

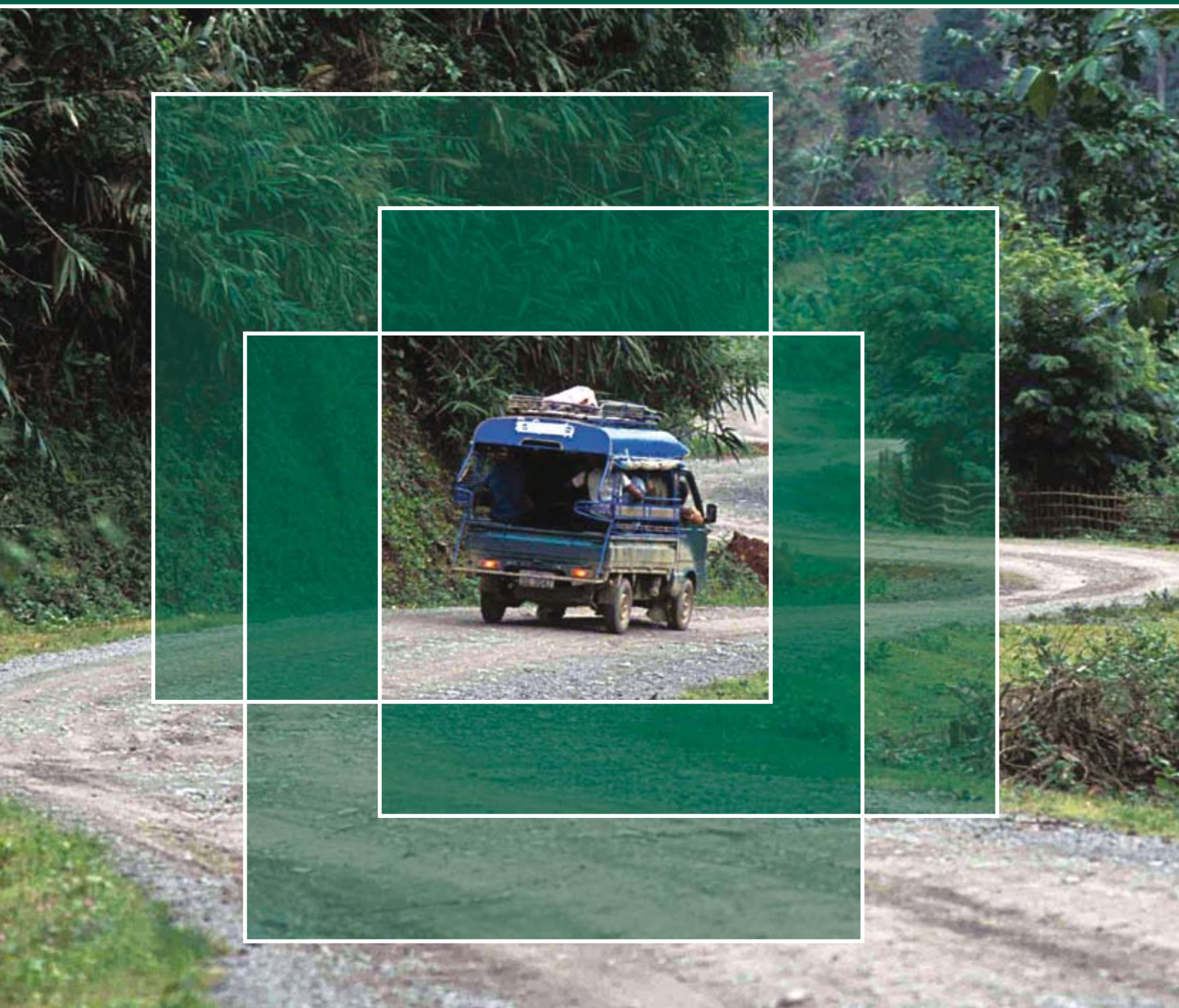


International
Labour
Organization

The Mekong Challenge

**An Honest Broker – Improving cross-border recruitment practices
for the benefit of Government, Workers and Employers**

Part of a series of studies on human trafficking and labour migration in the Greater Mekong Sub-region



The Mekong Sub-regional Project to Combat Trafficking in Children and Women

The Mekong Challenge

An Honest Broker - Improving cross-border recruitment practices for the benefit of Government, Workers and Employers

Mekong Sub-regional Project to Combat Trafficking
in Children and Women

International Programme on the Elimination of Child Labour
International Labour Organization

Copyright © International Labour Organization 2008

First published 2008

Publications of the International Labour Office enjoy copyright under Protocol 2 of the Universal Copyright Convention. Nevertheless, short excerpts from them may be reproduced without authorization, on condition that the source is indicated. For rights of reproduction or translation, application should be made to ILO Publications (Rights and Permissions), International Labour Office, CH-1211 Geneva 22, Switzerland, or by email: pubdroit@ilo.org. The International Labour Office welcomes such applications.

Libraries, institutions and other users registered in the United Kingdom with the Copyright Licensing Agency, 90 Tottenham Court Road, London W1T 4LP [Fax: (+44) (0)20 7631 5500; email: cla@cla.co.uk], in the United States with the Copyright Clearance Center, 222 Rosewood Drive, Danvers, MA 01923 [Fax: (+1) (978) 750 4470; email: info@copyright.com] or in other countries with associated Reproduction Rights Organizations, may make photocopies in accordance with the licences issued to them for this purpose.

Supang, Chantavanich

The Mekong challenge : an honest broker - improving cross-border recruitment practices for the benefit of government, workers and employers / Supang Chantavanich ; Mekong Sub-regional Project to Combat Trafficking in Children and Women, International Programme on the Elimination of Child Labour, International Labour Office. - Bangkok: ILO, 2008
xii p./107p.

ISBN: 9789221215325;9789221215332 (web pdf)

ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women; ILO International Programme on the Elimination of Child Labour; International Labour Office

migrant worker / immigrant / recruitment / legal aspect / Thailand / Lao PDR / Cambodia

14.09.2

ILO Cataloguing in Publication Data

The designations employed in ILO publications, which are in conformity with United Nations practice, and presentation of material therein do not imply the expression of any opinion whatsoever on the part of the International Labour Office concerning the legal status of any country, area or territory or of its authorities, or concerning the delimitation of its frontiers.

The responsibility for opinions expressed in signed articles, studies and other contributions rests solely with their authors, and publication does not constitute an endorsement by the International Labour Office of the opinions expressed in them.

Reference to names of firms and commercial products and processes does not imply their endorsement by the International Labour Office, and any failure to mention a particular firm, commercial product or process is not a sign of disapproval.

ILO publications can be obtained through major booksellers or ILO local offices in many countries, or direct from ILO Publications, International Labour Office, CH-1211 Geneva 22, Switzerland. Catalogues or lists of new publications are available free of charge from the above address, or by email: pubvente@ilo.org.

Copies of this publication can be obtained at:

ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women
10th Floor, United Nations Building
Rajdamnern Nok Avenue, PO Box 2-349
Bangkok 10200 Thailand
Visit our project website at: www.childtrafficking.net

Printed in Thailand

**This report does not necessarily reflect the views or policies of the Government of the United Kingdom.*

ACKNOWLEDGEMENTS

The International Labour Organization, through its Mekong Sub-regional Project to Combat Trafficking in Children and Women, would like to thank the specialist researchers, writers and editors who gave their time to produce this comprehensive work on the recruitment practices for migrant workers moving for employment within and between Cambodia, Lao PDR and Thailand. In particular, we would like to thank Ellen Boccuzzi our editor and lead writer, Supang Chantavanich from the Asian Research Centre for Migration, Chen Chen Lee for her work on the situation in Cambodia and Kabmanivanh Phouxay from the National University of Laos. Their professionalism and attention to detail has made this publication a must-read for all those interested in the fields of labour migration and recruitment in the GMS.

FOREWORD

Each year, many workers leave Lao PDR and Cambodia to seek new opportunities for themselves and their families in Thailand. Migration has the potential to bring many benefits to the individuals, economies and societies of both source and destination countries. However, the reality of migrants' experiences does not always accord with their expectations; they can find themselves in situations of leveraged debt, in jobs that do not match recruiters' promises, working in exploitative workplaces and not knowing enough about their rights.

The governments of Cambodia, Lao PDR and Thailand have been working together to control the flow of immigrants into Thailand and have established a system of formal recruitment. In a country where the long land borders mean that it is easy for migrants to cross the border without proper documentation, it is important for recruitment agencies to provide an affordable, efficient and effective service, otherwise migrants may continue to cross frontiers informally. Since recruiters began bringing Laotian and Cambodian workers to Thailand through formal channels in 2006, recruitment processes have been developing and practices have been improving. However, recruiters are still not able to meet Thai employers' demand for workers in a timeframe that meets their needs. Many migrants have also experienced disappointment with the services provided by the formal recruitment agencies.

In this context, the ILO commissioned this three-country research report to examine the laws and policies on migrant recruitment and to analyze the experiences of both formal and informal migrants. We hope the information presented in this report, and its recommendations, can form the basis of an informed dialogue about ways in which to improve policy and practice in the recruitment of migrant workers.

Thetis Mangahas

Chief Technical Advisor/Project Manager

ILO IPEC Mekong Sub-regional Project to Combat Trafficking in Children and Women

International Labour Office, Bangkok

This Synthesis Report on Formal Recruitment of Migrant Workers from Cambodia and Laos is an output of the collaboration between the International Labour Organization (ILO) and researchers in Cambodia, Laos and Thailand during 2007. It is a follow-up to the implementation of a new policy in migration management in which Cambodia and Laos as countries of origin and Thailand as a country of employment agreed to cooperate for a more orderly movement of migrant workers and a better protection regime for these people.

Although initial findings showed some signs of impediments to the policy implementation, they also indicated strong potential for formal recruitment to bring about regional public goods and benefits. The research teams from the three countries worked closely to produce country reports, which are the basis of this synthesis report. We would like to thank all country research teams and the ILO for their continued support which has made the report possible. Our thanks also go to Dr. Ellen Boccuzzi who kindly edited the whole volume. Lastly, we thank the migrants, their families, their employers and officials who have assisted with the project.

Supang Chantavanich

Asian Research Center for Migration

Institute of Asian Studies

Chulalongkorn University, Bangkok

July 2008

TABLE OF CONTENTS

FOREWORD	iv
LIST OF ABBREVIATIONS	xii
EXECUTIVE SUMMARY	x
1. INTRODUCTION	2
2. LEGAL FRAMEWORK FOR MIGRANT RECRUITMENT IN THAILAND	12
3. THE RECRUITMENT PROCESS	20
4. COMPARISON OF FORMAL AND INFORMAL MIGRANT WORKERS	34
5. CONCLUSION AND RECOMMENDATIONS	68
REFERENCES	74
ANNEXES	
Annex 1 MOU between Thailand and Cambodia	78
Annex 2 MOU between Thailand and Lao PDR	83
Annex 3 Regulation of the Ministry of Labour in Importing Labour	87
Annex 4 List of Cambodian and Lao recruitment companies	90
Annex 5 ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers	92
Annex 6 Questionnaire	99

LIST OF TABLES

Table 1.	Number of formal migrants under the MOU and as a result of the regularisation process (as of June 2007)	15
Table 2.	Demand for formal migrants by nationality and number of migrants placed (as of January and September 2007)	20
Table 3.	Demand for migrant workers by sector (as of January 30, 2007)	21
Table 4.	Number of Laotian workers requested by Thai employers and sent by Lao recruitment agencies	21
Table 5.	Primary considerations when selecting a recruiter	22
Table 6.	Breakdown of costs in formal recruitment	30
Table 7.	Number of formal and informal migrants sampled in Thailand by age	34
Table 8.	Number of formal and informal migrants sampled in Thailand by gender	35
Table 9.	Number of formal and informal migrants sampled in Thailand by work sector	35
Table 10.	Number of formal and informal migrants sampled in Thailand by education level (number of years in school)	36
Table 11.	Number of formal and informal migrants sampled in Cambodia by age	36
Table 12.	Number of formal and informal migrants sampled in Cambodia by gender	37
Table 13.	Number of formal and informal migrants sampled in Cambodia by work sector	37
Table 14.	Number of formal and informal migrants sampled in Cambodia by education level (number of years in school)	37
Table 15.	Type of interview by sector (Lao PDR sample)	38
Table 16.	Reasons given for migration decision (Cambodia sample)	39
Table 17.	Reasons given for migration decision (Thailand sample)	40
Table 18.	Person who made the migration decision	40
Table 19.	Migrant made migration decision independently	41
Table 20.	Awareness of risks and dangers involved in migrating informally	41
Table 21.	How migrant became aware of the risks of informal migration	42
Table 22.	Person who recruited the migrant (Thailand sample)	43
Table 23.	Person who recruited the migrant (Cambodia sample)	43
Table 24.	How the migrant became aware of the job opportunity	44
Table 25.	How the migrant was recruited (Cambodia sample)	44
Table 26.	Contract made with recruitment agents	45
Table 27.	Contract made with employer in Thailand	46
Table 28.	Person who kept the contract	46
Table 29.	Services provided by formal recruiter (3 primary responses)	47
Table 30.	Types of services provided by formal or informal recruiter	48
Table 31.	Information provisioning prior to departure	49
Table 32.	Information provisioning prior to departure	50
Table 33.	Orientation and training prior to departure	51
Table 34.	Fees paid for recruitment	51
Table 35.	Source of loan for migration	52

Table 36.	Salary deducted to pay recruitment fee	53
Table 37.	From the initial migration decision, amount of time taken to begin work in Thailand	53
Table 38.	Migrants' evaluations of the difficulty of obtaining work in Thailand	54
Table 39.	Ways in which conditions at destination differed from pre-departure information (Lao PDR sample)	55
Table 40.	Ways in which conditions at destination differed from pre-departure information (Thailand sample)	56
Table 41.	Whether conditions at destination differed from pre-departure information provided by recruitment agency	56
Table 42.	Wages per month (Thai baht)	57
Table 43.	Migrant's freedom of movement at destination	58
Table 44.	Person who restricted migrant's freedom of movement at destination	58
Table 45.	Migrant's freedom of communication	59
Table 46.	Holding of own original ID documents while working in Thailand	60
Table 47.	Whether migrants held their own original ID documents while working in Thailand	60
Table 48.	Person who held the migrant's ID documents	60
Table 49.	Satisfaction with services provided by recruiter	61
Table 50.	Preferred channel of future migration	62
Table 51.	Reasons to migrate independently in the future	63
Table 52.	Expected channel for future migration to Thailand	63
Table 53.	Reasons for using a recruitment agency in the future	64
Table 54.	Country in which migrants expect to work in the future	65

COUNTRY RESEARCH TEAMS

CAMBODIA

Lead researcher: Chen Chen Lee, ILO-IPEC TICW consultant

Research team: Sokchar Mom, Legal Support for Children
Samnom Ham, Independent researcher

LAO PDR

Lead researcher: Kabmanivanh Phouxay, National University of Laos

Editor: Roy Huijsmans, Durham University, United Kingdom

Research Team: Faculty of Social Sciences, National University of Laos

Associate Professor Phouth Simmalavong, Supervisor
Kabmanivanh Phouxay, Lead Researcher
Dexanourath Senedouangdeth, Researcher
Kenchanh Sinsamphanh, Researcher
Bounthavy Sosamphanh, Researcher
Boualamthong Ontavong, Research Secretary

Ministry of Labour and Social Welfare

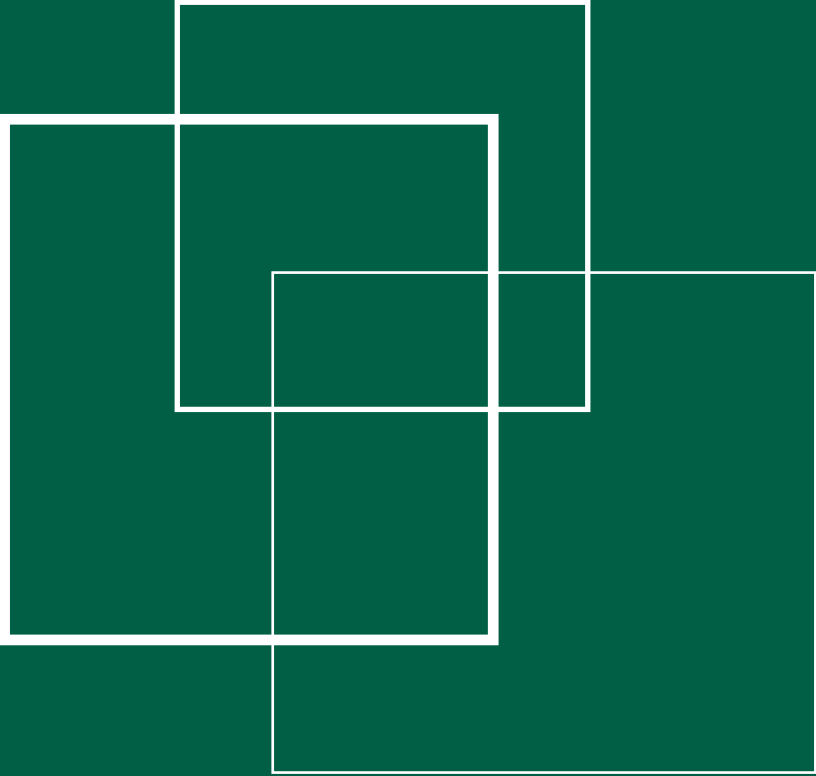
Thongdeng Singthilath - Internal Consultant
Khanthala Lounglath - Research Assistant
Bouavanh Panyavong - Research Assistant

THAILAND

Research team Asian Research Centre for Migration

Supang Chantavanich, Professor
Premjai Vungsiriphisal
Samarn Laodumrongchai
Paul Ruengrojpitak
Nattapol Eksaengsri
Waranya Jitpong
Pairin Makcharoen
Kedchapan Kamput

EXECUTIVE SUMMARY



EXECUTIVE SUMMARY

Thailand's long, porous borders and relative economic prosperity have given rise to significant in-migration from Cambodia and Lao PDR. The bulk of migrants working in Thailand do so without the required documentation, and many of them have entered the country through irregular channels (IOM 2005:110).

In an effort to regularize these workers and facilitate the safe migration of incoming migrants, Thailand signed a Memoranda of Understanding on Cooperation in the Employment of Workers with Lao PDR in 2002 and Cambodia in 2003. Implementation of the MOU began in 2006, when the first group of formal migrants arrived.

It is against this background that the ILO commissioned a three-country study in Thailand, Cambodia, and Lao PDR to examine the implementation of the MOU and to compare the processes of formal and informal recruitment. Focusing on migrant workers in the construction, manufacturing, and food processing sectors, the research sought to answer the questions: 1.) Do migrants receive better protection when migrating through formal channels? 2.) Does licensing of recruitment agents provide the best outcome in a cross-border context? 3.) Do migrants prefer formal or informal migration channels? 4.) Are workers who migrate through informal channels exposed to greater risks and exploitation than those who migrate through formal channels?

To answer these questions, a standard questionnaire was developed and used by the three research teams; in-depth interviews were conducted as well. Through concurrent research in the sending countries of Lao PDR and Cambodia and the destination country of Thailand, this research aims to provide a broader view of formal and informal recruitment, one that includes the viewpoints of formal migrants currently working in Thailand, family members and villagers who remained behind, and migrants who have returned to their home countries.

In all, the three teams interviewed 177 formal and 160 informal migrants from Cambodia and Lao PDR. The Thai research team interviewed migrants currently working in Thailand, while the Cambodian and Lao teams interviewed workers who had already returned home. The research teams also conducted interviews with formal and informal recruiters and with a variety of other stakeholders in the migration process, including government officials, employers, and NGO representatives.

The report found that currently informal migration channels are more flexible, more efficient, and less expensive than formal ones. As a result, the vast majority of migrants opt for informal channels. Moreover, the data collected by the Cambodia and Lao PDR teams suggest that migrating through formal channels does not necessarily ensure better protection or higher salaries for migrants. In fact, the high costs of formal migration generally place formal migrants into a situation of leveraged debt with their employer or recruiter.

The primary complaints made about the current formal recruitment process were its high cost and long procedure time. The cost of formal recruitment ranges from 15,000 to 20,000 baht per migrant, and this fee is generally paid upfront by the employer (or by the employer and recruitment agency together). Although workers are able to sign an employment contract and migrate for work with little or no money down, doing so binds them in leveraged debt, with salary deductions that generally last from 10 to 12 months (and in some cases as long as 2 years). In contrast, most informal migrants pay a one-time service fee of 3,000 to 5,000 baht for recruitment and are not subject to salary deductions after they arrive in Thailand.

