retrieved from <http://www.mfa.go.th/main/en/news3/6886/95148-Thailand-uses-MOU-system-to-recruit-migrant-worker.html>

Ministry of Labor and Vocational Training. (2017, July 1). Notification on the list of private recruitment agencies approved by the Ministry of Labor and Vocational Training. *Open Development Cambodia*. Retrieved from <https://opendevelopmentcambodia.net/announcements/notification-on-the-list-of-private-recruitment-agencies-approved-by-the-ministry-of-labor-and-vocational-training/>

Molland, S. (2012). "Safe migration, dilettante brokers and the appropriation of legality: Lao-Thai 'trafficking' in the context of regulating

labor migration." *Pacific Affairs*, 85(1), 117-136.

Myanmar Overseas Employment Agencies Federation. (2018). Retrieved from <https://www.moeaf.org/>

Phengkhammy, S. (2002, Dec 19). Decree of the minister on forbidden occupations and regions to export Lao laborers working abroad. Retrieved from [http://un-act.org/wp-content/uploads/2016/02/Labour\\_Ministerial-Decree-on-forbidden-occupations-and-regions-No-3824.pdf](http://un-act.org/wp-content/uploads/2016/02/Labour_Ministerial-Decree-on-forbidden-occupations-and-regions-No-3824.pdf)

Sharom, A ed. (2018). Human Rights in Southeast Asia Outlook 2017. *SHAPE-SEA*. Retrieved from <http://shapesea.com/wp-content/uploads/2019/03/Final-Outlook-2017.pdf>

Sophal, C. (2009). *Review of labor migration management policies and legal framework in Cambodia*. International Labor Organization.

State Peace and Development Council. (1999, July 9). Law relating to overseas employment. Retrieved from <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/72869/74519/F1555302171/MMR72869.pdf>

Taylor, M. (2018). *Developing a financially viable ethical recruitment model: Prospects for the Myanmar-Thailand recruitment channel*. Issara Institute.

Tunon, M. and Rim, K. (2013). *Cross-border*

*labor migration in Cambodia: Considerations for the national employment policy*. International Labor Organization Asia-Pacific Working Paper Series.

United Nations Department of Economic and Social Affairs, Division for Public Administration and Development Management. (2005). Lao Public Administration Profile. Retrieved from <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023237.pdf>

United Nations Development Programme. (2018). *Human Development Reports: Cambodia* [Data file]. Retrieved from <http://hdr.undp.org/en/countries/profiles/KHM>

United Nations Development Programme. (2018). *Human Development Reports: Lao People's Democratic Republic* [Data file]. Retrieved from <http://hdr.undp.org/en/countries/profiles/LAO>

United Nations Development Programme. (2018). *Human Development Reports: Myanmar* [Data file]. Retrieved from <http://hdr.undp.org/en/countries/profiles/MMR>

United Nations Inter-Agency Project on Human Trafficking. (2011). *Recruitment Agencies and the Employment of Cambodian Domestic Workers in Malaysia*.

United Nations Office on Drugs and Crime. (2017). *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, 33.

## Endnotes

---

<sup>i</sup> Cambodia and Myanmar were prioritized as the primary sending countries of workers to Thailand; only preliminary exploratory research was conducted in Lao PDR

Out of 168 jobseekers and returned workers interviewed, only 15 had been recruited for the Thai seafood sector, however they did not have a clear idea of the nature of the work they would perform. Likely factors in identifying workers who said they were seeking work in the seafood sector include: the moratorium on sending migrant workers to Thai fishing vessels; the typical jobseeker prefers other industries though they may ultimately work in the seafood sector not knowing what kind of job they will perform until the day of their departure; jobseekers' awareness of the problematic labor practices, inherent difficulty, and hazards in the sector. We thus included a broader category of jobseekers migrating to Thailand to work in various sectors.

- In the course of the research, the term "jobseeker" eventually appeared to be an artificial construct because most of the returned workers we interviewed were in the process of looking for a new job in Thailand, or else planning to return to Thailand to work in the near future. Since we wanted to capture the recruitment experience of those in the current process of job application, interviews with the returned workers focused on exploring their relationship with the labor intermediaries that are integral to the migration infrastructure.