The long procedure time and complexity of the formal recruitment process proved problematic for migrants and

employers alike. While most informal migrants began work within a week of making a migration decision, the process of formal recruitment generally took 3 to 6 months (and in some cases over a year). This delay presented problems for migrants, who felt that they could not take on other work in the interim, and for employers who were unable to plan effectively for their labour needs. A key finding of this research is that lack of coordination among government agencies (and between governments and recruiting agencies) slows down the formal recruitment process and increases its costs significantly.

This study also found that formal recruitment channels do not necessarily provide better protection for migrants. Workers' identification documents and contracts are frequently held by employers, and many formal migrants surveyed did not even realize that they had signed an employment contract. While contracts do provide workers with legal protection, migrants' lack of understanding of their contracts weakened this protection mechanism in practice.

The study found that many more formal migrants than informal migrants received pre-departure orientation and training, and that most believed the training to be inadequate. None of the current pre-departure training programs, for instance, provides Thai language instruction. Moreover, national legislation in Cambodia and Lao PDR guarantees pre-departure training for all formal migrants, but many workers surveyed reported receiving no training at all.¹

Finally, this research found that the "formal" recruitment process currently involves a number of "informal" and unregulated elements, including the sub-contracting of agents who are not directly employed by recruitment agencies. This occurs both at the village level and during the migration journey.

Based on these findings, the study makes a number of key recommendations. First and foremost, the cost of formal recruitment should be reduced significantly and the recruitment process expedited to make formal migration a more attractive option for prospective migrants. If it is not possible to directly cut costs embedded in the process, then subsidies should be introduced, either in the form of low-interest government loans to migrants (so that they will not become indebted to their recruiter or employer) or in the form of governmental or international assistance. It is also essential that the current system of salary deductions be regulated if it persists; migrants should know exactly how much money will be deducted from their salaries and for how long, and this information should be stated in writing in their contracts. Deductions should not be so great that the migrant cannot sustain a decent standard of living in the host country.

A standard employment contract for migrant workers should be formulated and used by all formal recruitment agencies. Migrants should be given time to read and understand the employment contract before they sign it, and recruitment agencies should be held responsible for ensuring that this occurs. The Ministries of Labour in sending countries should closely monitor the activities of recruitment agencies and hold them accountable for any violations.

Formal mechanisms should be created in both sending and receiving countries to address workers' grievances and labour disputes, and migrants should be made aware of these mechanisms.

Employers should be informed that workers have the right to maintain their identification documents and a copy of their contracts. Employers who fail to comply should be penalized.

Finally, public awareness campaigns should be pursued to increase understanding of formal migration and its benefits. Targets for such campaigns should include the general public in border areas and throughout the receiving country as well as police and government officials in the destination country.

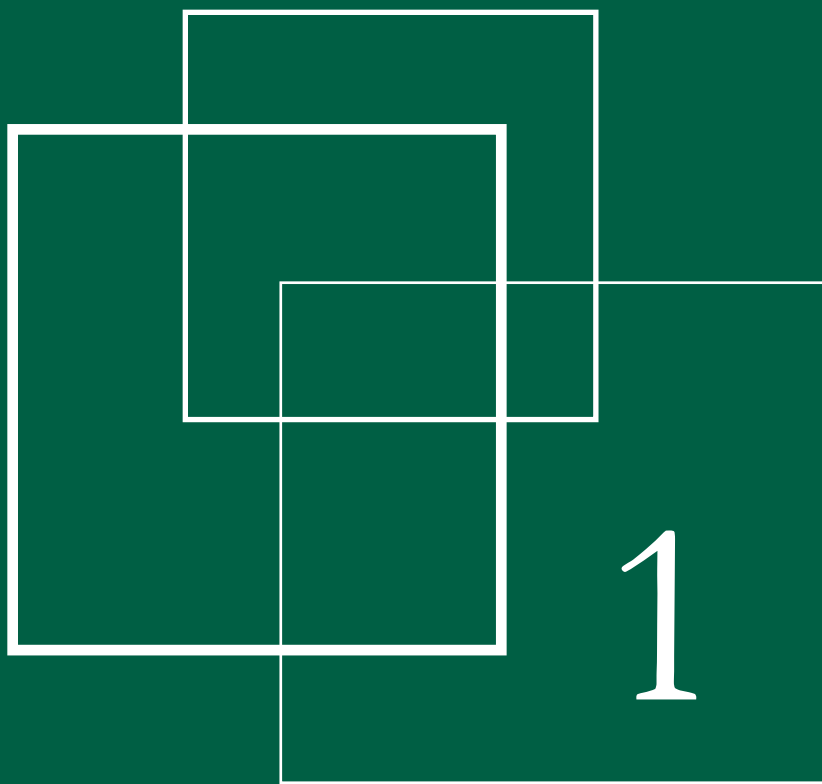
Despite shortcomings in the current system of formal recruitment, one-third of workers surveyed stated that they

¹ The Cambodia Report found that only 15% of migrants had received any pre-departure orientation or training. See Table 30.

hoped to work in Thailand in the future, and most said they would prefer to migrate through formal channels or independently. Formal recruitment, migrants noted, offers the benefits of legality, safety, and protection. It is essential, then, that policy makers and practitioners continue to work toward improving formal recruitment; we hope that the findings from this report will assist in this goal.

LIST OF ABBREVIATIONS

ADHOC	Cambodia Human Rights and Development Association
ARCM	Asian Research Center for Migration
ASEAN	Association of Southeast Asian Nations
CI	Certificate of Identity
COMMIT	Coordinated Mekong Ministerial Initiative against Trafficking in the Greater Mekong Sub-region
CPRMW	Convention on the Protection of the Rights of Migrant Workers and Members of Their Family
CWPD	Cambodian Women for Peace and Development
DfID	Department for International Development (United Kingdom)
DE	Department of Employment (MOL)
DLPW	Department of Labour Protection and Welfare
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
ILO	International Labour Organization
ILO-TICW	ILO Mekong Sub-regional Project to Combat Trafficking in Children and Women
IOM	International Organization for Migration
MOFA	Ministry of Foreign Affairs
MOI	Ministry of Interior
MOL	Ministry of Labour, Thailand
MOLSW	Ministry of Labour and Social Welfare, Lao PDR
MOLVT	Ministry of Labour and Vocational Training, Cambodia
MOU	Memorandum of Understanding on Cooperation in the Employment of Workers (signed between Thailand and Lao PDR and between Thailand and Cambodia)
MSDHS	Ministry of Social Development and Human Security, Thailand
MTOSB	Manpower Training and Overseas Sending Board, Cambodia
PDLVT	Provincial Department of Labour and Vocational Training
PDSALVY	Provincial Department of Social Affairs, Labour, Vocational Training and Youth Rehabilitation
RGC	Royal Government of Cambodia
RTG	Royal Thai Government
SPA	Sub-Regional Plan of Action
SPSS	Statistical Package for Social Sciences
UNIAP	United Nations Inter-Agency Project on Human Trafficking
UNIFEM	United Nations Development Fund for Women



1. INTRODUCTION

1.1 Background

Mainland Southeast Asia has long been characterized by migration, with marked movements of people for labour, trade, religion, and war (Castles 2004: 17). The uneven development of the region over the past fifty years has increased both internal and international migration, and Thailand has been particularly affected. Thailand's geographical position at the center of Mainland Southeast Asia and the country's relative prosperity and stability have made it a major destination for migrants from Cambodia, Lao PDR, and Myanmar.

Due to the ease of moving between border provinces of neighboring countries, many migrants from Lao PDR and Cambodia enter Thailand illegally. Some enter with a temporary border permit and then look for work through social networks or with the assistance of informal recruitment networks. The organized recruitment channels that exist are still new, and they are currently slower, more expensive, and less flexible than informal arrangements.

Formal labour migration brings benefits to sending and receiving countries as well as to migrants, yet it still poses many challenges. A key challenge is how to regulate migration processes so as to best protect migrant workers against fraud and the risks of working in an unfamiliar country. Research in the Asian region has shown that women and young workers are particularly vulnerable to such risks.

In 2002 and 2003 Thailand signed MOUs on Cooperation in the Employment of Workers with Lao PDR and Cambodia to regulate the flows of undocumented migrants into Thailand and to establish an official recruitment system for bringing formal migrants to Thailand. The MOU aims to regulate the migration process so as to protect workers against fraud and the risks of working in a foreign country.

The International Labour Organization (ILO) and its tripartite constituents have long recognized the need to protect workers employed in countries other than their own. In addition to the two ILO conventions that specifically refer to migrant workers, the ILO Governing Body recently adopted a new multilateral framework on labour migration. The framework is comprised of 15 principles covering key dimensions of international migration. Two of the principles focus specifically on the recruitment process within which many migrants experience exploitation and abuse. The ILO has invited governments, employers' and workers' organizations as well as relevant international organizations to promote and respect the convention, which provides a platform for protecting the rights of migrant workers.

Against this background, the current research is the first step toward a more detailed understanding of migrant recruitment practices, especially with respect to exploitative elements embedded in such processes. This study focuses on Cambodia, Lao PDR, and Thailand because recruitment regulations have recently been developed in the two sending countries and because the MOU on Employment Cooperation continues to be implemented among these countries.

1.2 Objectives

- Examine the current legal framework governing recruitment practices for migration, including the implementation of the MOU on Employment Cooperation;
- Develop a detailed understanding of migrant recruitment processes and practices;
- Compare the services, costs, and satisfaction of formal versus informal recruitment processes;
- Identify the impact of current recruitment practices on migrants and their conditions of employment.

1.3 Key terms

The following is a list of key terms used in the report and their definitions:

Formal recruiter: Any natural or legal person or enterprise licensed by the State to provide one or more of the following labour market services:

- Matching offers of employment with applications for employment, without becoming a party to the employment relationship that may arise as a result of this service;
- Employing workers with a view to making them available to a third party;
- Other services related to job seeking, determined by the competent authority after consulting the most representative employers' and workers' organizations, such as the provision of job-related information, that do not set out to match offers and applications for employment.

Informal recruiter: Any natural or legal person or enterprise not licensed by the State to provide one or more of the above labour market services. An informal recruiter may include any of the following sub-categories:

- Unlicensed private employment agencies;
- Informal brokers;
- Social networks, including individuals or groups that provide labour market services with or without remuneration. In cases where friends or neighbours give information to jobseekers without being paid, they are considered “helpers” rather than “recruiters.”

Migrant worker: According to the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families (1990), the term “migrant worker” refers to a person who is to be engaged, is engaged, or has been engaged in a remunerated activity in a state of which he or she is not a national (Article 2.1).

Employer of foreign workers: A natural or legal person or enterprise whose primary place of employment is outside the state of which the migrant worker is a national and who seeks to hire or employ migrant workers.

Formal recruitment: Services for job seeking and job placement provided by formal recruiters.

Informal recruitment: Services for job seeking and job placement provided by informal recruiters.

Consultant agencies: Agencies undertaking formal recruitment in the receiving country, Thailand.

Recruitment agencies: Agencies undertaking formal recruitment in the sending countries of Cambodia and Lao PDR.

1.4 Methodology

The objective of this regional research project is to test the two-fold hypothesis that migrants receive better protection through formal migration channels and that licensing of recruitment agents provides the best outcome in a cross-border context. To this end, research teams conducted studies in the sending countries of Cambodia and Lao PDR and in the receiving country of Thailand. Using questions that were standardized across the three studies, researchers conducted interviews with migrants and recruiters (both formal and informal), employers, government officials, NGO workers, and other stakeholders in the recruitment process in all three countries. Both questionnaire-based and in-depth interview techniques were used.

Research focused on Laotian and Cambodian migrants recruited into three work sectors in Thailand: construction; manufacturing; and food processing.

While every effort was made to standardize the research sample across countries, local conditions impacted the sample. The Lao team, for example, was unable to interview any informal recruiters. The Cambodian team, on the other hand, could not find a representative

sample of formal migrants to be interviewed (as only a small number of Cambodian migrants to Thailand had returned to Cambodia at the time of the study). The following sections offer an overview of the interview samples and research processes in each of the countries, including specific challenges faced by each research team as a result of local conditions:

Cambodia research

Overview

In order to better understand the experiences of Cambodians who migrate to Thailand for work, the Cambodian research team interviewed 163 migrants (78 formal and 85 informal migrants). A structured questionnaire was used, with questions kept simple so that respondents could complete the questionnaire within 30 minutes. All interviews were conducted face-to-face in the Khmer language.

Cambodian Interview Sample

General findings from the surveys were then supplemented with lengthier and more probing interviews of particular migrants and their recruiters, as well as consultations with government and inter-government migration experts and city- and field-based NGO workers. In-depth interviews took 1 to 2 hours. Most in-depth interviews were conducted in Khmer and recorded in English writing. In some instances, translation into English was provided on the spot so as to allow the lead researcher to guide the rest of the interview. Wherever possible, interviews were organized at the workplace of the respondents so that the research team could record observations of the atmosphere, working environment, and migrant-recruiter relationships.

This research was carried out between April and June 2007.

Targets	Sample size
Migrant workers from 3 sectors: <ul style="list-style-type: none"> • Construction (57 migrants) • Manufacturing (41 migrants) • Food processing (65 migrants) 	Survey: 163 migrant workers <ul style="list-style-type: none"> • 78 formal migrants • 85 informal migrants In-depth interviews: 10 migrant workers <ul style="list-style-type: none"> • 5 formal migrants • 5 informal migrants
Recruiters for 3 sectors: <ul style="list-style-type: none"> • Construction • Manufacturing • Food processing 	Survey: 15 recruiters <ul style="list-style-type: none"> • 8 private recruitment agencies • 7 brokers/intermediaries In-depth interviews: 10 recruiters <ul style="list-style-type: none"> • 5 formal • 5 informal
Government officials	Interviews: 5 key informants <ul style="list-style-type: none"> • MOLVT • PDLVT Kampong Cham • PDLVT Kampot • PDLVT Prey Veng • PDSALVY Kampong Cham

Targets	Sample size
Key stakeholders	Interviews: 5 stakeholders <ul style="list-style-type: none"> • ADHOC • Cambodian Women for Peace and Development • IOM • Legal Support for Children and Women • Mith Samlanh/Friends International

Source: Cambodia Report

Geographical coverage

The research team carried out the survey of formal and informal migrant workers in four provinces: Kampong Cham, Prey Veng, Kampot, and Battambang; interviews with informal recruiters were also conducted at these sites. These provinces were selected for a number of reasons: first, the national census and previous research have identified substantial out-migration from these provinces²; second, a significant portion of the migration from these provinces to Thailand is irregular; third, the research team was able to establish relationships with key informants in these provinces who helped provide access to migrant workers and informal recruiters for interview; finally, these four provinces lie along the two most popular migratory routes between Cambodia and Thailand (the Prey Veng-Battambang-Poipet route and the Kampot-Koh Kong route).

All interviews with formal recruiters were conducted in Phnom Penh.

Obstacles and limitations in the research

The Cambodian research team initially had difficulty locating migrants in the three target sectors to interview; many of the migrants whom they approached had worked either in fishing or on plantations. The difficulty of finding migrants to interview was compounded by the fact that research commenced after the end of Khmer New Year, and many Cambodians had already returned to Thailand to work.

Another obstacle in the research was interviewees' reluctance to discuss informal recruiters. Interviewees understood the illegality of certain informal recruitment

activities and, as a result, made an effort to protect themselves and their recruiters (many of whom were acquaintances or relatives of the migrants). The Cambodian research group found that informal recruiters were perceived as beneficial to the community, as they helped secure work abroad; recruiters were thus viewed as deserving of protection.³

The most severe limitation of this research was the Cambodian research team's inability to find a representative sample of formal migrants to be interviewed. At the time of research, only a small number of Cambodians had been sent to Thailand under the MOU and an even smaller number had returned home to Cambodia. The majority of those who had returned were individuals who had terminated their contracts prematurely because they found working conditions in Thailand to be different from what they had expected. Most formal migrants interviewed fell into this category; as a result, their responses offer an overly negative perspective on migration through formal channels.

Another factor that has likely skewed the findings somewhat is the environment in which the interviews took place. It was rarely possible to interview migrants in privacy, and most were interviewed in communal settings. At one interview in a migrant's home, for instance, there were approximately 20 people observing the process. Such circumstances made it difficult for respondents to speak openly and truthfully. Some migrants may have felt compelled to present the community's version of the truth instead of their own. The research team noted, in fact, that responses tended to mirror those given by other migrants in the same

² See National Institute of Statistics (2005), Mith Samlanh/Friends International (2006), Maltoni (2006) <unpublished paper>, and Legal Support for Children and Women (2005).

³ Cambodia Report.

group. While this could be due to the shared nature of their experience, it is also likely that the interview setting played a role.

Finally, the difficulty of obtaining access to informal recruiters and the resulting small sample size made generalizations problematic.

Lao PDR research

Overview

The Lao PDR research sample included four categories of respondents: returned Laotian migrants who had previously worked in Thailand; recruiters of Laotians to Thailand; Lao PDR government officials; and other key stakeholders. The fieldwork was carried out between May and June 2007.

The research employed two types of interviews: surveys and in-depth interviews. Standard questionnaire-based interviews were conducted with all 85 returned migrants in the Lao language. Interviews lasted between 40 and 60 minutes and were conducted by two researchers, one doing the questioning, one taking notes.

In-depth interviews were conducted with 10 returned migrants (5 formal and 5 informal). Selection for in-depth interviews was done over the course of survey interviews; if interviewees responded well to the standard questionnaire and seemed to have additional relevant stories to tell, the session evolved into an in-depth interview. Each in-depth interview lasted from 1 to 2 hours and enabled respondents to reflect more freely on their migration experience. In-depth interviews were tape recorded and transcribed in summary in the Lao language and later translated into English. The majority of migrants who gave in-depth interviews were returned migrants who had faced problems in Thailand.

A similar strategy, combining questionnaire and open questions, was used for interviewing recruiters.

Interviews with government officials were rather open in character. Those interviews allowed the research team to generate a clearer vision of the legal and policy frameworks that govern migrant recruitment practices in Lao PDR and to document perceived weaknesses and strengths in the current regulatory framework.

Interview Sample

Targets	Sample size
Migrant workers from 3 sectors: <ul style="list-style-type: none"> Construction (15 migrants) Manufacturing (46 migrants) Food processing (24 migrants) 	Survey: 85 migrant workers <ul style="list-style-type: none"> 20 formal migrants 65 informal migrants In-depth interviews: 10 migrant workers <ul style="list-style-type: none"> 5 formal migrants (3 in construction, 1 in manufacturing, 1 in food processing) 5 informal migrants (4 in manufacturing, 1 in food processing)
Recruiters for 3 sectors: <ul style="list-style-type: none"> Construction Manufacturing Food processing 	Interviews (combining survey and in-depth techniques): <ul style="list-style-type: none"> 7 recruitment agencies [no informal recruiters]

Targets	Sample size
Government officials	Interviews with key informants: <ul style="list-style-type: none"> • MOLSW • MOFA • Immigration Department (Ministry of Public Security) • Informal interviews were conducted with local authorities, such as village heads
Key stakeholders	Interviews with stakeholders: <ul style="list-style-type: none"> • Commercial and Industrial Chamber • Lao Trade Union • Lao Women's Union • Lao Revolutionary Youth Union

Source: Lao PDR Report

Geographical coverage

All migrant workers interviewed were from one of the following three provinces: Vientiane; Savannakhet; or Champassak. Savannakhet and Champassak are situated in the South of Lao PDR, bordering Thailand. Previous research has confirmed that significant migration takes place from Savannakhet and Champassak to Thailand, so these provinces were selected as key research sites (MOLSW and ILO-IPEC/TICW 2003 cited in Lao PDR Report, 2008: 9). Vientiane was also included in the research, as nearly all recruitment agencies are based there.

Obstacles and limitations in the research

A number of constraints on the Lao PDR research should be mentioned here, as they bear upon the findings. First, the formal migration process had not yet completed its first two-year contract cycle at the time in which the survey was undertaken. As a result, all of the formally recruited migrants interviewed were migrants who had returned prematurely (all, in fact, had returned within one year). Although the motivation for early return differed among migrants, all decisions to return were borne out of dissatisfaction with the migratory experience. Consequently, the research covers only a very specific category of formally recruited migrant workers: early and dissatisfied returnees. This skewed

sample makes it impossible to respond in any absolute terms to the two-fold hypothesis that initiated the research.

While the 85 returned migrant workers constitute a gender-balanced sample, the research team was not able to achieve a similar balance in terms of the sectors in which these migrants worked. The research team found only a few migrants who had worked in construction, for example. Most of the informal migrants that the team approached had worked in domestic service, gardening, or sales - rather than in one of the identified sectors. As a result, the sample of interviewees does not bear statistical relevance beyond the actual cases studied.

Third, the qualitative data obtained from both types of returned migrant workers, and particularly from informally recruited migrant workers, must be treated with some care. Given the short timeframe in which the field research was conducted, researchers did not have time to build up the mutual trust that is essential for reliable data-particularly as some questions dealt with a social practice (informal recruitment) that can border on, or slip into, the sphere of unlawfulness. For similar reasons, the scope for triangulation at the local level was extremely limited.

Another significant limitation was the inability to locate and interview any informal recruiters. Although the research team planned to conduct interviews with eleven informal recruiters, this proved impossible in the allotted timeframe. The research team was able only to collect some sporadic information on informal recruiters through secondary sources, such as migrants' descriptions of their relationships with informal recruiters or the accounts of villagers and local authorities. Given this lack of data, the Lao PDR team was forced to omit a section on informal recruiters from the final report.

Thailand research

Overview

The Thai research focused on the migration process as well as the living and working conditions of Cambodian and Laotian migrants currently in Thailand. Interviews were conducted with 120 formal migrants (61 Laotians and 59 Cambodians) and 20 informal migrants (10 Laotians and 10 Cambodians) using a combination of quantitative and qualitative tools. A structured questionnaire was developed, and migrant workers were interviewed face-to-face in Khmer and Lao. Each survey took approximately 20 to 30 minutes.

Interview Sample

General findings from survey interviews were supplemented by lengthier interviews of particular migrants and their recruiters. In-depth interviews were also used to obtain data and information from brokers, private recruitment agencies, government officers, NGOs, employers, and Cambodian and Lao Embassy officers. Each in-depth interview took approximately 2 hours. Interviews were held at the respondent's workplace so that researchers could observe activities related to formal recruitment while conducting taped interviews.

The Thai research was conducted by two research teams: the first was responsible for collecting data with Cambodian workers, and the second was responsible for collecting data with Laotian workers. Researchers carried out surveys and conducted in-depth interviews in Khmer and Lao.

The quantitative and qualitative fieldwork was carried out between May and June 2007.

Targets	Sample size
Migrant workers from 3 sectors: <ul style="list-style-type: none"> Construction (47 migrants) Manufacturing (62 migrants) Food processing (31 migrants) 	Survey: 140 migrant workers <ul style="list-style-type: none"> 120 formal migrants (61 Cambodians, 59 Laotians) 20 informal migrants (10 Cambodians, 10 Laotians) In-depth interviews: 10 migrant workers <ul style="list-style-type: none"> 5 Cambodians 5 Laotians
Recruiters placing workers into 3 sectors: <ul style="list-style-type: none"> Construction Manufacturing Food processing 	Survey: 6 recruiters <ul style="list-style-type: none"> Cambodian recruiters Laotian recruiters In-depth interviews: <ul style="list-style-type: none"> 5 recruiters

Targets	Sample size
Employers in 3 sectors: <ul style="list-style-type: none"> • Construction • Manufacturing • Food processing 	Survey: 13 employers <ul style="list-style-type: none"> • Construction (3 cases) • Manufacturing (8 cases) • Food processing (2 cases)
Government officials: <ul style="list-style-type: none"> • Ministry of Labour • Ministry of Interior • Provincial authorities • Embassy representatives 	Interviews: 6 key informants <ul style="list-style-type: none"> • Samutsakorn Employment Service officer • Trang Employment Service officer • Chonburi Employment Service officer • Ministry of Labour officer • Cambodia Embassy staff in Thailand • Lao Embassy staff in Thailand
Key stakeholders: <ul style="list-style-type: none"> • NGO Representatives • Migrant community leaders 	Interviews: 2 stakeholders <ul style="list-style-type: none"> • Center for AIDS Rights (CAR) • Raks Thai Foundation field officer

Source: Thailand Report

Geographical coverage

All interviews in Thailand were conducted in the Central and Southern regions. The research team carried out the survey of formal and informal migrant workers in ten provinces: Bangkok, Nonthaburi, Samutsakorn, Samut Prakarn, Chachoengsao, Chonburi, Ratchaburi, Nakhon Pathom, Nakorn Sri Thammarat, and Trang. Interviews with brokers and helpers were also conducted as part of this fieldwork.

These provinces were chosen for the following reasons: the Ministry of Labour identified them as provinces with high demand for migrant labor; they currently receive significant numbers of migrants (including irregular migrants); and the Thai research team was able to establish connections with key informants who could facilitate interviews with informal migrants in these provinces.

Obstacles and limitations in the research

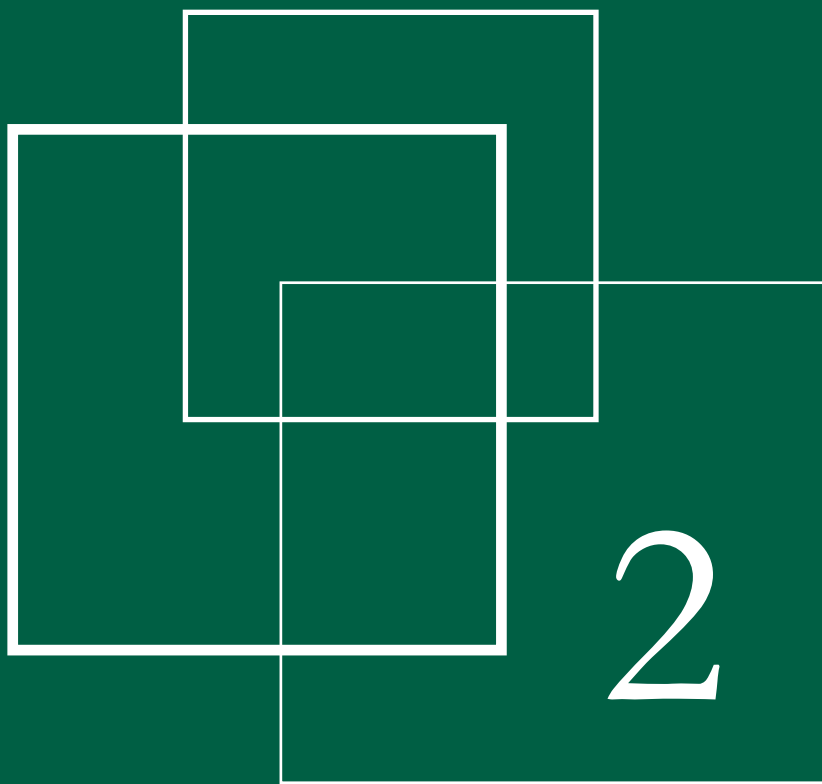
The Thai research team encountered obstacles in identifying informal recruiters and Thai employers-particularly employers of informal migrants-who were willing to collaborate with the study.

It was difficult for the Thai team to locate informal brokers, as they are not officially employed by Cambodian or Lao recruitment agencies. Moreover, several informal brokers ultimately refused to be interviewed. In the end, the Thai team was able to conduct in-depth interviews with 6 Cambodian recruiters and 2 Laotian recruiters, 4 of whom were informal individual brokers and 2 of whom were registered as consulting companies in Thailand.

The Thai team similarly found little cooperation among employers of informal migrants; the team was able to forge only a few connections with such employers through key informants and local NGOs.

In the case of employers of formal migrants, a limitation was the newness of the formal migration process, which made it difficult for employers to offer broad evaluations of the process. For most employers, this was their first experience with formal migrant workers.

Finally, the research team intended to interview a community leader representing formal migrants, but no such individual could be found.



2. LEGAL FRAMEWORK FOR MIGRANT RECRUITMENT IN THAILAND

The primary legal framework regulating formal labour migration from Cambodia and Lao PDR to Thailand is the *MOU on Cooperation in the Employment of Workers*. In addition to the MOU, a number of other legal instruments exist at the international, regional, and national levels to address formal recruitment and the protection of workers.

2.1 International legal framework

The ILO has played a key role in promoting the protection of migrant workers' rights. Three ILO conventions specifically address the formal recruitment and protection of migrant workers. These are: *ILO Convention no. 97 on Migration for Employment*, which contains provisions to assist migrants in securing employment; *ILO Convention no. 143 on Migrant Workers*, which addresses migration in abusive conditions and deals with equality of opportunity and treatment; and *ILO Convention no. 181 on Private Employment Agencies*, which sets parameters for the regulation, placement, and employment of workers recruited by private employment agencies.⁴

ILO Convention no. 181 on Private Employment Agencies is the most relevant international legal framework for an analysis of migrant recruitment. The convention recognizes that private employment agencies can contribute to the functioning of the labour market and encourages member states to govern the operation of private employment agencies through licensing, certification, national law, and practice. It also requires that steps be taken to protect the rights of workers employed by such agencies through the development of investigation mechanisms. The convention further encourages states to prevent abuses and fraudulent recruitment practices through bilateral agreements.

Other ILO instruments related to recruitment include the *ILO Multilateral Framework on Labour Migration*, which

was adopted in 2005 and consists of principles on international standards in labour migration policy-making, migrant workers' rights protection, and prevention of abusive practices and irregular labour migration. The latter part deals with licensing and supervising of recruitment and placement services for migrant workers.

The *ILO Guide to Private Employment Agencies: Regulation, Monitoring and Enforcement* offers guidance to national legislators in the drafting of legal frameworks that are in line with ILO Convention no. 181. The Guide notes the positive role played by professional codes of practice and voluntary industry standards through self-regulation. It also recommends the following codes of practice for overseas recruitment agencies:

- Minimum standards for the professionalization of the services of private agencies, including specifications regarding minimum qualifications of their personnel and managers;
- Disclosure of all charges and terms of business to clients;
- The principle that private agents must obtain from the employer as much information as possible about the job before advertising the position. This includes: specific functions and responsibilities; wages; salaries and other benefits; working conditions; travel and accommodation arrangements;
- The principle that private agents should not knowingly recruit workers for jobs involving undue hazards or risks or where they may be subjected to abuse or discriminatory treatment of any kind;
- The principle that migrant workers are informed to the greatest extent possible in a language they understand of the terms and conditions of employment;
- Recruitment agencies should refrain from bidding down wages of migrant workers;

⁴ Thailand, Cambodia, and Lao PDR have not ratified the three ILO conventions.

- With due respect for the migrant and the migrant's family, recruitment agencies should maintain a register of all migrants recruited or placed and make this available for inspection by the competent authority. (ILO, 2007: 41)

The ILO Multilateral Framework on Labour Migration provides a comprehensive collection of principles, guidelines, and best practices on labour migration policy, derived from relevant international instruments and a global review of labour migration policies and practices of ILO constituents. This non-binding framework can be used as a model for improved legislation on labour recruitment and migration at the national level.

The *UN Convention on the Protection of the Rights of Migrant Workers and Members of their Family* (ICPRMW) reaffirms the human rights of migrant workers regardless of their legal status. Cambodia has been signatory to the ICRMW since September 2004, but has not yet ratified the convention. Neither Lao PDR nor Thailand has signed the ICPRMW.

The *UNIFEM Covenant of Ethical Conduct and Good Practices of Overseas Employment Service Providers* encourages states to provide quality training and orientation programs for migrant workers; ensure their medical fitness; campaign against illegal recruitment; and adhere to the principles of fairness, gender equality, and non-discrimination in the treatment, selection, and placement of migrant workers. The UNIFEM covenant offers specific recommendations to Lao PDR to develop capacity building for recruitment agencies on employment management and worker protection; it also encourages Lao recruitment agencies to set up an association.

The *Recommended Guidelines for Migrant Recruitment Policy and Practice in the Greater Mekong Sub-Region* were developed by representatives from government, workers' organizations, and employers' organizations from across the sub-region as part of an ILO-led initiative in 2007. They provide guidance on the issues of pre-departure procedures and services, regulation of recruitment agencies, fees for recruitment services, and working conditions and rights.

2.2 Regional legal instruments

The *MOU on Cooperation in the Employment of Workers*, signed between the Lao PDR and Thailand in 2002 and between Cambodia and Thailand in 2003, is the most significant regional legal instrument for this study. The purpose of the MOU is to manage external labour migration from neighbouring countries and to control irregular cross-border migration into Thailand (Jerrold Huguet cited in the Cambodia Report, 2008: 24).

Articles I-IX of the MOU cover the process of formal recruitment from Cambodia and Lao PDR into Thailand. Article V states that authorized Thai agencies (consulting companies) shall inform recruiting agencies in the sending countries of job opportunities and provide them with details on the number and qualifications of workers needed, the period and conditions of employment, and the remuneration offered by Thai employers. Article VI of the MOU specifies that authorized agencies (formal recruitment agencies) shall then provide their counterparts with lists of selected applicants, including workers' ages, permanent addresses, and references. Article VII details the requirements for immigration and job placement, including the signing of employment contracts by workers. Article VIII states that recruitment agencies are responsible for the administration of the list of workers from the beginning of the recruitment process to the termination of the employment period. Article IX sets the period of employment at two years, with the possibility of an additional two-year extension. Article XI indicates that workers must make a monthly contribution of 15% of their salary to the savings or deportation fund set up by authorized agencies in the host country. Article XVIII states that workers are entitled to the same wages and benefits as local workers. It should be noted that there is no article mentioning recruitment fees in the MOU.

Another key regional framework addressing labour migration is the *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers*. The declaration, launched in January 2007, acknowledges the concerns of sending and receiving states with regard to migrant workers and recognizes the need to adopt

comprehensive migration policies, including measures to address cases of abuse and violence against workers. The declaration promotes the establishment of legal practices to regulate recruitment and the adoption of mechanisms to eliminate malpractice (Section 14).

The *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers* lays out the obligations of both sending and receiving countries. Sending countries' obligations include establishing procedures to facilitate recruitment, preparing migrants for deployment overseas, and ensuring the protection of migrant workers while they are abroad (Section 13). Obligations of receiving countries include protecting workers' human rights and facilitating the provision of information, training, education, justice, and social welfare to workers (Section 5, 7 and 8). The declaration also calls for fair and appropriate wages and working and living conditions. The declaration was signed by the leaders of all ten ASEAN nations; nonetheless, it is a non-binding statement of intention.

2.3 National legislation and policy implementation in Thailand

Each of the three countries under study has its own legal framework to address formal recruitment. These consist primarily of regulations or decrees following the *MOU on the Cooperation in the Employment of Workers* as well as existing laws on immigration and labour.

Prior to the MOU, Thailand regulated labour migration through three laws: the *Immigration Law* (1979); the *Employment of Aliens Law* (1978); and the *Labour Protection Law* (1998). These laws define the status of immigrants who look for employment, the jobs permitted to foreign workers, and the protection of all workers regardless of nationality. The Immigration Law states that all immigrants who enter Thailand without a visa and/or act in breach of the law are illegal and may be deported and penalized. Section 17 of the Immigration Law, however, provides the Minister of Interior with discretion in applying the strictures of the Act. This is a window for exempting informal migrants from deportation. The Employment of Aliens Law

states that a work permit is required for a foreigner to work in Thailand. Foreigners are allowed to work only in certain activities designated by law (Section 12). The *Royal Decree of 1979* lists 39 activities prohibited to foreigners, but the law provides flexibility for the authorities to allow migrant workers to work temporarily in some sectors as conditioned by law and cabinet decision. The Labour Protection Law ensures that the protection measures in Thai law are consistent with international standards (Vitit Muntarbhorn cited in the Cambodia Report, 2008: 25).

After the signing of the MOU in 2002 and 2003, the Thai government initiated further legislation to comply with the MOU. Eight cabinet resolutions related to labour migration and formal recruitment were passed between 2003 and 2007. The cabinet approved the Ministry of Labour's proposal to recruit workers from neighbouring countries through proper channels in May 2005; in January 2007, the cabinet agreed to execute a pilot project of formal recruitment.

In 2004, the Ministry of Labour submitted the *Guideline for Migrant Worker Management*; the *Comprehensive Migrant Worker Management System*; and the *Implementation Plan of the MOU* as proposals to the cabinet. The Ministry of Labour also held three significant meetings in 2004-2005: meetings with the Cambodian and Lao PDR governments respectively to define practical guidelines for following the MOU as well as a follow-up meeting on nationality identification and procedures for formal recruitment. A year later, in 2006, the Ministry of Labour held a meeting with the Myanmar government on the same issues.

In addition, in 2005 the Ministry of Labour met with employers who expressed a desire to hire migrant workers through the formal recruitment system. Then, in March 2007 the Ministry of Labour published and disseminated the *Guideline of Procedures of Formal Recruitment 2007* to set standards of conduct for government officials with regard to the new regulations and to assist employers who want to hire formal migrants.

Since the signing of the MOU between Lao PDR and Thailand in 2002 and between Cambodia and Thailand in 2003, senior officials have had five conferences at the senior level and two conferences at the ministerial level to discuss guidelines for implementation of the MOU. After the fourth senior officer level meeting in April 2006, a system was established in September 2006 for the formal recruitment of Laotian and Cambodian workers, and licensed recruitment agencies began

bringing Cambodian and Laotian migrants to Thailand. As of June 2007, 3628 Cambodians had been recruited and brought to Thailand under the MOU. The majority of them were working in the South (1634) and the Bangkok Metropolitan Area (1130). In the same period, 3164 Laotian workers were recruited: 1371 to the South and 1440 to the central region (including the Bangkok Metropolitan Area).

Table 1. Number of formal migrants under the MOU and as a result of the regularisation process (as of June 2007)

Region of Thailand	Workers who have migrated under the MOU between October 06 - June 07			Regularised migrant workers who have gained work permits		
	Laotian	Cambodian	Total	Laotian	Cambodian	Total
Bangkok	440	1,130	1,570	19,465	9,951	29,416
Central	1,000	834	1,834	8,879	10,385	19,264
Northern	2	0	2	1,160	3,488	4,648
Northeastern	351	30	381	3,928	34	3,962
Southern	1,371	1,634	3,005	1,050	249	1,299
Total	3,161	3,628	6,792	34,482	24,107	58,589

Source: Department of Employment, Office of Foreign Workers Administration 2007

The government of Thailand is currently revising the Act on Employment Agencies and Job Seeker Protection (1985), which affects recruitment companies in Thailand who want to cooperate with their counterparts in Cambodia and Lao PDR to bring migrant workers to Thailand. In the earlier version of this law, private recruitment companies that sent workers abroad registered and paid a deposit of five million baht to the Ministry of Labour as a security deposit. The revised law requires private companies who want to bring foreign workers into Thailand to follow the same recruitment process, but they can now register as recruitment companies rather than consulting companies. This law was passed in 2007.

2.4 National legislation and policy implementation in Lao PDR

The MOU describes in very general terms the institutional framework for the employment of Laotian workers through recruitment agencies. It identifies the Thai Ministry of Labour and the Lao Ministry of Labour and Social Welfare (MOLSW) as the authorised agencies to carry out the MOU (Article 2).⁵ The process of labour migration from Lao PDR to Thailand is described in more detail in the Prime Minister Decree 68/2002 *Export of Lao Workers Abroad* (2002) and in guidelines No. 2417/MOLSW *On Implementation of Decree on Export of Lao Workers Abroad* (2002). In addition, document number 3824/MOLSW sets out a series of restrictions on the recruitment of certain types of professions for labour abroad (2002).⁶

⁵ The MOU is reproduced in Annex 1 in (Vitit Muntarbhorn 2005).

⁶ A recent UNIFEM study presents a thorough analysis of the policy framework concerning migration from the Lao PDR to Thailand (Inthasone Phetsiriseng, 2007).

Prime Minister Decree 68/2002 outlines in Article 1 the main motivations for sending Laotian workers abroad. Through regularisation of labour migration, the Lao government aims to expand the quantity and variety of workplaces available to Laotian workers; other pragmatic objectives include upgrading the skills, knowledge, and expertise of Laotian workers in both technical and professional fields (2002).

The Decree further outlines the criteria Laotian workers must meet in order to be considered for recruitment through formal channels. Article 3 stipulates that migrants must hold Lao PDR citizenship, be 18 years or older on the date of application, have completed primary school education, be in good health, and be a good citizen (2002). In practice this means that potential migrants must minimally have a family book to prove their age and citizenship (or an identity card or passport), a school-leaving certificate, a criminal clearance reference from local authorities, and a health certificate.

Document 3824/MOLSW (2002) provides a further set of limitations regarding the recruitment of Laotian workers abroad. Part 2 of document 3824/MOLSW lists three categories of vocations that are banned from labour migration: 1.) unskilled workers such as cleaners, domestic workers, and porters; 2.) vocations that are inappropriate and incompatible with the Lao tradition, culture and law, such as work in the sex sector, work with narcotics, or illegal political activities; and 3.) dangerous occupations such as open sea fishing, exposure to radioactive radiation, etc.