However, in our interaction with the respondents we kept in mind the image of the "would-be migrant" – defined as someone who wants to go abroad and is actively exploring possibilities of outmigration to the extent that their daily life is significantly changed – to avoid narrowly focusing on the behavior of individual migrants and instead widen the view to locate their specific experience within the constant tension of regulating migration.

<sup>iv</sup> What became clear was: (a) those who cannot afford the recruitment fee tended to migrate irregularly into sectors that are not covered by the MOU process, (b) those who can afford the recruitment fee do not choose to work in fishing or seafood manufacturing, and (c) those with education above a basic level who can afford to pay the recruitment fee tended to choose destinations further afield like Malaysia, Japan, and South Korea where the pay is higher.

- Kaur, A. (2009). "Labor crossings in southeast Asia: Linking historical and contemporary labor migration." *New Zealand Journal of Asian Studies*, 11(1): 298.

- There have been several reports published between 2015 and 2018 that focus on the labor conditions in the Thai seafood industry. See, for example, reports from the International Labor Organization (2015), CSO Coalition for Ethical and Sustainable Seafood (2017), Issara Institute (2018), and Human Rights Watch (2018).

- Vulnerability is commonly defined as the diminished

capacity of an individual or group to anticipate, cope with, resist or recover from adverse impacts of multiple stressors to which they are exposed, due to laws, regulatory gaps, socio-economic factors, and risk exposure as a result of their social group, gender, ethnicity or other identity, and age. Vulnerability is not inherent or natural; rather, it is created through various methods, e.g., through denial of freedom of association and collective bargaining rights, capital-saving devices like labor casualization, or as a result of insufficient laws protecting foreign workers, or unaddressed misogyny that perpetuates gender-segregated work, or ethnic bias that explicitly withholds from one social group their status as rights-holders or controls the behavior of workers through menace of penalty.

- While most of the recent research on the experience of foreign workers is conducted in the destination countries, we conducted the interviews in the sending countries because of (a) relevance, i.e., we wanted to locate their experience vis-à-vis the current regulatory framework, (b) immediacy, i.e., temporal perspectives should be more accurate because data was captured as jobseekers were going through the process rather than being dependent on recollection, and (c) salience, i.e., decreasing the possibility of mixing up the data of those who migrated specifically for a particular job and those who migrated further back in time to be recruited as walk-in applicants.

- Biao, X. and Lindquist, J. (2014). "Migration Infrastructure." *International Migration Review*, (1): 124.

- Starting from the observation that it is not migrants who migrate, but rather constellations consisting of migrants and non-migrants, of human and non-human actors and how more than ever before, labor migration is intensively mediated, Biao and Lindquist proposed that: The notion of "migration infrastructure" — the systematically linked technologies, institutions and actors that facilitate and condition mobility — opens up such spaces of mediation to analysis. For analytical purposes, we stipulate five dimensions of migration infrastructure: the commercial (recruitment intermediaries), the regulatory (state apparatus and procedures for documentation, licensing, training and other purposes), the technological (communication and transport), the humanitarian (NGOs and international organizations), and the social (migrant networks). These five dimensions indicate distinct *logics of operation* rather than discrete domains. (Biao and Lindquist, 2014, p. 124.)

- Their theory is that the five dimensions collide with and contradict one another, and this deep entanglement is supposedly key to understanding migration infrastructure.

For our purpose, we added (a) employer in the commercial dimension as one of the main triggers of the migration process, (b) remittance in the technological dimension because phone applications like Viber and Line are increasingly being used to transfer money back to the



home countries, and (c) subagents in both the commercial and social dimensions because while they link up to the bigger recruitment intermediary vein, their capital is mostly their trustworthiness, familiarity, and proximity to jobseekers. While we endeavored to describe each dimension in each sending country, data is not always available or sufficient to develop a treatment of each dimension.

In assessing for vulnerability to forced labor risk specifically, we used the definition of forced labor in ILO Convention 29, which refers to all work or service which is exacted from any person under the menace of any penalty and for which said person has not offered himself or herself voluntarily. The ILO has broken down the concept of 'involuntariness' into three core dimensions, namely, (a) unfree recruitment, (b) life or work under duress, and (c) impossibility of leaving the employer. Each core dimension has been broken down further into strong and medium indicators, and to have a finding of forced labor, there must be one indicator of involuntariness and one indicator of associated menace of penalty, and at least one of these indicators has to be strong.

However, it is not the intention of this research to come up with findings of forced labor, but to identify what indicators are present in the recruitment practices in Myanmar, Lao PDR and Cambodia of workers to Thailand, so the focus is on the relevant indicators under the Unfree Recruitment dimension, namely, coercive recruitment, recruitment linked to debt, deception about the nature of the work, deceptive recruitment, confiscation of identity papers or travel documents, violence, withholding of assets, threats to family members, exclusion from future employment and exclusion from community and social life.

<sup>xii</sup> In general, "recruitment hotspots" were concentrated in the region of Ayerwaddy in Myanmar, Poipet and Kampong Chhnang in Cambodia, and Savannakhet and Champasak in Lao PDR. The distinction is made in theory to closely examine specific recruitment dynamics at the village level. In reality, however, recruitment-related activities can also take place at border crossing areas.

- See, for example, Human Rights Watch. (2018, Jan 23). *Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry*. Retrieved from <https://www.hrw.org/report/2018/01/23/hidden-chains/rights-abuses-and-forced-labor-thailands-fishing-industry>.

- See the MOU for these sectors.

- However, information on the experience of foreign workers from Myanmar, Lao PDR and Cambodia upon their arrival in Thailand is contained in other reports and it is not within the scope of this research.

- Section 4 exempts the following from the coverage of the Alien Employment Act: Persons in diplomatic and consular delegations; Representatives of member countries and staffs of UN organizations and Experts Bureau; Personal servants of the persons mentioned above; and, Persons performing duties or missions in accordance with the agreement which the Thai

government has made with foreign governments or international agencies; among others.

- These provisions are based on unofficial English translation.

- International Organization for Migration. (2018). *Sources and Definitions for Country Facts and Figures*. Retrieved from <https://www.iom.int/sources-and-definitions-country-facts-and-figures>

- IndexMundi. (2018, Jan 20). *Cambodia Demographics Profile 2018* [Data file]. Retrieved from [https://www.indexmundi.com/cambodia/demographics\\_profile.html](https://www.indexmundi.com/cambodia/demographics_profile.html).

- United Nations Development Programme. (2018). *Human Development Reports: Cambodia* [Data file]. Retrieved from <http://hdr.undp.org/en/countries/profiles/KHM>.

- United Nations Office on Drugs and Crime. (2017). *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, 33.

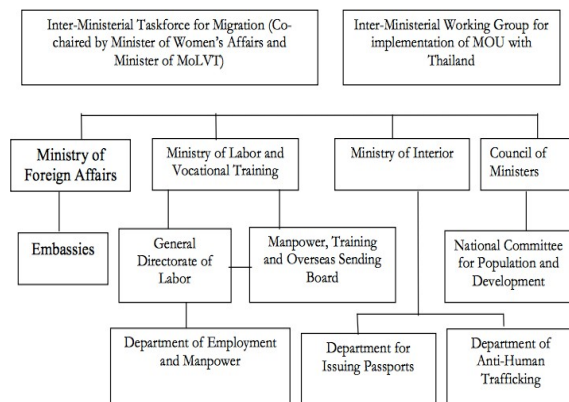
- Bylander, M. (2016). *Cambodian Migration to Thailand: The Role of Environmental Shock and Stress*. Retrieved from <https://www.knomad.org/sites/default/files/2017-04/KNOMAD%20WorkingPaper%20CAMBODIAN%20MIGRATION%20TO%20THAILAND%20FinalJan19.pdf>.

- Bylander, M. (2016). *Cambodian Migration to Thailand: The Role of Environmental Shock and Stress*. Retrieved from <https://www.knomad.org/sites/default/files/2017-04/KNOMAD%20WorkingPaper%20CAMBODIAN%20MIGRATION%20TO%20THAILAND%20FinalJan19.pdf>.