Last, although Jerrold Huguet and Sureeporn Punpuing (2005: 36) note that the Thai-Lao PDR MOU on Employment Cooperation does not speak of requirements of employment contracts, Guideline 2417/MOLSW makes explicit mention of three contracts. Moreover the need for three different contracts is reemphasised in 3011/MOLSW (2007). According to these official documents, and confirmed by interviews with recruitment agencies and government officials, the following contracts must be in place for formal migration of Laotian workers to Thailand:

- A contract between the Laotian worker and the recruitment agency (Article 7.3)
 - A contract between the Thai employer and the Lao recruitment agency (Article 9.3)
 - A contract between the Laotian worker and the Thai employer (Article 9.4)
- 2417/MOLSW(2002) & 3011/MOLSW (2007)

2.5 National legislation and policy implementation in Cambodia

The most important national legislation for the management of labour migration in Cambodia is the *Sub-Decree 57 on Sending Khmer Migrants to Work Abroad*. The sub-decree was created in 1995 by the former Ministry of Social Affairs, Labour and Veteran Affairs with the broad objectives of improving the living standards and vocational skills of Cambodians, generating national income through remittances, and easing unemployment pressures in the domestic labour market. It gives the Ministry of Labour and Vocational Training (MOLVT) the authority to permit any company to send Cambodians to work overseas. It also stipulates that the MOLVT shall cooperate with the Ministry of Interior in issuing passports for workers and with the Ministry of Foreign Affairs and International Cooperation in monitoring Cambodian workers in the destination country.

Most of the 22 Articles in the sub-decree describe the processes and procedures through which the MOLVT and private recruitment agencies cooperate to send Cambodian workers abroad and manage them.

Article 6 states that workers can be sent abroad only once an employment contract exists between the worker and the recruitment agency, and Article 9 specifies the information that should be contained in this contract:

- Name and address of each party;
- Date of commencement and termination of the contract;
- Place of work and job specification;
- Skills of workers;
- Salary and allowances;

- The portion of salary or other allowances that will be sent to the worker's family;
- Hours of work, days off, and annual leave;
- Accommodation, meals, clothing, and medical care;
- Social security contributions for each worker;
- Delivery and receipt of workers.

Article 8 states clearly that recruitment agencies shall pay the MOLVT for services and the preparation of relevant documents. "Services" are taken to mean the recruitment or placement of workers for overseas employment; "relevant documents" refer to passports, visas, work permits, and other travel and identification documents required for the migrant to reside and work in Thailand legally. While this clause discourages recruitment agencies from charging a fee for the abovementioned services, it does not explicitly preclude them from obtaining fees for other services.

Interestingly, Article 12 defines MOLVT's role as that of "labour scout," recruiting workers according to the terms of the employment contract. In practice, it is the recruitment agencies that procure and register workers.

Other provisions in the sub-decree that relate to the recruitment of workers include Article 14, which states that both the MOLVT and recruitment agencies are responsible for organizing pre-departure orientation and training for workers and Article 17, which obliges recruitment agencies to act as mediator in the event of a labour dispute between workers and employers.

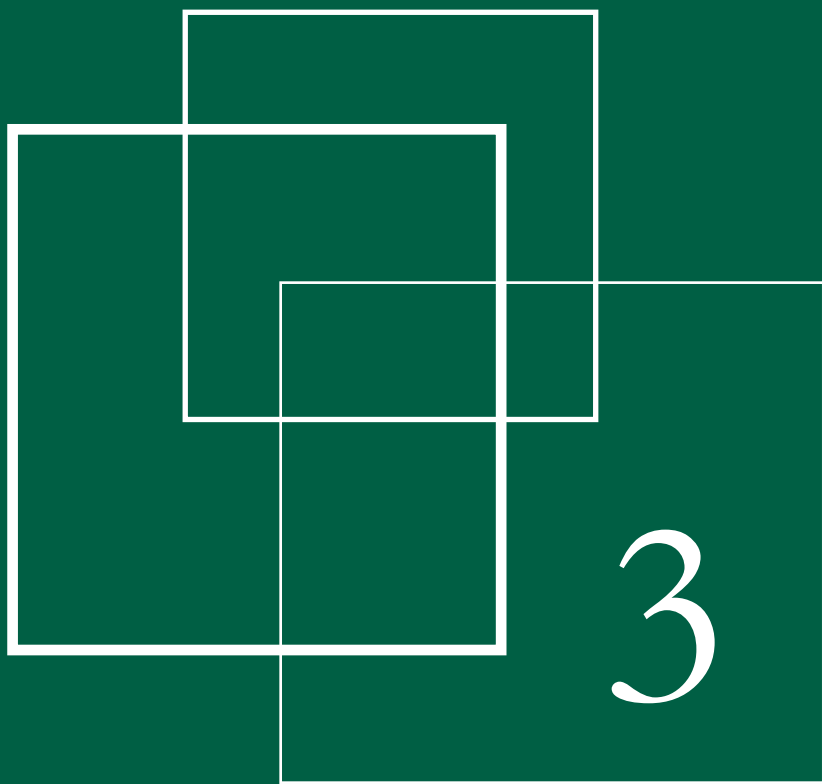
Recruitment agencies that wish to obtain a license to send Cambodian workers abroad are required by Article 7 to deposit a guarantee of US\$100,000 with the MOLVT. The MOLVT has the right to use this deposit to compensate workers if recruitment agencies are found not to comply with any conditions as stated in the employment contract. Workers who find their rights violated can therefore, in theory, receive monetary compensation from the MOLVT.

Article 20 states that any person violating the provisions of the sub-decree shall be penalized in accordance with existing domestic laws. It is not explicitly stated, however, whether such a penalty includes the revoking of the recruitment agency's license or the confiscation of its guarantee deposit.

In recognition of the need to respond to new migration trends and dynamics, the government has created additional legislation to supplement the *Sub-Decree 57 on Sending Khmer Migrants to Work Abroad*. *Sub-Decree 70 on the Creation of the Manpower Training and Overseas Sending Board* (MTOSB) was implemented in July 2006 to develop a public recruitment system. Under this sub-decree, the MTOSB acts as a public agency for "recruiting, training, sending, and managing Cambodian workers to work overseas." The primary roles of the MTOSB are to establish norms, criteria, and procedures for the recruitment, education, and training of workers so that they attain the necessary skills to perform work in the host country.

*Prakas*⁷ 108 on the Education of HIV/AIDS, Safe Migration, and Labour Rights for Cambodian Workers Abroad also addresses pre-departure training. The *prakas* was created in May 2006 to promote training and awareness-raising on health issues, particularly HIV/AIDS and other sexually transmitted diseases, for Cambodian migrant workers and their families. *Prakas* 108 intends such training to be conducted both in the pre-departure stage and once the migrant has returned home. The most recent legislation, *Prakas* 012/07 on the Creation of a Labour Migration Taskforce, was passed in January 2007 to develop and implement policy and action plans under the Labour Migration Section of the MOLVT.

⁷ *Prakas* is the Khmer term for Ministerial Order.



3. THE RECRUITMENT PROCESS

3.1 Demand for migrant workers

Formal recruitment based on the MOU began in late 2005 when the first group of Laotian workers arrived in Thailand. This group was followed in early 2006 by a group of Cambodian workers. In addition, 80,596 Cambodian and Laotian migrants already living in Thailand were granted legal status by September 2007 through a programme of open registration under the MOU. The total registered number of formal migrant workers in Thailand in September 2007 thus came to 535,732. This number, however, fell far short of the total demand for migrant workers, which by 2007 exceeded 1.7 million. As a result, the demand was filled primarily by informal migrant workers, most of whom were already living in Thailand.

Although the demand for formal migrants is rising, it represents only about 7% of total demand for migrant workers since employers must pay a high fee in advance to recruit formal migrants. Still, the demand for formal

migrants is greater than the number of migrant workers that the Lao MOLSW and the Cambodian MOLVT can supply.

In the domestic work sector, for instance, Thai employers requested a total of 45,357 Laotian domestic workers, but no formal migrants were sent, since Lao PDR has not approved domestic work as a sector for formal migration.⁸ In other sectors of employment, such as food processing, garment factory work, and small industrial plants, only 6% of employers' demand was supplied by formal migrants (Inthasone Phetsiriseng, 2007: 5).

Table 2 illustrates the demand for formal migrants by nationality in approved formal employment sectors. By September 2007, Thai employers requested a total of 62,094 workers from Lao PDR, but only 4,448 migrant workers were placed; of 39,010 workers requested from Cambodia, only 6,143 were placed. Overall, only about one-tenth of the demand for formal migrant workers was met.

Table 2. Demand for formal migrants by nationality and number of migrants placed (as of January and September 2007)

Year 2007	Total demand	Total number of migrants placed	Cambodians		Laotians	
			Demand	Number of migrants placed	Demand	Number of migrants placed
January	77,370	8,355	22,076	2,833	55,294	5,522
September	101,104	10,591	39,010	6,143	62,094	4,448

Source: Ministry of Labour

According to the Ministry of Labour, the highest demand for migrant workers was in agriculture, followed by construction, domestic work, fishery related jobs, and labour in other sectors (Table 3). The

demand was significantly higher than the number of formal migrants that could be recruited to work in these sectors.

⁸ The domestic service sector is not currently protected under Thai labour law. There is a move by NGOs and academics to include this sector in the labour law that is currently being revised in the Thai Parliament. Significant numbers of Laotians, particularly women and girls, currently work in this sector without protection; at the time of open registration, 32,000 Lao domestic workers were already working in Thailand (Inthasone Phetsiriseng, 2007).

Table 3. Demand for migrant workers by sector (as of January 30, 2007)

Sectors	Total demand for migrant workers (as of January 2007)	Number of formal migrants placed (as of June 2007)
Agriculture	338,391	422
Construction	333,862	1,038
Domestic work	181,962	12
Fishery	98,951	-
Fishery related work	153,450	136
Other	666,733	6,747
Total	1,773,349	8,355

Source: Ministry of Labour

A number of factors work to limit the available supply of labour in sending countries. These include: high recruitment fees (which often compel the migrant to assume debt); long wait times, even after the employment contract has been signed; and complex procedures. Moreover, recruitment agencies can send a

group of migrants to work in Thailand only if the agency succeeds in recruiting enough workers to fill the order completely. As a result, as Table 4 demonstrates, recruitment agencies frequently send fewer migrants than requested.

Table 4. Number of Laotian workers requested by Thai employers and sent by Lao recruitment agencies

Recruitment Agency (state/private)	Number of Laotian workers requested	Laotian workers sent to Thailand			
		Construction	Food- processing	Manufacturing	Total
Deuansavan Employment Company (private)	0	0	0	0	0
Inter-Labour (private)	1,000	0	692	0	692
Lanexang Labour State Employment (state)	1,395	60	41	20	121
Lao State Employment Enterprise (state)	3,898	0	479	1,302	1,781
Lao Labour Promotion (private)	2,500	0	450	600	1,050
Sinxay Employment Company (private)	1,000	100	400	120	620
Xaya Employment (private)	2,000	48	236	0	284
Total	11,798	208	2298	2042	4636

Source: Lao PDR Report

3.2 Factors driving formal recruitment

A number of factors support the recruitment of formal migrant workers into Thailand:

- The Thai government's desire to regularize informal migrants and address the labour shortage;
- Thai employers' need to fill jobs in certain sectors and their desire to eliminate corrupt practices around the hiring of informal migrants;
- Cambodian and Lao PDR government policies to bring their nationals under the protection of regional and national legislation while they are abroad.

Determining factors for migrant workers

Workers noted that coming through legal channels gave them self-confidence, courage, and an expectation of

better protection. A female Cambodian migrant working in food processing in Trang stated:

I feel good coming as a formal worker, I don't have to hide like a prisoner...I can go anywhere freely and won't be arrested.⁹

Safety was another important reason for choosing formal channels over informal ones. A Cambodian male migrant working on a construction site in Bangkok stated:

I didn't have to take risks while traveling, there was no need to hide, and I felt safer in Thailand.¹⁰

Migrants consider a number of factors when deciding whether to migrate through a formal or informal recruiter, as Table 5 indicates.

Table 5. Primary considerations when selecting a recruiter

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Reputation	89.74	70	84.71	72	87.12	142
Services provided	35.90	28	7.06	6	20.86	34
Speed	5.13	4	61.18	52	34.36	56
Safety and protection	73.08	57	10.59	9	0.49	66
Availability of information and support services	26.92	21	2.35	2	14.11	23
Costs	3.85	3	11.76	10	7.98	13

Source: Cambodia Report

Table 5 shows that both formal and informal Cambodian migrants consider an agent's reputation to be the most important factor when choosing a recruiter; nearly 90% of formal migrants and 85% of informal migrants surveyed cited reputation as a primary concern.

The second most important consideration for formal migrants was safety and protection, which was cited by 73% of respondents. While this suggests that safety and protection are given significant weight by formal migrants, it can also be inferred that migrants who use recruitment agencies have an expectation that their

welfare and rights will be better protected through formal channels. Many formal migrants also gave weight to services provided by recruiters and the availability of information and support services at the destination.

In contrast, speed in obtaining paid work was the primary impetus for informal migrants to use intermediaries instead of recruitment agencies. More than 60% of informal migrants surveyed in Cambodia considered speed a key factor in their decision. Not surprisingly, only 5% of formal migrants indicated

⁹ Thailand Report.

¹⁰ Thailand Report.

speed as a primary concern. This may be, however, because formal migrants had little expectation of speed from recruitment agencies-not because they considered speed an unimportant factor in the process.

One NGO worker explained that many migrants avoid migrating through recruitment agencies because doing so compels them to meet quotas set by their employers (which often requires overtime work).¹¹ Formal migrants are contractually bound to their employers, so ironically, they may be forced to endure harsher conditions at the worksite. (Informal migrants, on the other hand, have the flexibility to quit if conditions are particularly bad, giving them a measure of autonomy from their employers.) Moreover, formal migrants incur significant debt even before they begin work. The long wait before work commences poses a further hurdle for migrants who might prefer to use formal channels.

Sometimes the preference for informal brokers over recruitment agencies is the result of years of social conditioning. Migrants accustomed to a more personalized form of service may find it hard to adjust to the formalities and rigidity of the formal recruitment procedure. The informal process is simpler, faster, and involves no documentation. The Cambodia Report notes that most Cambodian migrants work informally even in Cambodia, as the informal sector dominates the economy and absorbs 85%¹² of its workforce (EIC cited in Cambodia Report 2008: 67).¹³

Determining factors for Thai employers

Thai employers have a significant stake in the formal recruitment process, as the recruitment of foreign workers addresses a substantial labour shortage in a number of sectors. Employers noted that they hire migrants primarily because the local labour supply is insufficient to fill their needs. Another reason employers recruit migrant workers is to guarantee sufficient labour to perform tasks for a certain period of time (as formal migrants are bound to an employer for two years). The manager of a garment factory in Samutprakarn stated:

Our business couldn't wait-we needed to fill our customers' orders. We can't afford to do without workers for too long. Thai workers have choices, and they often quit their jobs. We wanted to make sure we had workers to finish production.¹⁴

Employers also stated a preference for employing formal (as opposed to informal) workers because the screening process for formal migrants includes background checks; hiring formal migrants, they believed, ensured the safety of others at the worksite.

Thai employers noted that the regularization of informal migrants also reduced corruption around arrests at the workplace.

Determining factors for Lao PDR and Cambodia as sending countries

The governments of sending countries regard formal migration channels as a means to secure the safety of their overseas workers. Officers from the Lao and Cambodian Embassies in Bangkok noted that they expect better protection for their workers when they migrate through legal channels. The MOU guarantees the same protection and benefits for formal migrant workers as for Thai workers. Migrant workers' contracts enable the Lao and Cambodian Embassies to trace employers more easily and to use the judicial system to bring employers to justice in cases of worker abuse. Formal recruitment thus helps prevent human trafficking and the trading of migrants.

Determining factors for Thailand as a receiving country

The Thai government supports the recruitment of formal migrants in an effort to solve the labour shortage and to strengthen the protection of workers against abuse. Thailand's strategy for the regularization of formal workers involves: restricting the number of migrants entering the country; systematizing and setting up standards for hiring migrant workers; arresting and deporting migrant workers who enter the country illegally; publicizing the regulations for formal recruitment; and evaluating the implementation of formal recruitment policies on a regular basis.

¹¹ Cambodia Report.

¹² 2003 statistic.

¹³ Most informal work in Cambodia is concentrated in rural areas and centered around agricultural industries and activities such as food processing, mining, furniture manufacture, vehicle maintenance and repair, electricity generation, construction, retail trade, home-based apparel making, spinning and weaving, and transport.

¹⁴ Thailand Report.

3.3 The recruitment process

This study found that migrants gained information about job opportunities in Thailand from a variety of sources. Formal Cambodian workers learned about job opportunities primarily through public media and through recruitment representatives, friends or relatives, and agencies' notices. Formal Laotian workers learned about such opportunities most often through representatives of recruitment agencies and through friends and relatives. Informal migrants generally learned about jobs through friends, relatives, word of mouth, or brokers.

3.3.1 Informal recruitment channels

Upon learning of a job opportunity, some workers chose to migrate to Thailand through informal channels because there was no wait time, no document requirements, and no recruitment procedure to undergo.

This study found that in general it took only a few days for informal migrants to depart for Thailand after making the decision to migrate. In most cases, informal migrants traveled in small groups with four or five other workers from the same village. Such groups generally traveled with a broker who escorted them to the border or, in some cases, to the Thai workplace. Travel within Thailand was done primarily in the daytime, but also sometimes at night, and was arranged by the brokers. In some cases, informal migrants crossed the border illegally without any documents and traveled only at night.

The research teams also found facilitators who were relatives of the migrant and whose previous work experience in Thailand enabled them to take the migrant across the border and to the workplace without much difficulty.

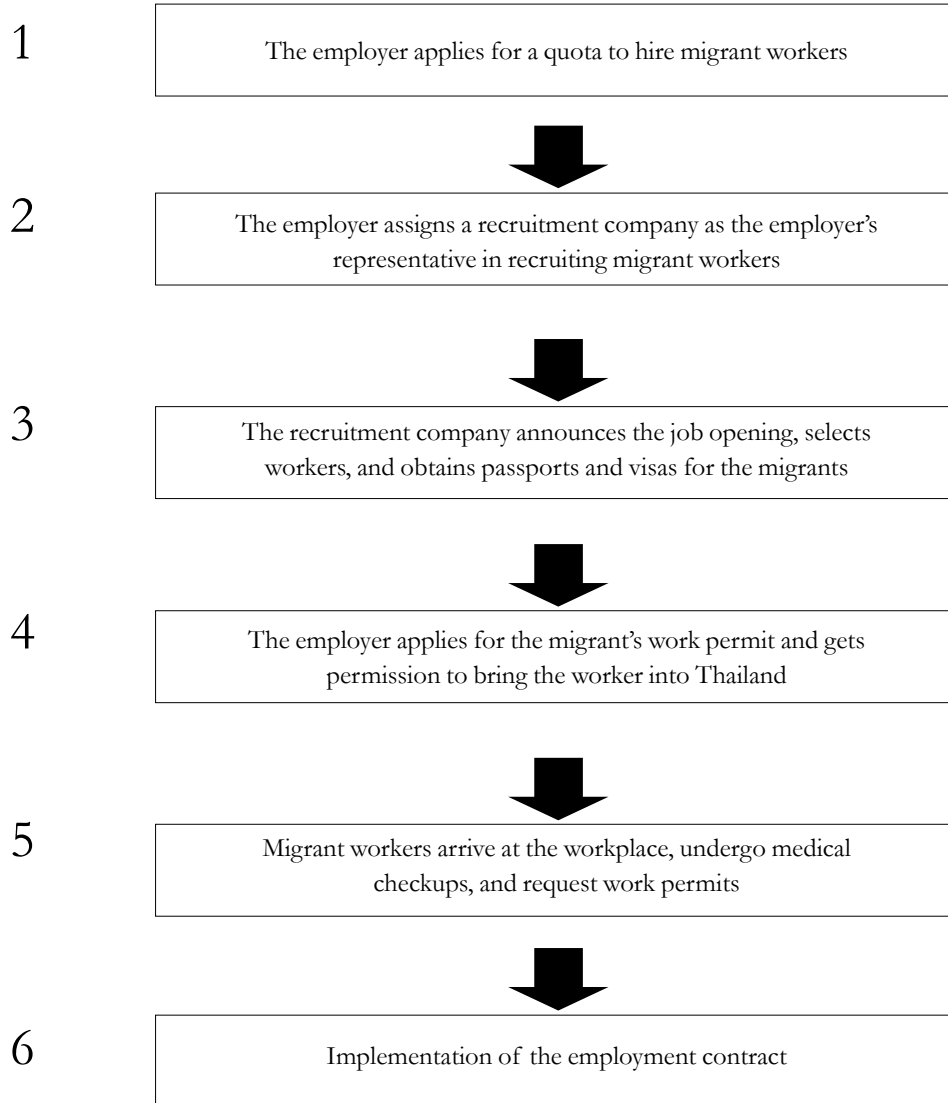
3.3.2 Formal recruitment channels

There are six steps in the recruitment procedure of formal migrant workers from Lao PDR and Cambodia into Thailand:

1. The Thai employer applies to the Department of Employment of the Thai Ministry of Labour for a quota to hire migrant workers and obtains approval (either for the requested number of workers or for a lower number as the Ministry sees fit).
2. The employer assigns a recruitment company to be the employer's representative in recruiting formal migrants.¹⁵ This company then collaborates with recruitment agencies in Cambodia or Lao PDR. As of February 2007, there were ten licensed recruitment agencies in Cambodia and nine in Lao PDR. The employer issues a Demand Letter that includes information about the sector of employment and working conditions for the position as well as the age, gender, number, and wage of formal migrants sought.
3. The recruitment agency announces job vacancies, selects workers, and prepares travel documents for selected workers. Workers undergo health checks in the country of origin.
4. The employer receives a list of selected workers from the recruitment agency. The employer then applies for a work permit on behalf of each worker from the Thai Ministry of Labour and gets permission to bring workers to Thailand.
5. Formal migrants arrive in Thailand and are received by the employer or the employer's representative. Workers undergo a medical check and process the work permit application.
6. The Thai Ministry of Labour and the Cambodian and Lao Embassies follow up on implementation of the employment contract by employers.