- A *prakas* is an official notification issued by a Ministry.

- Drolet, N. (2013). "Domestic Workers and Sub-Decree 190: Time to Protect Cambodia's Migrants". Retrieved from [http://ticambodia.org/library/wp-content/files\\_mf/1452587009DomesticWorkersandSubDecree190.pdf](http://ticambodia.org/library/wp-content/files_mf/1452587009DomesticWorkersandSubDecree190.pdf).

<sup>xxvi</sup> Chart Source: International Labor Organization.



<sup>xxvii</sup> The law on Commune and Sangkat Administrative Management (2001) (hereinafter Commune Law) established communes and sangkats as legal entities with legislative and executive powers, in line with central government laws. The smallest commune comprises six villages, and the largest one has 24 villages. Legislative powers are exercised through council resolutions. The councils are focused on supporting national policies and addressing local community needs of and essential public services for their constituents, including well-being of citizens, socioeconomic development and better living standards, environmental preservation, and reconciling conflicts (Chapter 4, Commune Law).

– Interviews were conducted in one commune in Pursat Province on 15 May 2018 and in another commune in Kampong Chhnang on 16 May 2018. For anonymity and confidentiality, we cannot disclose further details as those might result in identification of respondents.

<sup>xxix</sup> At the time of the interview in Kampong Chhnang (May 2018), this specific commune had the following migrant worker breakdown:

36 Thailand	<b>Work</b>
5 South Korea	
3 Japan	
1 Malaysia	
1 US	<b>Marriage</b>
1 Australia	
1 Vietnam	

– UN ODC, 2017, p. 33.

– The journey from Poipet to Bangkok is six (6) hours by land, and then another three (3) hours to Rayong.

– The term ‘smuggle’ seems to denote entering Thailand without a passport.

– Ministry of Labor and Vocational Training. (2017, July 1). Notification on the list of private recruitment agencies approved by the Ministry of Labor and Vocational Training. *Open Development Cambodia*. Retrieved from <https://opendevdevelopmentcambodia.net/announcements/notification-on-the-list-of-private-recruitment-agencies-approved-by-the-ministry-of-labor-and-vocational-training/>.

– Léone, E. A. (2012). *Cambodian Domestic Workers in Malaysia: Challenges in Labor Migration Policy and Potential Mechanisms for Protection*. International Organisation for Migration. Retrieved from <http://webcache.googleusercontent.com/search?q=cache:zoJIPgicl4IJ:usfca.edu/law/docs/cambodianworkers/+&cd=1&hl=en&ct=clnk&gl=us>.

– Manpower Association of Cambodia, 2016. Note: It does not say on the website how many members they have.

– Meta, K. (2019, Nov 9). “MoU aims to protect migrants

in Thailand.” *The Phnom Penh Post*. Retrieved from [https://www.phnompenhpost.com/national/mou-aims-protect-migrants-thailand?fbclid=IwAR1Lhqdl2Ju5OtymNK08L50k0GJh\\_gGIYRRvs6TWMNpfxHcYeRHZ37F3MQg](https://www.phnompenhpost.com/national/mou-aims-protect-migrants-thailand?fbclid=IwAR1Lhqdl2Ju5OtymNK08L50k0GJh_gGIYRRvs6TWMNpfxHcYeRHZ37F3MQg).

– IndexMundi. (2018, Jan 20). Burma Demographics Profile 2018 [Data file]. Retrieved from [https://www.indexmundi.com/burma/demographics\\_profile.html](https://www.indexmundi.com/burma/demographics_profile.html).

– United Nations Development Programme. (2018). *Human Development Reports: Myanmar* [Data file]. Retrieved from <http://hdr.undp.org/en/countries/profiles/MMR>.

– ILO, n.d.

– International Organization for Migration, Country Mission in Thailand & Asian Research Center for Migration, Chulalongkorn University, 2013, p. 12.

– International Organization for Migration, Country Mission in Thailand & Asian Research Center for Migration, Chulalongkorn University, 2013, p. 12.

– Ministry of Foreign Affairs, Kingdom of Thailand, 2018.

– ILO, n.d.

– Foreigners’ Working Management Emergency Decree. (2018). Retrieved from [https://www.doe.go.th/prd/assets/upload/files/bkk\\_th/8fc0090bd1134d137003282ec70c9932.pdf](https://www.doe.go.th/prd/assets/upload/files/bkk_th/8fc0090bd1134d137003282ec70c9932.pdf).

– <http://www.mol.go.th/sites/default/files/k49-2b-2558-a0004.pdf?fbclid=IwAR3OlRZCklsROQYEDxIRyFrSGG1-7E4qmTh7Qyzq5wjzqdZcGjTKVzOQqSY>

– Myanmar Overseas Employment Agencies Federation. (2018). Retrieved from <https://www.moeaf.org/>.

– See attached stakeholder map for more details.

– Sharom, A ed. (2018). *Human Rights in Southeast Asia Outlook 2017. SHAPE-SEA*. Retrieved from <http://shapesea.com/wp-content/uploads/2019/03/Final-Outlook-2017.pdf>.

– IndexMundi. (2018, Jan 20). Lao PDR Demographics Profile 2018 [Data file]. Retrieved from [https://www.indexmundi.com/Lao/PDR/demographics\\_profile.html](https://www.indexmundi.com/Lao/PDR/demographics_profile.html)

– United Nations Development Programme. (2018). *Human Development Reports: Lao People’s Democratic Republic* [Data file]. Retrieved from <http://hdr.undp.org/en/countries/profiles/LAO>.

– For more information, see “Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights on his visit to Lao PDR, 18-28 March 2019.” United Nations Human Rights Office of the High Commissioner. 2019.

– It is helpful to note what Molland (2012) points to as

---

significant changes in the Lao-Thai cross-border mobility: the scale of mobility, especially for work, is far larger today compared to a few decades ago, and (b) the direction of mobility has reversed from Thai-Lao to Lao-Thai as a result of more liberal policies adopted by the Lao government.

<sup>liii</sup> Molland, S. (2012). "Safe migration, dilettante brokers and the appropriation of legality: Lao-Thai 'trafficking' in the context of regulating labor migration." *Pacific Affairs*, 85(1), 117-136.

- United Nations Office on Drugs and Crime. (2017). *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, p. 58.

- This information was taken from field notes during an interview with a registered recruitment agency in Vientiane on 23 April 2018.

- United Nations Office on Drugs and Crime. (2017). *Trafficking in persons from Cambodia, Lao PDR and Myanmar to Thailand*, p 65.

- - International Labor Organization. (2018). *TRIANGLE in ASEAN Quarterly Briefing Note Lao PDR (October December 2018)*. Retrieved from [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_614379.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_614379.pdf)

- David, A. & De Leon-David, N. R. (2016). "Legal system of the Lao People's Democratic Republic." GlobalLex. <https://www.nyulawglobal.org/globalex/Laos.html>.

- United Nations Department of Economic and Social Affairs, Division for Public Administration and Development Management. (2005). Lao Public Administration Profile. Retrieved from <http://unpan1.un.org/intradoc/groups/public/documents/un/unpan023237.pdf>, p.10.

- ILO, n.d., p. 25.

- (2014). "Gender, masculinity and safety in the changing Lao-Thai migration landscape." In T.D. Turong et al. (Eds.), *Migration, gender and social justice: Perspectives on human insecurity, Hexagon Series on Human and Environmental Security and Peace (9)*, pp. 339-340.

- ILO, n.d., p. 25.

- UN ODC, 2017, p. 70.

- The Thailand immigration card is in Thai and English.

- Phengkhammy, S. (2002, Dec 19). Decree of the minister on forbidden occupations and regions to export Lao laborers working abroad. Retrieved from [http://un-act.org/wp-content/uploads/2016/02/Labour\\_Ministerial-Decree-on-forbidden-occupations-and-regions-No-3824.pdf](http://un-act.org/wp-content/uploads/2016/02/Labour_Ministerial-Decree-on-forbidden-occupations-and-regions-No-3824.pdf).