¹⁵ At the time of research, Thai employers were required to use the service of private recruiting companies or individuals who registered themselves as consulting companies, as there was no formal channel for the registration of Thai recruitment agencies to bring workers to Thailand. Such registration only existed for agencies sending Thai workers abroad. A new law licensing such agencies, the Working of Aliens Act BE 2551 went into effect in February 2008.

Summary of Formal Recruitment Process



Formal recruitment procedures in Cambodia

Once the employer in Thailand, with the assistance of consulting companies, sends a demand letter to a Cambodian private recruitment agency, the Cambodian agency begins the process of recruitment on the Cambodian side.

The Cambodian study identified two types of recruiters: formal and informal. Private recruitment agencies constitute the only formal and legal means of

recruitment in Cambodia. Even formal recruitment agencies, however, rely heavily on independent agents who are based in villages and who have strong connections with the community to help them recruit workers. One recruitment agency reportedly has 15 to 20 such agents in each province. The recruitment companies subcontract to these agents and pay them on a commission basis, approximately \$10 to \$50 per recruited worker.

A representative of a Cambodian recruitment agency explained the formal process:

Workers are recruited by our appointed agents in provinces. They are ordinary people living in the province who are well known, know the place well, and are willing to be responsible for their work. We trust them and have confidence in them. They are not full-time staff of our company. We give them appointment letters stating they are our agents and we also inform the village chief that they will be distributing information and conducting recruitment in the villages. We provide a copy of documents related to our demand requirements and company policy to the agents. I pay \$10 for every worker recruited by agents. Our agents do not take money from the migrant workers. They will send those workers to my company. My company does not collect any advance fees until they [the migrant workers] are sent to Thailand.”¹⁶

Once the independent agent recruits a worker to a private recruitment agency, the agency begins the process of preparing the worker’s travel documents (passport and visa) and arranging for the worker’s medical checkup. Some recruitment agencies charge a fee of US\$200 in advance for these services, an amount allowed by the Ministry of Labour and Vocational Training, Cambodia (MOLVT). Other agencies absorb this fee themselves and charge the amount to the Thai employer later.

The timeline for formal recruitment is as follows:

1. An employer issues a letter to delegate a consulting company with the authority to act on the employer’s behalf and submits it to the local employment recruitment office in Thailand (3 days).
2. The consulting company and employer’s representative sign a contract (1 day).
3. Independent agents in Cambodia recruit workers according to the employer’s specification (7 days).
4. A recruitment agency in Cambodia processes the paperwork and passport (60 days).

5. The Cambodian MOLVT sends a list of workers’ names to the Thai MOL (7 days).
6. The Thai consulting company passes the name list onto employers, then collects all documents from employers and sends these first to the Thai MOL and then to the MOLVT (14 days).
7. The recruitment agency processes the visa and work permit for workers (15 days).
8. The recruitment agency sets a date to hand over workers to the consulting company (3 days).
9. The consulting company informs employers of the date and time for the delivery of workers.
10. Delivery of workers at the Thai-Cambodian border.

The entire process takes approximately 110 days (3-4 months).

Informal recruitment in Cambodia

In the case of informal recruitment, it is “brokers” or “helpers” who facilitate job placement. Helpers are often migrant workers who recruit new workers from their own villages. These individuals know the work situation in Thailand and have good relationships with Thai employers, Thai brokers, and the Thai police.

Formal recruitment procedures in Lao PDR

Three contracts are required for the placement of Laotian workers into Thai employment:

1. A contract between the recruitment company and Thai employer (or representative agreeing to offer the service of employment recruitment)
2. A contract between the recruitment company and Laotian worker that indicates the worker’s consent to the recruitment company’s conditions
3. An employment contract between the Laotian migrant worker and the Thai employer

The recruitment procedure in Lao PDR differs from that of Cambodia. To begin the process of recruitment of Laotian workers, the Thai MOL sends a demand letter to the Lao Ministry of Labour and Social Welfare (MOLSW) through diplomatic channels. The MOLSW then informs one of the nine licensed recruitment

¹⁶ Cambodia Report.

agencies of the need for workers. The recruitment agencies, in turn, seek and select workers.

Lao recruitment agencies seek potential workers through radio and television advertisements. They also send official agents to advertise at the village level in collaboration with the provincial labour section.

Once workers are identified, they must obtain permits to work abroad from the Department of Skill Development and Employment Promotion. A health check is done in provincial hospitals or at the Trade Union in Vientiane. This study found that approximately 85% of formal Laotian workers underwent a medical checkup before moving to Thailand.

Next, the workers undergo pre-departure orientation, which is organized by the recruitment company and the provincial labour section. Orientation covers rules and regulations in Thailand; traveling, working and living conditions; rules at the workplace; working hours, wages, social welfare, and health care; channels for sending remittances; and Thai culture and traditions. Despite the variety of topics covered, this orientation is brief, generally lasting no more than 2 to 3 hours.

Finally, recruitment agencies send workers to the border. In some cases, agencies send workers directly to the workplace, but more frequently employers or their representatives pick workers up from the border and bring them to the workplace (with employers paying the travel costs). Usually, Thai employers are responsible for all upfront costs, including the charge for recruitment services. Interviews with Laotian workers indicated, however, that some formal migrants also made advance payments to recruitment agencies.

Laotian workers undertaking the formal recruitment process typically experienced waits of three to eight months before being placed in a job in Thailand. In some cases, waits were as long as one year.

Informal recruitment in Lao PDR

Informal recruitment from Lao PDR to Thailand involves both Lao and Thai brokers. Lao brokers bring workers from villages to the border, where Thai brokers provide accommodation, transport, and job placement. The cost of these services is approximately 2,500 to 3,000 baht per worker. In some cases, workers cross the border on their own, using a passport or border pass; such workers travel legally, but then work illegally. Others travel without any documentation and then work illegally in Thailand.

Most informal migrants are recruited by someone they know.

3.3.3 Recruitment in practice

Findings from the study indicate that formal recruitment takes not less than five to six months from the date of the employer's initial application for a quota. Although hiring informal migrants can be faster, some employers prefer to use formal migration channels for reasons of safety and legality. The manager of a food processing factory in southern Thailand commented:

I prefer to wait. I don't want to be blamed for hiring informal workers; it is risky for my reputation and credibility. Though we face difficulties, it's better to follow the law.¹⁷

This study found that some parts of the recruitment process were relatively efficient, while others lagged. The process of applying for quotas and the appointment of recruiting agencies, for example, generally proceeded within a reasonable timeframe.¹⁸

Some Cambodian migrant workers, however, faced difficulties obtaining travel documents as a result of corruption. A Cambodian migrant working in construction in Bangkok commented:

[A] friend of mine paid some money and soon had his passport. I applied a month before but I had no money to pay extra.¹⁹

¹⁷ Thailand Report.

¹⁸ Most employers appoint individuals or consulting agencies to carry out this task on their behalf.

¹⁹ Thailand Report.

A staff member of a recruiting agency noted:

The fee is the same but there are normal and fast track. You need some money to make the system faster. Pay [a] different amount, you get [a] different result.²⁰

A number of Laotian workers faced problems because they did not possess official identification documents at the start of the recruitment process. They therefore had to spend additional time on this process before they could apply for passports. The extended waits involved in these processes result in an undersupply of available labour.

The study found further that there was a discrepancy in the effectiveness of the recruitment process for skilled and unskilled workers. There were fewer problems in the recruitment of unskilled workers (including construction workers and general labourers), while an undersupply of semi-skilled workers made it difficult to recruit workers into factory work and other semi-skilled employment.

3.4 Types and roles of recruiters

Formal recruiters

Although bilateral agreements regarding recruitment have been signed between the governments of Thailand, Lao PRD, and Cambodia, the governments themselves do not act as recruiters. This task falls on the private sector. As of February 2007, there were ten licensed recruitment agencies in Cambodia and nine in Lao PDR.

Until 2007, Thailand did not license recruitment agencies to recruit migrants from abroad.²¹ For this reason, Thai agencies involved in the recruitment of workers officially registered their businesses in other ways: some as licensed companies sending Thai migrants abroad and some as labour consultant agencies. As a result of this practice, it is not known how many Thai agencies exist.

Services performed by labour consultant agencies in Thailand include representing the employer in contacts with the government, preparing paperwork, contacting recruitment agencies in sending countries, and facilitating the formal migrant's journey. As the preparation of paperwork is one of the most time-consuming aspects of the recruitment process, agencies benefit from their familiarity with the bureaucratic system in expediting this process.

Consultant agencies operate in one of two ways:

1. The employer contacts the consultant agency and places an order for the number of workers he needs. Upon receiving this order and being appointed as the employer's representative, the consultant agency manages the entire recruitment process, starting with the application for a quota. Thai consultant agencies do not have the power to recruit migrants in Cambodia or Lao PDR, so they send an order to recruitment agencies in sending countries that details the number and qualifications of workers required. In this way, Cambodian and Lao recruitment agencies are subcontracted by Thai consultant agencies.

2. Thai consultant agencies cooperate with recruitment agencies in Lao PDR and/or Cambodia and work as partners. Normally, the workload and responsibility are divided among partners: recruitment agencies in sending countries are responsible for all pre-departure arrangements and Thai consultant agencies are responsible for transferring the migrants to the workplaces and monitoring them.

Choosing a recruitment agency

Respondents noted several criteria that they felt were important in choosing a recruitment agency, including the agency's experience and competency as well as competitive pricing.

²⁰ Thailand Report.

²¹ A new law licensing such agencies, the Working of Aliens Act BE 2551, was passed in late 2007 and published in the Royal Gazette in February 2008.

An employer at a food processing factory in Thailand stated that he sought “reliability of management and representatives [who] follow up on the migrant,”²² while the owner of a labour consulting company stressed the importance of the “availability of networks and representatives of the company at provincial and community levels for better coverage in recruiting workers.”²³ The manager of a construction company in Nontaburi noted that he sought agencies with “competency in recruiting workers in large numbers or as needed.”²⁴ And the manager of a garment factory in Bangkok preferred agencies that were capable of selecting “competent workers who are able to start working as soon as possible and [that are able] to find a replacement when a worker leaves his or her job.”²⁵

The plant manager at a rubber factory in Nakhon Sithammarat identified price as the determining factor; he chose an agency with “lower fees compared to other companies.”²⁶

Recruiting Fees

Recruitment expenses and service fees ultimately become the responsibility of the migrant worker. These fees are initially paid upfront, either by the employer or on a shared basis between the employer and the recruitment agencies. In cases where initial fees are shared, employers pay the difference upon delivery of the workers at the worksite. Deductions are then made from the migrant’s salary.

Informal recruiters

Informal recruiters facilitate the placement of migrants into jobs on an informal basis, either independently or in conjunction with an employer or recruitment agency. Informal recruiters include relatives, friends, and acquaintances of the migrant worker as well as brokers and intermediaries.

There are three types of informal recruiters:

1. Individual brokers who work independently to facilitate the placement of individual migrants into Thai jobs. Findings from this study indicate that this type of broker usually has good connections at the provincial

level in the sending country and in Thailand. Many worked in Thailand for significant amounts of time or had substantial experience sending workers to Thailand. These brokers usually charge the Thai employer for their recruitment services. This is a one-time fee; these brokers do not maintain any ongoing connection to the workers after initial recruitment.

2. Individual brokers who represent employers in recruiting migrants. This kind of broker has strong connections to recruitment agencies in the sending country and good negotiation skills. This study found that these informal recruiters tended to work in specific sites and as a result had access to only a limited pool of migrants.

3. Individual brokers who represent recruitment agencies in sending countries. This kind of broker follows up with the migrant, collects prepaid service fees, hears complaints, and contacts relevant groups or organizations to help resolve workers’ problems.

3.5 Costs of recruitment

Despite the fact that formal recruitment aims to prevent migrant workers from paying exorbitant prices for recruitment services, the actual price of formal recruitment turns out to be quite high, much higher than the costs associated with informal recruitment. Formal migrants (directly or indirectly) pay recruitment agencies approximately 20,000 baht for their passport, visa, and travel expenses.

According to Article 8 of Sub-Decree 57 on Sending Khmer Migrants to Work Abroad, Cambodian recruitment agencies cannot charge job seekers for recruitment services. However, at the request of agencies, the government has agreed to allow agencies to charge an advance fee of US\$200 to workers.

One Cambodian agent noted that his agency charges 20,000 baht to Thai employers for the recruitment of one Cambodian worker. The breakdown of service charges is as follows:

²² Thailand Report.

²³ Thailand Report.

²⁴ Thailand Report.

²⁵ Thailand Report.

²⁶ Thailand Report.

Expenses for preparation of documentation in Cambodia (passport + visa)	4,000 baht
Expenses for procedures in Thailand (work permit + medical checkup)	4,300 baht
Service charge (includes a guarantee for 50% of all costs and compensation if a worker runs away within 6 months)	11,700 baht
Total	20,000 baht

This agency also specified that employers had to provide free accommodation to workers, a monthly salary not lower than 5,500-6,000 baht, and travel expenses from and to Cambodia. The worker's salary would then be deducted by 2,000 baht per month to cover recruitment costs.

A representative from the Provincial Department of Labour and Vocational Training (PDLVT) in Kampong Cham commented that many workers chose informal migration channels to avoid the high costs and long waits associated with formal channels:

Workers prefer brokers over agencies because firstly, agencies require high advance fees of US\$200; secondly, agencies take a long time in sending the migrants to work in Thailand; thirdly, the villagers trust the brokers as they are often able to meet the expectations of the workers, for example, to depart for Thailand in a day or two; fourthly, agencies deduct the salaries of the migrants and many of them do not like this; finally, workers need only pay brokers once, i.e. between 200,000 to 300,000 Riel instead of having their wages deducted regularly by the agencies which is harder to keep track of.²⁷

The Lao study found that migrant workers from Lao PDR experienced similar difficulties. Although Document 3011/MOLSW (2007) sets a maximum charge for recruitment at 5% of the worker's salary, this research found that many Laotian workers pay service fees ranging from 700 to 3,500 baht. (This is nearly equivalent to the amount that Cambodian workers pay, which ranges from 700 to 4,200 baht.) Workers usually borrow money to pay this fee or have the fee deducted from their salary by an employer who pays it upfront. Ultimately, it is the worker who bears the cost of recruitment services.

A recent UNIFEM study presents the following breakdown of costs, distinguishing between expenses on the Lao and Thai sides of the process:²⁸

Table 6. Breakdown of costs in formal recruitment

Lao side	
Medical examination	570 baht
Passport and Visa	1,330 baht
Thai Visa:	
-Single entry	2,000 baht
-Multiple entry	5,000 baht
Work permit form	74 baht
Training	500 baht
Traveling	1,500 baht
Total	
Single entry visa/multiple entry visa	5,974/8,974 baht

²⁷ Cambodia Report.

²⁸ Official statements on costs are difficult to obtain and subject to change. Hence, official statements on the breakdown of costs are likely to differ from source to source. The UNIFEM figures represented here were originally provided by Bounkham Sihlath from the Employment Promotion Division at the Department of Labour, Lao PDR. Also note that Lao migrants have to undergo medical examination twice to satisfy both the Lao and the Thai side of the process.

Thai side	
Medical examination	600 baht
Social Security (5% per month for 2 years)	4,493 baht
Work permit	3,800 baht
Total	8,893 baht
Total with single entry visa	14,867 baht
Total with multiple entry visa	17,867 baht

Adapted from UNIFEM's Gender Concerns in Migration in Lao PDR (Phetsiriseng, 2007)

Recruitment agencies justify these costs by stating that they incur considerable expenses for travel, accommodation, and food for workers in the pre-migration stages. Most applicants for overseas work do not have passports, so the recruitment agency must apply for a passport on behalf of the worker. According to informants at the Ministry of Foreign Affairs, the cost of a passport lies between 1,500 and 2,000 baht. Recruitment agencies note that additional expenses are incurred in the process of obtaining the passport as well: passport applications require personal interviews, which are currently held only in Vientiane; and the printing and issuing of passports is also conducted in the capital. Pre-departure health checks for migrant workers add further costs, as recruitment agencies prefer to conduct these in hospitals in Vientiane (rather than in the more poorly equipped hospitals at the district and provincial levels).

Beyond the economic reasons for avoiding formal channels, migrants also expressed a lack of trust in formal recruitment agencies. A staff member from Cambodian Women for Peace and Development (CWPD) in Kampong Cham noted:

The company never respects its promise: if migrants look for work in Thailand through the company or formal agent, they [the company or agent] could change their job and the company deducts their salary. We called that “salary hang their neck or work hang their neck (Prak Khie Chong Kar)”²⁹

3.6 Rights and protection

According to the MOU, formal migrants are protected under the Labour Protection Bill 1998 (BE 2541) (Thailand); they are equally protected and enjoy the same benefits as Thai workers. Most formal migrant workers, however, work in jobs that Thais are unwilling to do: the “3-D jobs” (dirty, dangerous, and difficult). They also work late at night or on the night shift. Formal Laotian and Cambodian migrants thus tend to work under more difficult conditions than Thais do, even though they have the same rights to wages and protection.

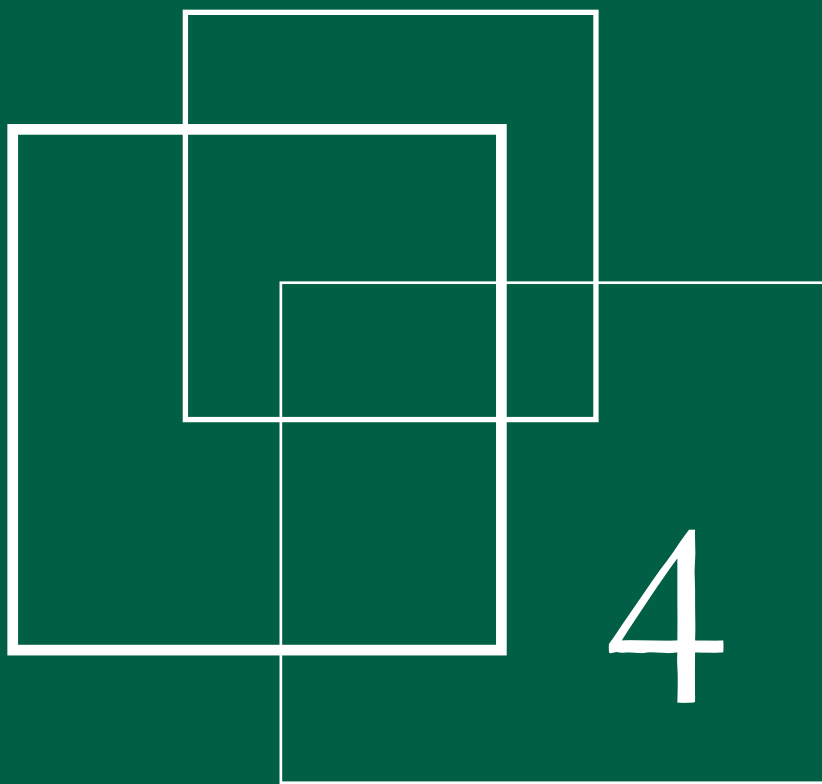
During interviews, migrants stated that they received the same benefits as Thais with regard to payment, overtime pay, and freedom of communication with friends and family by phone. Some noted that although they had freedom of movement, they rarely went out because they were tired from work.

Interestingly, follow-up visits by recruitment agents (which primarily involve debt collection) function as a protection mechanism for migrant workers. Migrants tend to issue complaints to recruitment agents during these visits. Such visits thus provide an important outlet for the expression of migrants' grievances, as there is no official mechanism for making such complaints through the Labour office.

²⁹ Cambodia Report.

The lack of an official channel for the registering of migrant complaints should be considered a weak point, as problems of communication, language barriers, and lack of access mean that migrants may not gain the protection to which they are entitled. A Thai government officer in the labour protection sector noted that a budget has been allocated for interpreters to assist in communication with migrants, but that this initiative is still limited to certain areas. This is a positive step and should be promoted.

With regard to healthcare, formal migrants receive benefits under the social welfare scheme, but they have to wait three months after their arrival in Thailand before such benefits come into effect.



4. COMPARISON OF FORMAL AND INFORMAL MIGRANT WORKERS

This chapter compares the characteristics and experiences of migrant workers who move to Thailand through formal and informal channels. The chapter begins with a profile of migrant workers sampled in this study. It then provides an overview of the recruitment and migration processes as well as an evaluation of migrants' experiences in the destination country. Data about formal migrants is presented in terms of number and percentage, while data on informal migrants is presented in number form only, as a small number of informal migrants were surveyed.

4.1 Profile of formal and informal migrant workers

Thailand

The Thai research team conducted the study from a sample group of 140 migrant workers currently working in Thailand. Of these, 120 were formal migrants and 20 were informal migrants.

The following tables provide further information on the characteristics of migrant workers sampled:

Table 7. Number of formal and informal migrants sampled in Thailand by age

Legal status	Age	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	17-25 years old	47.54	29	59.32	35	53.33	64
	26-35 years old	44.26	27	32.20	19	38.33	46
	Over 35 years old	8.20	5	8.47	5	8.33	10
	Total	100	61	100	59	100	120
Informal migrants	17-25 years old		3		5		8
	26-35 years old		4		5		9
	Over 35 years old		3		0		3
	Total		10		10		20

Source: Thailand Report

Almost all Laotian and Cambodian migrants working in Thailand were in the 17 to 35 age range, and most formal migrants were concentrated on the lower end of this range. Only 8% of formal migrants were older than 35 years old.

The sample of informal migrants was too small to draw conclusions about this group.

Table 8. Number of formal and informal migrants sampled in Thailand by gender

Legal status	Gender	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Male	47.54	29	74.58	44	60.83	73
	Female	52.46	32	25.42	15	39.17	47
	Total	100	61	100	59	100	120
Informal migrants	Male		6		7		13
	Female		4		3		7
	Total		10		10		20

Source: Thailand Report

There were approximately equal numbers of male and female Cambodian migrants in the formal and informal migrant sampling groups. Laotian migrants were overwhelmingly male, but this may be due to the fact

that domestic service was not included in this sample; Laotian girls and women constitute the largest group of foreign domestic workers in Thailand.

Table 9. Number of formal and informal migrants sampled in Thailand by work sector

Legal status	Sector	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Manufacturing	36.07	22	47.46	28	41.67	50
	Food processing	31.15	19	20.34	12	25.83	31
	Construction	32.79	20	32.20	19	32.50	39
	Total	100	61	100	59	100	120
Informal migrants	Manufacturing		4		8		12
	Construction		6		2		8
	Total		10		10		20

Source: Thailand Report

Workers from the sample group were drawn from three sectors: manufacturing; food processing; and construction. Manufacturing included rubber factories,

garment factories, steel industries, sanitary ware industries, and plastic factories.

Table 10. Number of formal and informal migrants sampled in Thailand by education level (number of years in school)

Legal status	Education	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Never attended school	4.92	3	1.69	1	3.33	4
	Grade 1-6	50.82	31	16.95	10	34.17	41
	Grade 7-9	36.07	22	47.46	28	41.67	50
	Grade 10 and higher	8.20	5	33.90	20	20.83	25
	Total	100	61	100	59	100	120
Informal migrants	Never attended school		2		1		3
	Grade 1-6		6		2		8
	Grade 7-9		2		6		8
	Grade 10 and higher		0		1		1
	Total		10		10		20

Source: Thailand Report

Most formal Cambodian migrants completed primary education, with a smaller percentage having also completed secondary education or higher.

The majority of formal Laotian migrants had a secondary education background or higher, and only one had not attended school. The educational background of informal migrants from Lao PDR followed the same pattern. In general, Laotian migrants had more formal education than Cambodian migrants.

Cambodia

The Cambodian research team interviewed a sample group of 163 migrant workers currently in Cambodia; all of these workers had previously worked in Thailand. The sample included 78 formal migrants and 85 informal migrants. All migrants interviewed were of Cambodian nationality.

The following tables provide further information on the characteristics of the migrant workers sampled:

Table 11. Number of formal and informal migrants sampled in Cambodia by age

Age	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
17-25 years old	44.90	35	38.80	33	41.70	68
26-35 years old	44.90	35	35.30	30	39.90	65
Over 35 years old	10.30	8	25.90	22	18.40	30
Total	10	78	100	85	100	163

Source: Cambodia Report

Generally, the migrants were concentrated in the 17 to 35 age group. The majority of formal migrants were aged 17 to 35, while some informal migrants were slightly older. This could reflect recruitment agencies'

preference for younger and physically fitter workers who are able to commit to at least two years of work in Thailand.

Table 12. Number of formal and informal migrants sampled in Cambodia by gender

Gender	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Male	52.60	41	70.60	60	62.00	101
Female	47.40	37	29.40	25	38.00	62
Total	100	78	100	85	100	163

Source: Cambodia Report

Females made up nearly 40% of the Cambodian sample group, and there was no significant gender distinction between those who migrated through private

recruitment agencies and those who used brokers or intermediaries.

Table 13. Number of formal and informal migrants sampled in Cambodia by work sector

Work sector	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Manufacturing	50.00	39	21.20	18	35.00	68
Food Processing	24.40	19	17.60	15	20.90	65
Construction	25.60	20	61.20	52	44.20	30
Total	100	78	100	85	100	163

Source: Cambodia Report

Formal migrants were mostly clustered in the manufacturing sector, while informal migrants were concentrated in construction. The Thai construction sector in Thailand has traditionally employed significant numbers of foreign workers. According to the data

provided by the Office of Foreign Workers Administration in Thailand, the construction sector had the second highest number of requests for foreign labour in 2004 after the agriculture sector (Huguet and Sureeporn, 2005: 43).

Table 14. Number of formal and informal migrants sampled in Cambodia by education level (number of years in school)

Education	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Never attended school	7.70	6	11.80	10	9.80	16
Grade 1-6	47.40	37	50.60	43	49.10	80
Grade 7-9	38.50	30	27.10	23	32.50	53
Grade 10-12	6.40	5	10.60	9	8.60	14
Total	100	78	100	85	100	163

Source: Cambodia Report

In Cambodia, there are four levels of education: primary (grades 1-6); lower secondary (grades 7-9); upper secondary (grades 10-12); and graduate and

above. Grades 1 to 12 are considered general education, and in theory, are free for all Cambodian children.

Forty-nine percent of all migrants surveyed had received some primary education; more than 30% had attended secondary school. More formal migrants than informal migrants had attended lower secondary school. However, 12% of informal migrants compared to 6% of formal migrants had received upper secondary education. Nearly 10% of all migrants had not received any formal education.

Lao PDR

The Lao research team interviewed 85 returned migrant workers who had previously worked in Thailand. Of these, 20 were formal migrants and 65 were informal migrants. The relatively high number of informal

migrants in this sample group could be attributed to the fact that the formal process was relatively new and most formally recruited workers were still in Thailand working. The high number of informal migrants from Lao PDR might also be explained by linguistic and cultural similarities between Laotians and Thais, which make independent and informal migration relatively easier for Laotian workers to undertake (when compared with migrants from Myanmar or Cambodia, who confront greater linguistic difficulties in Thailand).

Table 15 provides information on the characteristics of the migrant workers sampled in Lao PDR, including their legal status, the sector in which they worked, and the types of interviews they gave:

Table 15. Type of interview by sector (Lao PDR sample)

Sector	Type of Interview	Formal migrants	Informal migrants	Total
Construction	Standard (in-depth)	3 (3)	12 (0)	15 (3)
Manufacturing	Standard (in-depth)	13 (1)	33 (4)	46 (5)
Food-processing	Standard (in-depth)	4 (1)	20 (1)	24 (2)
Total	Standard (in-depth)	20 (5)	65 (5)	

Source: Lao PDR Report

4.2 Migration decisions

Formal and informal migrants in all three samples overwhelmingly gave economic reasons as their main motivation for migration to Thailand.

In the Lao PDR research sample, 18 out of 20 formally recruited workers referred to economic problems, including a lack of employment opportunities at home, a need to recover debt, and poverty as the motivating factor for migration. Economic reasons were also the motivating factor for 40 out of 65 informal migrants. The second most important factor for both groups was stimuli provided by the migrant's direct social network: this included positive stories about working in Thailand from returnees and familiarity with people who were able to assist in organising work in Thailand. The third most commonly expressed motivation by formal and informal migrants was a desire for new experiences and

adventure. Seven out of 20 formally recruited migrants expressed such a desire, while 22 out of 65 informally recruited migrants did so.³⁰

In-depth interviews revealed the combination of push and pull factors that commonly influenced individual decisions. A 38 year-old man from Champassak who was recruited informally and worked in a furniture factory in Thailand for one year stated:

We have a farm. We have some land and cattle and we are not poor and not rich. I went to Thailand to earn money to support my [three] children's education. I also wanted to improve the living conditions of my family and to build a new house. My friends worked in Thailand and they have now built a new house and even bought a car. They suggested that I work in Thailand as well. They told me that incomes in Thailand are high. I discussed the plan with my wife and she agreed.

³⁰ Lao PDR Report.

Also, I have seen many young people from my village going to work in Thailand. They come home for a visit and go back to Thailand. It seemed very easy and I never thought I would have any problems.³¹

A 22 year-old single woman from Savannakhet province who was recruited formally and worked in a rubber factory for two months noted:

I had just finished mid-level business education when I went to Thailand together with my two sisters. Back home I could not find a job, and I wanted to earn money. Also, I had never worked before and I just wanted to try the experience of working. In addition, the recruiter told us that we could continue our studies in Thailand. The Thai employer would pay 50% of the fees. This all sounded good, so we decided to go.³²

The Cambodia Report similarly found economic reasons to be the primary driver behind migrants' decisions to move to Thailand. A combination of poverty, lack of gainful employment, landlessness, and debt led 91% of formal migrants and 87% of informal migrants to work in Thailand. The second most common reason given by Cambodian respondents was a desire to reunite with family or accompany family. Thirty-three percent of formal migrants and 48% of informal migrants moved for this reason.

Table 16. Reasons given for migration decision (Cambodia sample)

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Economic	91.03	71	87.06	74	88.96	145
Family	33.33	26	48.24	41	41.10	67
Social network	32.05	25	43.53	37	38.04	62
Personal	43.59	34	27.06	23	34.97	57
Problems at home			5.88	5	3.07	5
Escape risks and dangers at place of origin	5.13	4			2.45	4

Source: Cambodia Report

More informal migrants (44%) than formal migrants (32%) migrated for reasons related to social networks, i.e. migrants knew the brokers or intermediaries, or they had heard positive stories about migration from return migrants. This reflects the critical role that social networks play in the decision-making process of those who are considering migration. The networks' ability to provide information about job opportunities makes them "both an important resource and an important constraint with regard to searching for a job" (Derks cited in Cambodia Report, 2008: 41).

In addition, personal reasons are a strong factor for many Cambodian migrants. Forty-four percent of formal migrants and 27% of informal migrants in the Cambodia sample said that they wanted to gain new experiences and seek an adventure by working in Thailand. A small number of informal and formal migrants migrated because of domestic problems or the need to escape from risks and dangers at home.

The Thai research team found similar results: economic reasons including land problems, joblessness, and debt were the primary push factors; while personal and family reasons were secondary motivations for migration (Table 17).

³¹ Lao PDR Report.

³² Lao PDR Report.

Table 17. Reasons given for migration decision (Thailand sample)

Legal status	Reasons for the decision to migrate to Thailand	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Economic reasons	50.93	55	48.62	53	49.77	108
	Personal	17.59	19	22.02	24	19.82	43
	Family	1.96	14	19.27	21	16.13	35
	Social network	18.52	20	10.09	11	14.29	31
Informal migrants	Economic reasons		9		10		19
	Family		3		8		11
	Personal		3		5		8

Source: Thailand Report

An overwhelming proportion of migrants stated that they made the decision to migrate themselves. For the rest of formal migrants, parents played a significant role in the decision-making process, as did the migrant's spouse, siblings, and friends (Table 18).

It is interesting to note that more informal migrants than formal migrants made the decision to migrate on their own (although the numbers for both groups were high). It is possible that because formal recruitment takes more time and planning, it may involve more lengthy consideration in consultation with the migrant's family and friends (when compared to the informal process, which tends to be quicker).

Table 18. Person who made the migration decision

Legal status	Decision to work in Thailand	Cambodian	Laotian	Total	
		number	number	%	number
Formal migrants	Migrant	56	51	89.17	107
	Spouse	0	1	0.83	1
	Parents	3	5	6.67	8
	Brothers/sisters	0	1	0.83	1
	Recruiter	1	0	0.83	1
	Others (friend)	1	1	1.67	2
	Total	61	59	100	120
Informal migrants	Migrant	9	10		19
	Brothers/sisters	1	0		1
	Total	10	10		20

Source: Thailand Report

Table 19. Migrant made migration decision independently

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Yes	93.60	73	97.60	83	95.70	156
No	6.40	5	2.40	2	4.30	7
Total	100	78	100	85	100	163

Source: Cambodia Report

Despite complaints about the current formal recruitment process, migrant workers who chose to migrate through formal channels said they were aware of the greater risk involved in migrating informally. The majority of workers surveyed by the Thai research team, 82% of Cambodians and 80% of Laotians, expressed awareness of this risk. Only 16% of Cambodians and 20% of Laotians stated that they did not believe informal migration to involve greater risk (Table 20).

Most migrants were informed of the risks of informal migration by returnees: former migrants who were either co-villagers or friends and relatives (Table 21). There were some migrants, however, who expressed no awareness of risk; it is possible that they had little information on the recruitment process or that they had no option but to migrate (and so preferred not to think about the risk). Of 20 informal migrants surveyed, 6 out of 10 Cambodians and 9 out of 10 Laotians said that they knew about the dangers of migrating to Thailand through an informal recruiter.

Table 20. Awareness of risks and dangers involved in migrating informally

Legal status		Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Aware	81.97	50	79.66	47	80.83	97
	Not aware	16.39	10	20.34	12	18.33	22
	No answer	1.64	1	0.00	0	0.83	1
	Total	100	61	100	59	100	120
Informal migrants	Aware		6		9		15
	Not aware		4		1		5
	Total		10		10		20

Source: Thailand Report

Table 21. How migrant became aware of the risks of informal migration

Legal status		Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Recruiter informed me	13.11	8	8.47	5	10.83	13
	Someone in village informed me	37.70	23	37.29	22	37.50	45
	From media reports	0.00	0	10.17	6	5.00	6
	Friend or relative	29.51	18	22.03	13	25.83	31
	Does not apply	16.39	10	22.03	13	19.17	23
	No answer	3.28	2	0.00	0	1.67	2
	Total	100	61	100	59	100	120
Informal migrants	Someone in village informed me		3		5		8
	NGOs informed me through awareness raising activities		1		0		1
	From media reports		0		2		2
	Friend or relative		2		2		4
	Does not apply		4		1		5
	No answer		10		10		20
	Total		3		5		8

Source: Thailand Report

The Cambodian research team similarly found that most migrants, two-thirds of the sample, were aware of the risks and dangers involved in migrating through an informal recruiter. Slightly more formal migrants (77%) than informal migrants (67%) were informed of such risks.³³ The higher numbers for formal migrants may, in fact, be function of their awareness of the risk and their resulting decision to use formal channels to circumvent this risk.

The Cambodian team found that 37% of migrants who expressed an awareness of the risks of informal migration learned about such risks through people in their villages: either return migrants; family members of migrants; brokers (other than the person who recruited them); or community leaders. Eleven percent of informal migrants were informed of the risk by their brokers. These findings suggest that almost no awareness of irregular migration is being generated *directly* by NGOs or the media. This could reflect the

lack of NGO capacity to engage in direct advocacy at the village level. One strategy to improve NGO penetration into the villages might be to conduct targeted trainings with a small group of local volunteers and community leaders who would, in turn, disseminate information to villagers through their social networks.

The Lao research team found that both formally and informally recruited migrants considered “trust and reliability” a primary concern when choosing a formal or informal recruiter. Forty-five out of 65 informally recruited migrants surveyed said that they were aware of the risks of migrating through informal recruiters. Perhaps surprisingly, only 6 of the 20 formally recruited migrants surveyed by the Lao team claimed to be aware of the risks associated with migrating through informal recruiters.³⁴

³³ Cambodia Report.

³⁴ Lao PDR Report.

4.3 Recruitment experiences of formal and informal migrants

This section examines the process of recruitment through formal and informal channels in practice, including recruitment services and fees.

The Thai and the Cambodian research teams both found that the highest number of formal migrants was recruited by recruiting companies, while informal migrants were most often recruited by someone they knew. The high number of both formal and informal migrants who said they were recruited by someone they knew suggests that social networks play a pivotal role in migrant decision making.

Table 22. Person who recruited the migrant (Thailand sample)

Legal status	Type of recruiter according to workers	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Someone known to the migrant and family	11.48	7	1.69	1	6.67	8
	Broker in home country	37.70	23	0.00	0	19.17	23
	Recruiting company	44.26	27	94.92	56	69.17	83
	Employer	3.28	2	3.39	2	3.33	4
	Other	3.28	2	0.00	0	1.67	2
	Total	100	61	100	59	100	120
Informal migrants	Someone known to the migrant and family		3		6		9
	Broker in home country		5		1		6
	Broker in Thailand		1		1		2
	Other		1		2		3
	Total		10		10		20

Source: Thailand Report

Table 23. Person who recruited the migrant (Cambodia sample)

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Someone known to the migrant and family	17.90	14	45.90	39	32.50	53
Broker in Cambodia	33.30	26	49.40	42	41.70	68
Broker in Thailand			2.40	2	1.20	2
Recruiting company	3.60	34			20.90	34
Employer	2.60	2			1.2	2
Other	2.60	2	2.40	2	2.50	4
Total	100	78	100	85	100	163

Source: Cambodia Report

There are a number of information channels through which migrants learned about employment opportunities in Thailand. While most learned about such opportunities through personal sources, a significant number of formal migrants from Cambodia learned about them through the mass media (primarily

radio and television advertisements). The Thai study found that 51% of formal migrants from Cambodia identified mass media as their primary source of information about job opportunities in Thailand, while the Cambodian survey found that 44% of formal migrants gave this response (see Tables 24 and 25).

Table 24. How the migrant became aware of the job opportunity

Legal status	Channels of information	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Mass media (newspaper, radio, or TV ad)	50.82	31	5.08	3	28.33	34
	Labour agent	16.39	10	66.10	39	43.33	52
	Friend or relative	13.11	8	16.95	10	15.00	18
	Word of mouth	9.84	6	5.08	3	7.50	9
	Notices	4.92	3	6.78	4	5.83	7
	Total	100	61	100	59	100	120
Informal migrants	Friend or relative		4		2		6
	Word of mouth		3		4		7
	Labour agent		2		3		5
	Own knowledge		1		1		2
	Total		10		10		20

Source: Thailand Report

Table 25. How the migrant was recruited (Cambodia sample)

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Mass Media (newspaper, radio, or TV ad)	43.60	34			20.90	34
Labour agents	26.90	21	29.40	25	28.20	46
Word of mouth	7.70	6	3.50	3	5.50	9
Notices	7.70	6			3.70	6
Others (specify)	10.30	8	14.10	12	12.30	20
Went to recruiter	3.80	3	51.80	44	28.80	47
Does not apply			1.20	1	0.60	1
Total	100	78	100	85	100	163

Source: Cambodia Report

Migrant workers in Cambodia learned about employment opportunities in Thailand primarily through the mass media. The data on Cambodia thus suggests that information dissemination has the power

to reach potential workers through outreach activities. Most other Cambodian migrants and the majority of Laotian migrants learned about opportunities through personal sources.

It is interesting to note that while only 4% of formal migrants surveyed by the Cambodian team approached recruitment agencies directly to enquire about job opportunities, 52% of informal migrants approached brokers or intermediaries. This suggests that informal migrants either knew the brokers or were referred to them by people they knew.

Signing of contracts

Formal migrants generally signed two types of contracts: one with the recruitment agency in the country of origin and one with the employer in Thailand.³⁵

Contract(s) with recruitment agencies in Lao PDR and Cambodia

The Thai study indicates that 93% of formal migrants signed a contract with their recruitment agency before leaving the country of origin.

Table 26. Contract made with recruitment agents

Legal status	Contract made with recruitment agents	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Yes	91.80	56	94.92	56	93.33	112
	No	8.20	5	5.08	3	6.67	8
	Total	100	61	100	59	100	120

Source: Thailand Report

The MOU does not include a provision relating to contracts between the recruitment agency in the country of origin and formal migrant workers. As a result, the details of such contracts varied among agencies. Interviews with formal migrants indicated that contracts between formal migrants and recruitment agents generally stipulated a 2-year work period. If the migrant failed to complete the 2-year term, the migrant would be fined or made to repay the debt in other ways (through the confiscation of land, for example). Some Cambodian respondents stated that agreements were made between the recruitment agencies and their families stipulating that the migrant's family would take responsibility for debt if the migrant failed to fulfil the employment contract.

Such stipulations may be related to the responsibility that recruitment agencies hold toward Thai employers. Recruitment agents must sign contracts with employers stating that the agency will replace formal migrant workers who leave before their contracts are up. The recruitment agent thus uses this second contract with

the worker as a mechanism to ensure that the worker will remain at the worksite for the duration of the employment contract.

While such measures serve to protect agents and employers, there is no provision to make amends or offer compensation to the migrant in cases where the type of work, working conditions, or accommodations in Thailand differ from what the migrant expected (based on what the recruitment agent promised). The migrant must continue to work in such conditions for the duration of the contract. This study found that recruitment agents who engaged in malpractice by knowingly providing false information to migrants in the pre-migration stage were not held accountable for their actions.

Many of the migrants surveyed experienced difficulty adjusting to working conditions in Thailand, but were unable to change their situation as a result of the binding contract they had signed. A Cambodian migrant working in a rubber factory in southern Thailand stated:

³⁵ In Lao PDR, a third contract is required between the Thai employer and the Lao recruitment agency.

Before coming to work, the recruitment agents mentioned that the worker was to work at a factory processing canned fish, but when the worker arrived, it was an industrial factory...with [a] foul smell, [and] “suffering” condition[s]. The worker wanted to return home, but could not because the recruitment agents asked the worker to commit to a contract. If the worker broke the contract, there would be charges, and the worker’s house would be confiscated.³⁶

Statements by migrants indicated that the contracts they signed with recruitment agents in the country of origin become binding commitments that make it easier for recruitment agencies to control migrants on an ongoing basis. Not all migrants surveyed, however, were made to sign such binding agreements (although the vast majority were). The data collected in the Thai study indicates that 93% of migrant workers signed contracts with recruitment agents in the country of origin, and

88% of these received an explanation of the details of the contract at the time of signing.³⁷

Contract with employer in Thailand

The MOU requires that employment contracts be signed between employers and formal migrants and submitted to the Ministry of Labour. Despite these regulations, only 54% of workers surveyed by the Thai research team (62% of Cambodians and 49% of Laotians) said they had signed contracts with their employers.

It is possible that a higher number of migrants did in fact sign such contracts without being aware of this. In particular, migrants may have signed employment contracts through their recruitment agency before leaving the country of origin. If this is the case, the data suggests that workers did not have a good understanding of the contracts they signed during the pre-migration stage.

Table 27. Contract made with employer in Thailand

Legal status	Contract made with Employers in Thailand	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Yes	62.30	38	49.15	29	54.17	67
	No	27.87	17	50.85	30	38.33	47
	No answer	9.84	6	0.00	0	5.00	6
	Total	100	61	100	59	100	120

Source: Thailand Report

Table 28. Person who kept the contract

Legal status	Person keeping a copy of the employment contract	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Worker	3.28	2	1.69	1	2.50	3
	Employer	47.54	29	45.76	27	46.67	56
	Recruiter	4.92	3	1.69	1	3.33	4
	Broker	3.28	2	0.00	0	1.67	2
	Migrant does not know	0.00	0	1.69	1	0.83	1
	Other	1.64	1	0.00	0	0.83	1
	Does not apply	29.51	18	47.54	29	39.17	47
	No answer	9.84	6	0.00	0	5.00	6
	Total	100	61	100	59	100	120

Source: Thailand Report

³⁶ Thailand Report.

³⁷ Thailand Report.

In only 3% of cases did workers hold their own contracts. In the vast majority of cases (47%), employers kept employment contracts and workers were not given a copy to retain.

It is interesting to note that 39% of respondents stated that the question, “Who kept the contract?” did not apply to them. This suggests a general lack of information about contracts among workers. It is possible that a number of them were in fact bound by contracts, but that the contracts were kept by their employers without their knowledge.

Services provided to migrants by recruiters

The three main services provided to formal migrants by recruitment agents were locating jobs, facilitating identification and travel documents, and making travel arrangements. Other services that formal recruiters provided included pre-departure training and orientation, overall support during the recruitment process (including the provision of inexpensive or free accommodation), and follow-up services once the migrant began work in Thailand.

Table 29. Services provided by formal recruiter (3 primary responses)

Legal status	Service	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Job placement	88.52	54	84.75	50	86.67	104
	Preparation of travel and/or ID documents	81.97	50	77.97	46	80.00	96
	Safe travel across border and to destination	37.70	23	25.42	15	31.67	38

Source: Thailand Report

The Cambodian research team found that informal migrants similarly received a variety of services from their recruiters and that many of these services mirrored those provided by formal recruiters. Informal migrants identified job placement, safe travel across the border and to the destination, and free or inexpensive accommodation at the destination as the primary services provided by their recruiters. Remarkably, a

higher percentage of informal migrants (64%) than formal migrants (41%) said that their recruiter had provided them with safe passage to their destination.³⁸ Moreover, twice as many informal migrants as formal migrants surveyed by the Cambodian team said that they had received follow-up support from their recruiters at the destination (Table 30).

³⁸ Cambodia Report.

Table 30. Types of services provided by formal or informal recruiter

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Job placement	89.74	70	91.76	78	90.80	148
Making of travel and/or ID documents	89.74	70	10.59	9	48.47	79
Safe travel across border and to destination	41.03	32	63.53	54	52.76	86
Pre-departure orientation or training	15.38	12	4.71	4	9.82	16
Free or inexpensive accommodation at destination	17.95	14	35.29	30	26.99	44
Follow-up or support at destination	12.82	10	25.88	22	19.63	32
Access to complaints mechanism	10.26	8	1.18	1	5.52	9
Creation of bank accounts and/or facilitation of remittances	10.26	8	5.88	5	7.98	13

Source: Cambodia Report

The Cambodian research team interviewed 7 informal recruiters, asking them to detail the services that they provided to migrants. All of the brokers and intermediaries interviewed said that they provided job placement, information about work and living conditions in Thailand, and safe travel from Cambodia to Thailand. Some also stated that they assisted workers in finding inexpensive (or free) accommodation in Thailand, and a few said that they facilitated remittances. A female broker, aged 48, in Battambang described the informal remittance procedure she employed:

Migrants who wish to remit money to their relatives in Cambodia can do so through my daughter, who will receive the sum of money to be remitted and make a list of the names of the migrants' family/relatives, their home addresses, and telephone numbers. This service is not free of charge however. For every 1,000 THB to be remitted, migrants have to pay a service fee of 400 THB. The remittances will be deposited into ACLEDA bank in Battambang province and a transfer to the different branches of ACLEDA in other provinces can be arranged. Subsequently we will contact the family/relatives of the migrants to collect the remittances at ACLEDA.³⁹

It is important to note the high fee (40%) that this informal recruiter charged for the processing of remittances. The lack of regulation in the informal sector leaves migrants vulnerable to such practices. The formal recruitment agencies that offered remittance services, in contrast, charged no fees for this service (although a transaction fee was involved for the transfer through ACLEDA bank).⁴⁰

With regard to the migration journey, the Lao PDR team found clear distinctions between formal and informal journeys. Perhaps surprisingly, interviews with recruiters revealed that the “formal” journey included substantial “informal” elements. Recruitment agencies explained that their representatives escort migrants to the Lao PDR-Thailand border, where migrants meet a Thai agent who takes them to their destination. Other Lao recruitment agencies paid Thai agents to organise the entire trip. A pattern thus emerges in which a third and unknown Thai party is responsible for a major part of the journey. This outsourcing of part or all of the migration journey means that migrants who opt for formal channels believing these to be more secure do not actually gain such security in practice.

³⁹ Cambodia Report.

⁴⁰ Cambodia Report.

Explicitly “informal” channels of migration, in contrast, were revealed by this study to be much more continuous in character. In-depth interviews indicated that some informally recruited migrants travelled by themselves with telephone numbers of contact persons (such as Laotian relatives or friends) in Thailand. In other cases, informally recruited migrants made the entire journey in the company of their recruiter, friends, or relatives.

Pre-departure information and orientation

The provision of clear and accurate information about work and living conditions in the destination is a key aspect of the recruitment process. Such information enables the prospective migrant to make an informed decision about whether or not to migrate and shapes the migrant’s perceptions about the potential gains of migration.

The Thai study found that over 85% of formal migrants received information on all significant matters relating to migration and work in Thailand. Informal migrants, in contrast, received adequate information on the nature of work, but less on wages and the conditions of termination of employment⁴¹ (Table 31).

Table 31. Information provisioning prior to departure

Legal status	Type of information	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Nature of work	95.08	58	88.14	52	91.67	110
	Wages	90.16	55	84.75	50	87.50	105
	Number of working hours	96.72	59	94.92	56	95.83	115
	Living conditions	91.80	56	81.36	48	86.67	104
	Healthcare services	98.36	60	94.92	56	96.67	116
	Termination of employment	93.44	57	86.44	51	90.00	108
Informal Migrants	Nature of work		7		3		10
	Wages		4		3		7
	Number of working hours		4		4		8
	Living conditions		5		3		8
	Healthcare services		2		3		5
	Termination of employment		3		3		6

Source: Thailand Report

The Cambodian research team found that recruitment agencies scored better than informal recruiters on providing information to migrants. The majority of formal Cambodian migrants rated recruitment agencies particularly well in providing information on the nature of work, number of working hours, healthcare services, and termination of employment. Among informal

migrants, 91% said that their recruiters had provided clear and adequate information on the nature of work, and 73% were informed of their wages. A large percentage of informal migrants, however, did not have sufficient information on working hours, living conditions, or healthcare services in Thailand.

⁴¹ The number of informal workers surveyed in the Thai sample was too low to draw statistical comparisons with the formal workers’ responses.

Table 32. Information provisioning prior to departure

Yes to the following	Formal		Informal		Total	
	%	number	%	number	%	number
Nature of work	96.20	75	90.60	77	93.30	152
Wages	91.00	71	72.90	62	81.60	133
Number of working hours	96.20	75	51.80	44	73.00	119
Living conditions	89.70	70	51.80	44	69.90	114
Healthcare services	97.40	76	22.40	19	58.30	95
Termination of employment	94.90	74	3.50	3	47.20	77

Source: Cambodia Report

Another major difference between formal and informal recruitment was the provision of pre-departure training and orientation. Twelve out of 20 formally recruited migrants surveyed in Lao PDR had undergone such training. Only 2, however, said that they would recommend this training to other workers based on their experience. In-depth interviews revealed that pre-departure orientation and training for Laotian formal migrants consisted primarily of broad and brief “orientation” sessions, rather than focused training. A formally recruited 46 year-old male from Champassak who worked in construction described his experience:

Before I went to Thailand the recruitment company called me for a training and orientation session. However, it was not about training, we were only told how to talk to our boss and how to talk to other workers. I have complained about this. The recruitment agencies should improve on this and provide training based on the jobs we have to do, and not just tell us how to communicate with other people in Thailand. At least there should be some basic training about the job we are going to do!⁴²

The Thai research team similarly found that many formal migrants had received inadequate pre-departure training. Responses indicate that orientation was short and did not cover information in as much depth as migrants would have liked. A common complaint was that pre-departure programs did not prepare migrants for their jobs in Thailand, but offered only a brief overview of Thai culture meant to make adjustment easier.

Despite the MOU’s requirement that all formal migrants be provided with pre-departure training, it was found moreover that over half of the sample group (56%) received no training at all. This was especially true in the case of Cambodian formal migrants, 72% of whom received no training (compared with 40% of Laotian migrant workers who received no training) (Table 33).

⁴² Lao PDR Report.

Table 33. Orientation and training prior to departure

Duration of pre-departure orientation or training	Cambodian		Laotian		Total	
	%	number	%	number	%	number
No orientation or training	72.13	44	38.98	23	55.83	67
1 - 4 hours	0.00	0	59.32	35	29.16	35
1 day	11.48	7	1.69	1	6.67	8
2 - 7 days	11.48	7	0.00	0	5.87	7
No answer	4.92	3	0.00	0	2.50	3
Total	100	61	100	59	100	120

Source: Thailand Report

The Cambodian team found that 76% of formal migrants surveyed received no pre-departure training from recruitment agencies, and the majority of those who did received only one day of orientation.⁴³ Interestingly, all 9% of Cambodian respondents who did receive training recommended that others have access to the same information. This underscores the usefulness of training that is well-structured and designed as well as the benefit of providing as much information to migrants in the pre-departure stage as possible.

Recruitment expenses for formal and informal migrants

There is a significant disparity in the cost of formal and informal migration to Thailand. Table 34 illustrates that more than half of informally recruited migrants surveyed paid nothing to their recruiter in the pre-departure stage, while those who did pay seldom spent more than 5,000 baht. In contrast, most formally recruited migrant workers had to pay at least triple this amount (much of which was taken on as debt).

Table 34. Fees paid for recruitment

Amount paid to recruiter	Formal migrants	Informal migrants
Nothing ⁴⁴	3	34
Cannot remember	0	4
0-2500 Baht	5	9
2500-5000 Baht	0	14
5000-8000 Baht	0	2
15000-20000 Baht	11	0
Does not apply	1	2
Total	20	65

Source: Lao PDR Report

Differences in the fees charged by formal and informal recruiters can be explained by the different costs of the two paths of recruitment. Formal recruitment incurs significant expenses for government fees, travelling documents, visas, travel expenses, and service fees. The total cost of recruitment for a Laotian worker migrating to Thailand is approximately 15,000 baht, while the cost for a Cambodian worker ranges from 15,000 to 20,000 baht.⁴⁵

⁴³ Cambodia Report.

⁴⁴ The fact that some formally recruited migrants claimed to have paid nothing to their recruiter contrasts with statements by recruitment agencies that fees are at least 15,000 baht. This discrepancy may be explained by the way in which the respondents understood the question: since most formally recruited migrants are unable to pay their fees prior to departure (and therefore enter into a situation of leveraged debt), they may have responded that they paid nothing to their recruiter.

⁴⁵ Thailand Report.

In-depth interviews with formally recruited migrants revealed that many Cambodian migrants had to make additional expenditures during the recruitment process. Four out of 5 formally recruited migrants explained that their recruitment agent required that they prepare and submit forms that should have been the responsibility of the agent. In processing these forms, migrants spent an additional 400,000 to 800,000 Kip,⁴⁶ which they paid directly to local, district, and provincial authorities. In no case was this amount later deducted from the recruitment fee.

It is well known among migrants that migrating through formal channels is considerably more expensive than migrating through informal channels. The question that emerges is why migrants still opt for formal channels, despite the difficulty of paying such fees. In-depth interviews with formally recruited migrants reveal that costs were not seen as an obstacle in the formal recruitment process, as recruitment agencies offer to cover these fees upfront.⁴⁷ Moreover formal agents (unlike informal recruiters) provide an employment contract detailing a relatively high salary for a guaranteed period of time. Seen in this light, steep initial fees become less of an obstacle. A 24 year-old man from Champassak who worked in Thailand in construction commented:

*The representative from the recruitment agency said that he was looking for workers for several sectors. He said that the salaries in construction were highest (7,200 Baht per month), so I signed up for construction. He also explained that I could pay back the recruitment fee (18,000 Baht) while working. Every month the employer would cut 1,800 baht from my salary so that after 10 months I would have paid back the fees already.*⁴⁸

Information obtained through the standard questionnaire indicates that 15 out of 20 formally recruited migrants in the Lao sample took on loans to finance their migration. In contrast, only 29 out of 65 informally recruited migrants did so. Table 35 shows the different sources of credit. In the case of formal migrants, credit was most often provided by the recruiter, whereas informal migrants tended to borrow money from family members.

Table 35. Source of loan for migration

Borrowed from:	Formal migrants	Informal migrants
Recruiter	9	7
Family	5	11
Moneylender	1	1
Other	0	10
Total	15	29

Source: Lao PDR Report

The Cambodian team found that informal migrants paid fees ranging from 1,050 to over 4,300 baht to their recruiters, with the majority (40%) paying between 2,485 and 3,465 baht.⁴⁹ Twenty percent of informal migrants said they paid nothing to their recruiters; these are likely migrants who were recruited by family members.

An informal recruiter, in an in-depth interview with the Cambodian research team, explained that she charges 2,500 baht to place informal migrants into work in Thailand. This fee covers the costs of purchasing a temporary border pass at Poipet; food, water, and accommodation along the journey; and transportation from the Roongkleu market in Aranyaprathet Province to the worksite in Thailand. She makes a profit of 300 to 500 baht per migrant.⁵⁰

⁴⁶ At a current rate of 282 Lao Kip to 1 Thai baht, this equals 1,418-2,836 baht.

⁴⁷ The fees are paid in advance by the Thai employer or are shared by the Thai employer and the recruitment agency. The migrant then reimburses these fees through salary deductions after beginning work in Thailand.

⁴⁸ Lao PDR Report.

⁴⁹ Cambodia Report.

⁵⁰ Cambodia Report.

While informal migration involves a number of risks for the migrant, the lower costs of informal recruitment at least keeps the migrant from assuming excessive amounts of debt in order to begin work. Table 36 shows that 97% of formal migrant workers surveyed entered into a situation of leveraged debt in order to

migrate, while only half of informal migrants did so. Moreover, the amount of money that formal migrants were bound to pay back through salary deductions was several times higher. In most cases, deductions lasted approximately 10 to 12 months and in some cases as long as 2 years.

Table 36. Salary deducted to pay recruitment fee

Legal status	Salary deductions	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal Workers	Salary deducted	95.08	58	98.31	58	96.67	116
	No salary deducted	4.92	3	1.69	1	3.33	4
	Does not apply	0.00	0	1.69	1	0.83	1
	Total	100	61	100	59	100	120
Informal Workers	Salary deducted		5		5		10
	No salary deducted		5		5		10
	Total		10		10		20

Source: Thailand Report

Time spent and complexity of recruitment process

Formal migrants generally had to wait several months after their initial decision to migrate before going to work in Thailand. Fifty-six percent of all migrant workers waited for more than three months before they departed, while 43% waited between 1 and 3 months, and 9% waited for more than 6 months. Only one

formal migrant surveyed waited less than a month. In contrast, most informal migrants in the Thai sample indicated that the process lasted less than one month (Table 37), and the Cambodian team found that 56% of informal migrants waited only 1 to 5 days before migrating.

Table 37. From the initial migration decision, amount of time taken to begin work in Thailand

Legal status	Duration	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Less than 1 month	0.00	0	1.69	1	0.83	1
	1-3 months	39.34	24	45.76	27	42.51	51
	4-6 months	55.74	34	38.98	23	47.50	57
	7-9 months	3.28	2	10.17	6	6.66	8
	10-12 months	1.64	1	1.69	1	1.66	2
	24 months	0.00	0	1.69	1	0.83	1
	Total	100	61	100	59	100	120
Informal migrants	Less than 1 month		8		8		16
	1-3 months		2		1		3
	36 months		0		1		1
	Total		10		10		20

Source: Thailand Report

More than half of formal migrants said that they found the formal recruitment process complicated due to the significant amount of documentation required and the long waits at various intervals of the process.

The majority of informal migrants, on the other hand, said that finding work informally in Thailand was

relatively simple (Table 38). The difficulties informal migrants did experience were related most often to language barriers, particularly in the case of Cambodian informal migrants. Their inability to speak Thai limited their ability to participate in decision-making processes, including deciding on the type of work in which they would engage.⁵¹

Table 38. Migrants' evaluations of the difficulty of obtaining work in Thailand

Legal status	Type of information	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Complicated	60.66	37	50.85	30	55.83	67
	Simple	39.34	24	49.15	29	44.17	53
	Total	100	61	100	59	100	120
Informal migrants	Complicated		6		5		11
	Simple		4		5		9
	Total		10		10		20

Source: Thailand Report

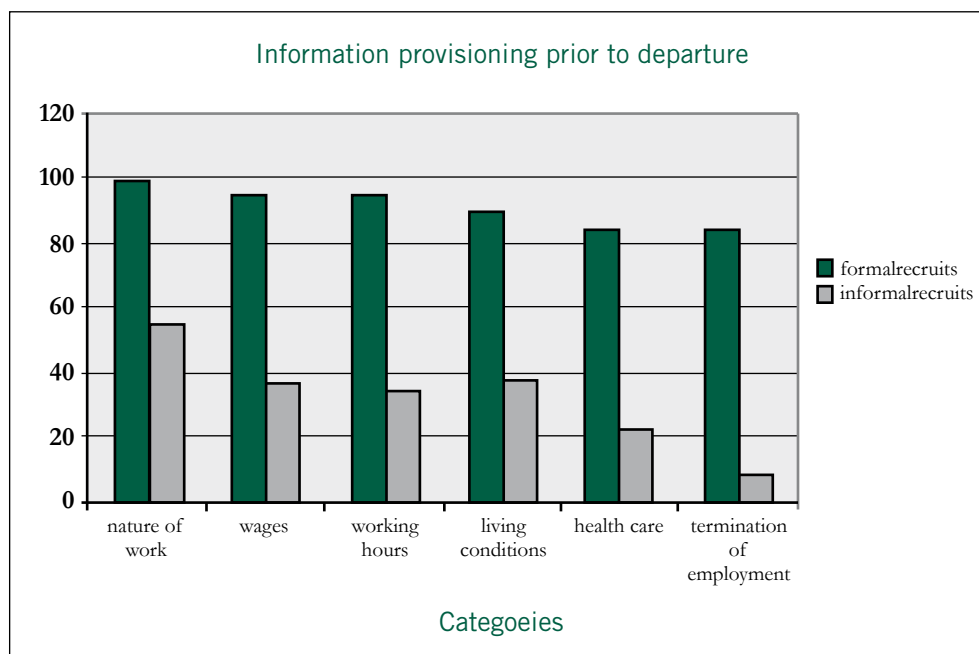
4.4 Formal and informal migrants' experiences at destination

Among both formally and informally recruited migrants, there were several cases in which the migrant's actual job in Thailand differed dramatically from what the agent's promises (or the migrant's contracts) had suggested. When comparing differences between promises and actual experiences, however, it must be noted that formally recruited migrants were generally

provided with more (and more detailed) information about the destination prior to departure. This is visualised in Figure 1 below. The vast majority of the formally recruited workers interviewed by the Lao team stated that they had received clear pre-departure information about the six areas listed. This contrasts with the responses of informally recruited migrants, a considerable proportion of whom claimed to have received limited or no information about key elements of life at the destination.

⁵¹ Cambodia Report.

Figure 1



Source: Lao PDR Report

Ironically, the more information the migrant received prior to departure, the greater the scope for encountering aspects of the migratory experience that seemed different from what was promised.⁵² Hence, when both formally and informally recruited migrants were questioned on aspects of their migratory experience, all formally recruited migrants were able to comment on differences, while only some informally recruited migrants could do so.

The following table details the responses given by formally recruited Laotian migrants with regard to the ways in which their situation in Thailand differed from what was promised in their contracts. The most common discrepancies were salary, the nature of work, living conditions, and working hours.⁵³

Table 39. Ways in which conditions at destination differed from pre-departure information (Lao PDR sample)

Category	Formal migrants (n=20)
Nature of work	15
Salary	16
Working hours	14
Overtime	6
Rest days	9
Living conditions	15
Risks and dangers	10
Other	6

Source: Lao PDR Report

The Thai survey similarly found that migrants believed they had received inaccurate information with regard to salary, living conditions, and the nature of work at the destination (Table 40).

⁵² In addition, when more information is provided, the chances of misunderstanding and misrepresentation of information are increased.

⁵³ It should be re-emphasized here that all 20 formally recruited migrants returned home early, mainly due to negative experiences. Hence the complaints presented here may not be representative for all formally recruited migrants.

Table 40. Ways in which conditions at destination differed from pre-departure information (Thailand sample)

Legal status	Category	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Nature of work	16.39	10	8.47	5	12.50	15
	Salary	42.62	26	13.56	8	28.33	34
	Working hours	4.92	3	0.00	0	2.50	3
	Overtime work	18.03	11	6.78	4	12.50	15
	Day off	8.20	5	1.69	1	5.00	6
	Living condition	39.34	24	11.86	7	25.83	31
	Risk and danger	3.28	2	13.56	8	8.33	10
	Others	3.28	2	1.69	1	2.50	3

Source: Thailand Report

The Thai survey found that 39% of formal migrants felt that conditions in Thailand differed from what was promised (Table 41). The Cambodian team found that

55% of formal migrants believed that working and living conditions differed, while 18% of informal Cambodian migrants felt this to be the case.

Table 41. Whether conditions at destination differed from pre-departure information provided by recruitment agency

Legal status	Conditions at destination	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Same as promised	54.10	33	62.71	37	58.33	70
	Not same as promised	47.54	28	32.20	19	39.17	47
	No description given or promised	0.00	0	5.08	3	2.50	3
	Total	100	61	100	59	100	120

Source: Thailand Report

Some respondents stated that recruiters did not have sufficient knowledge about conditions in Thailand, as the recruiters had never visited the worksites themselves. They were therefore unable to provide accurate information on the destination.

Salary

According to the MOU, formal migrants are entitled to the same minimum wage as Thai workers.⁵⁴ Most formal migrants surveyed received the minimum wage or higher. Only 5% of the sample received less than the minimum wage.⁵⁵

The wage situation for informal migrant workers was more precarious, with 12 workers out of 20 receiving minimum wage or higher and 8 persons receiving less than the minimum wage.

Table 42 shows that the vast majority of formal migrants from Cambodia and Lao PDR earned daily wages. Of those who did report monthly wages, these averaged just over 6000 baht per month. In practice, however, a portion of these wages was deducted for recruitment fees and prepaid expenses (travel and brokerage charges). In some cases, additional deductions were made for accommodation and the social security fund.

⁵⁴ The legal minimum wage in Thailand varies by province.

⁵⁵ Thailand Report.

Table 42. Wages per month (Thai baht)

Legal status	Thai Baht	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	4,000	0.00	0	3.39	2	1.67	2
	4,020	1.64	1	0.00	0	0.83	1
	4,800	1.64	1	0.00	0	0.83	1
	5,000	1.64	1	1.69	1	1.67	2
	6,000	8.20	5	1.69	1	5.00	6
	6,100	1.64	1	0.00	0	0.83	1
	7,170	0.00	0	1.69	1	0.83	1
	7,600	0.00	0	1.69	1	0.83	1
	7,665	0.00	0	1.69	1	0.83	1
	7,800	0.00	0	1.69	1	0.83	1
	8,000	1.64	1	0.00	0	0.83	1
	8,800	1.64	1	0.00	0	0.83	1
	12,000	1.64	1	0.00	0	0.83	1
	Does not apply (daily wage)	80.33	49	42.50	51	83.33	100
	Total	100	61	49.17	59	100.00	120
Informal migrants	5,000		7		7		14
	6,000		1		1		2
	Does not apply (daily wage)	2		2		2	
	Total		10		10		20

Source: Thailand Report

Interestingly, the Cambodian research team found that 14% of informal migrants were able to earn more than 200 baht per day, while only 1% of formal migrants did.⁵⁶ The Cambodian study also found that more than half of formal migrants (53%) received lower remuneration than their recruitment agencies had promised them, while only 13% of informal migrants were paid less than what they expected.⁵⁷

Freedom of movement and communication

The Thai study found that most workers could travel freely during their personal time (Table 43). In-depth interviews indicated that formal migrants generally remained close to the workplace, taking short trips to the market, grocery store, convenience store, etc. Some workers, particularly formal migrants from Cambodia, stated that their freedom of movement was limited by employers, while a few said that it was limited by police.

⁵⁶ Cambodia Report.

⁵⁷ Cambodia Report.

Table 43. Migrant's freedom of movement at destination

Legal status	Freedom of movement	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Freedom	54.10	33	100.00	59	76.67	92
	Lack of freedom	45.90	28	0.00	0	23.33	28
	Total	100	61	100	59	100	120
Informal	Freedom		8		9		17
	Lack of freedom		2		1		3
	Total		10		10		20

Source: Thailand Report

Table 44. Person who restricted migrant's freedom of movement at destination

Legal status	Person who restricted migrant's freedom	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Employer	37.70	23	0.00	0	19.17	23
	Policeman	4.92	3	0.00	0	2.50	3
	Migrant	1.64	1	0.00	0	0.83	1
	Others	1.64	1	0.00	0	0.83	1
	Does not apply	54.10	33	100.00	59	76.67	92
	Total	100	61	100	59	100	120
Informal migrants	Employer		1		0		1
	Policeman		1		1		2
	Does not apply		8		9		17
	Total		10		10		20

Source: Thailand Report

Migrants surveyed by the Lao team noted a lack of freedom due to fear of arrest by Thai police. Only 3 out of 20 formally recruited workers in the Lao sample claimed to have freedom of movement in Thailand, while 49 out of 65 informally recruited migrants said they did.⁵⁸

In cases where freedom of movement was restricted, both formally recruited and informally recruited migrants claimed it was their employer who restricted their movement. Only 2 out of 20 formally recruited migrant workers could keep their original ID documents while in Thailand; in 16 cases identification documents were kept by employers and in 2 cases by another party. Again, informally recruited migrants

seemed to fair better. Although only 19 informally recruited migrant workers claimed to have identification documents, informal migrants were much more likely to keep their own documents when they had them. Out of 19 informally recruited migrant workers who were in possession of identity documents, 14 had original copies, while 5 had relinquished these (in 4 cases to their employers).⁵⁹

Being without identification documents negatively affected migrants' freedom of movement. A 20 year-old formal migrant from Champassak who worked for six months in a pineapple-canning factory in Thailand commented:

⁵⁸ Lao PDR Report.

⁵⁹ Lao PDR Report.

My employer kept my passport. When I wanted to leave the factory I had to ask my boss for a copy of my passport so that I could go out without too much fear of being arrested by the police.⁶⁰

Similarly, a 38 year-old man from Champassak who worked for six months in a furniture factory in Thailand commented:

I could not really go outside since I did not have any legal documents and was afraid that I would be arrested by the police. So when I wanted to go outside I had to inform my employer who would then send somebody to escort me in order to avoid being arrested.⁶¹

Furthermore, in cases where formal migrants ran away from the worksite in order to return home, they had little choice but to re-enter their home country illegally (as their documents were being held by their employer).⁶²

Regarding freedom of communication, almost all migrants surveyed stated that they were free to communicate with whomever they wished. Only 4 respondents said that controls were exerted on their communication. It is significant to note that the Labour Protection Act 1998 (BE 2541) makes no mention of freedom of communication.

Table 45. Migrant's freedom of communication

Legal status	Freedom of communication	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Freedom	49.17	59	47.50	57	96.67	116
	Non freedom	1.67	2	1.67	2	3.33	4
	Total	50.83	61	49.17	59	100.00	120
Informal migrants	Freedom		10		10		20
	Total		10		10		20

Source: Thailand Report

Holding of identity cards

The Thai study found that 81% of formal migrants do not keep possession of identity documents issued in their country of origin. In the vast majority of cases, employers hold such documents, while in some cases recruitment agents do.

By keeping workers' identity documents, employers effectively prevent workers from fleeing, changing jobs, or returning home without permission. The issue of who keeps workers' identity documents is at present a grey area-the Labour Protection Act does not give employers the authority to hold identity documents, nor does it set any penalty for doing so.

⁶⁰ Lao PDR Report.

⁶¹ Lao PDR Report.

⁶² A representative from the Immigration Department explained that people who are caught crossing the border illegally are fined 200,000 Kip and are kept in custody until they are picked up by their relatives. If this does not happen within 15 days, a further 5,000 Kip is charged for every additional day to cover food expenses.

Table 46. Holding of own original ID documents while working in Thailand

Legal status	Holding of own original ID documents	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Hold	11.48	7	27.12	16	19.17	23
	Do not hold	88.52	54	72.88	43	80.83	97
	Total	100	61	100	59	100	120

Source: Thailand Report

The Cambodian study similarly found high numbers (89%) of formal migrants who had their documents seized by employers or recruitment agencies. The study also found that only 8% of informal migrants were in

possession of their identity documents. In the case of informal Cambodian migrants, 7% had their documents taken, while 84% did not have such documentation at all (Tables 47 and 48).⁶³

Table 47. Whether migrants held their own original ID documents while working in Thailand

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Yes	11.50	9	8.20	7	9.80	16
No	88.50	69	7.10	6	46.00	75
Did not have any ID documents			83.50	71	43.60	71
No answer			1.2	1	0.6	1
Total	100	78	100	85	100	163

Source: Cambodia Report

Table 48. Person who held the migrant's ID documents

	Formal migrants		Informal migrants		Total	
	%	number	%	number	%	number
Employer	80.80	63	7.10	6	42.30	69
Recruitment agency	7.70	6			3.70	6
Does not apply	11.50	9	91.80	78	53.40	87
No answer			1.2	1	0.6	1
Total	100	78	100	85	100	163

Source: Cambodia Report

⁶³ Cambodia Report.

4.5 Satisfaction with recruitment services and future migration prospects

The Thai research group found that formally recruited migrants were satisfied overall with services provided by

their recruiter.⁶⁴ Table 49 shows that the majority of migrants surveyed (77%) were satisfied with recruitment agencies' services, while approximately 15% were unsatisfied.

Table 49. Satisfaction with services provided by recruiter

Legal status	Satisfied with the services	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Satisfied	90.16	55	89.83	53	77.14	108
	Not satisfied	22.95	14	11.86	7	15.00	21
	No answer	1.64	1	0.00	0	0.00	1
	Does not apply	1.64	1	15.25	9	7.14	10
	Total	100	61	100	59	100	120

Source: Thailand Report

Perhaps unsurprisingly, the Cambodian and Lao research samples (which included high numbers of early returnees) provided more mixed visions of formal recruitment.

Formally recruited migrants surveyed in Lao PDR found the process of obtaining work in Thailand difficult and complicated (12 out of 20). In contrast, only 25 out of 65 informal migrants shared this opinion. Formally recruited migrants were much more dissatisfied in general with the services provided by their recruitment agencies. Seventeen out of 20 formally recruited Laotian migrants said they were dissatisfied with the services provided, while only 14 out of 65 informally recruited migrants said this.

Moreover, the few formally recruited early returnees in the Lao sample who expressed satisfaction with their recruitment agency were not necessarily fully satisfied. A 22 year-old from Savannakhet province who worked in a rubber factory for two months noted that she was grateful for the social welfare provided through formal recruitment, but that the job in which the recruitment agency had placed her was detrimental to her health (and was not the job the agent had promised her):

I was sent to work in a rubber factory in Songkhla, although the recruitment agency had promised work in a food-processing factory. Work in the rubber factory was very hard and bad for my health. Although I used plastic gloves my fingers got affected by the chemical solution I was working with. My fingers got very painful, and the other workers experienced the same problem. We then complained to our employer, who reported it to the recruitment agency. The recruitment agency collected us and sent us back to the Lao PDR. Back home we received medical treatment and the recruitment agency has promised to find new work in Thailand. So I think that going with a recruitment agency is good since it brings safety. I think that had I gone illegally there may have been nobody to take me back home in case I had faced a problem like this. So even if I could earn more money going illegally I would still take a recruitment agency. It is safer!⁶⁵

⁶⁴ It is important to remember that the Thai research group sampled Cambodian and Lao migrants who were currently working in Thailand. It is likely then, that this group would offer more positive visions of the recruitment experience than the Cambodian and Lao groups, which were comprised of early returnees.

⁶⁵ Lao PDR Report.

Corroborating the Lao PDR results, the Cambodian study found that informal migrants were generally much more satisfied with the recruitment process than formal migrants were. The study found that formal migrants' dissatisfaction stemmed from frustration with the long waits involved in the formal process or from their belief that salaries and accommodation in Thailand were less than what was promised.

The Cambodian study also found that a few informal migrants had been cheated outright by their brokers. A 30 year-old informal migrant who had worked in construction noted:

Instead of bringing us to the workplace, the broker left us at the border. We did not know where to go and we had no money on us. Luckily, I met someone from my village who has worked in Thailand for a long time and I asked him to help me find work. I needed some money to return home. I had to work in Thailand for a month before I went back to Cambodia.⁶⁶

As a result of these mixed experiences with recruitment, a considerable proportion of both formally and informally recruited migrants stated that they would not use a recruiter for future migratory projects. Given their first-hand knowledge of living and working conditions in Thailand, most migrants said that they would migrate on their own if they returned to Thailand (Table 50).

Table 50. Preferred channel of future migration

	Formal migrants (n=20)	%	Informal migrants (n=65)	%
Recruitment agency	7	35.0	18	27.7
Informal recruiter	0	0.0	3	4.6
Independently	7	35.0	26	40.0
Does not plan to migrate again	2	10.0	9	13.8
No answer	4	20.0	9	13.8

Source: Lao PDR Report

A 20 year-old formally recruited woman from Champassak who had worked in a pineapple-canning factory in Thailand stated:

Since I returned early, the recruitment company urges me to migrate again. Yet, if the recruitment companies remain what they are now I would rather go by myself; that's much better. Especially since it is very easy these days. We just make a passport and go and look for work. Once in Thailand you can do the registration and get a card, just like all the other people [referring to informal migrants].⁶⁷

An informally recruited male migrant from Savannakhet who worked for a year in a cookie and cake factory said:

Next time I would go to Thailand by myself. Since now I know of many places where I can find work.⁶⁸

⁶⁶ Cambodia Report.

⁶⁷ Lao PDR Report.

⁶⁸ Lao PDR Report.

Table 51. Reasons to migrate independently in the future

Legal status	Reason for independent migration	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal workers	I'm experienced at going to Thailand	39.34	24	69.49	41	54.17	65
	Faster	32.79	20	33.90	20	33.33	40
	Cheaper	19.67	12	28.81	17	24.17	29
	Flexibility	19.67	12	25.42	15	22.50	27
Informal migrants	I'm experienced at going to Thailand		6		8		14
	Faster		6		6		12
	Cheaper		5		5		10
	Flexibility		4		3		7

Source: Thailand Report. Note: Respondents could give more than one response

The Thai study, in contrast, found that 80% of migrants who planned to work in Thailand in the future said they would prefer to migrate through legal channels using a formal recruiter (Table 52). This likely reflects the

satisfaction of migrants currently placed in work. Of the remaining individuals surveyed, a small percentage said they would come through an informal recruitment company.

Table 52. Expected channel for future migration to Thailand

Legal status	Migration channel migrant expects to use in future	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Recruitment agency	78.69	48	81.36	48	80.00	96
	By myself	16.39	10	18.64	11	17.50	21
	Informal recruiter	1.64	1	0.00	0	0.83	1
	Do not answer	3.28	2	0.00	0	1.67	2
	Total	100	61	100	59	100	120
Informal	Recruitment agency		2		5		7
	By myself		8		4		12
	Informal recruiter		0		1		1
	Total		10		10		20

Source: Thailand Report

Legal status, wellbeing, safety, and reliability were the primary reasons migrants gave for using a recruitment agency in the future.

Table 53. Reasons for using a recruitment agency in the future

Legal status	Reason to choose recruiter	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Legal and safe	81.97	50	81.36	48	81.67	98
	More protection	67.21	41	67.80	40	67.50	81
	Trust in recruiter	62.30	38	45.76	27	54.17	65
	Bad experience with informal recruiters	16.39	10	1.69	1	9.17	11

Source: Thailand Report. Note: Respondents could give more than one response.

Despite the mixed opinions of formal recruitment among returned workers in the Lao sample, 28% of formally recruited migrants in that group also claimed they would use a recruitment agency in the future (see Table 11). This might be explained by the fact that many of the early returnees felt obliged to use the services of recruitment agencies again to complete their two-year contract.⁶⁹ The expectation that early returnees would go back to Thailand to work, in fact, constituted a major point of contention for returned migrants. These early returnees were approached by the recruitment agencies and told to be ready for the next trip, yet these trips did not materialise immediately and so left the migrant waiting.⁷⁰

For those respondents in all groups who said they would prefer not to use a recruitment agency in the future, migrants cited their past experience with migration to Thailand, noting that this experience made many of the recruiters' services obsolete. Others noted the savings in time and money of coming independently as well as the freedom to change employers after starting work.

Finally, a significant number of respondents said that they would prefer not to migrate again at all. As Table 54 indicates, 40% of formal migrants and 5 out of 20 informal migrants said they would prefer to work in their own country in the future.

⁶⁹ Apparently there is also a practice of fining migrants who have returned before the end of their contract. The Trade Union representative who was interviewed explained to have received several complaints from early returned formally recruited migrant workers. According to him, recruitment agencies often imposed a fine of 4,000 to 5,000 Baht for early return. Further, indebtedness can be explained by the fact that Thai employers pay (according to the recruitment agencies interviewed) the full fee of recruitment to the Lao recruitment agency prior to sending the Lao workers to Thailand.

⁷⁰ From 5th January 2007 till 8th August 2007 (and thus at the time of interviewing) a ban was imposed on sending of Lao workers abroad by recruitment agencies (2007). However, none of the early returned formally recruited migrants showed awareness of this when complaining about the fact that they were waiting for re-migration.

Table 54. Country in which migrants expect to work in the future

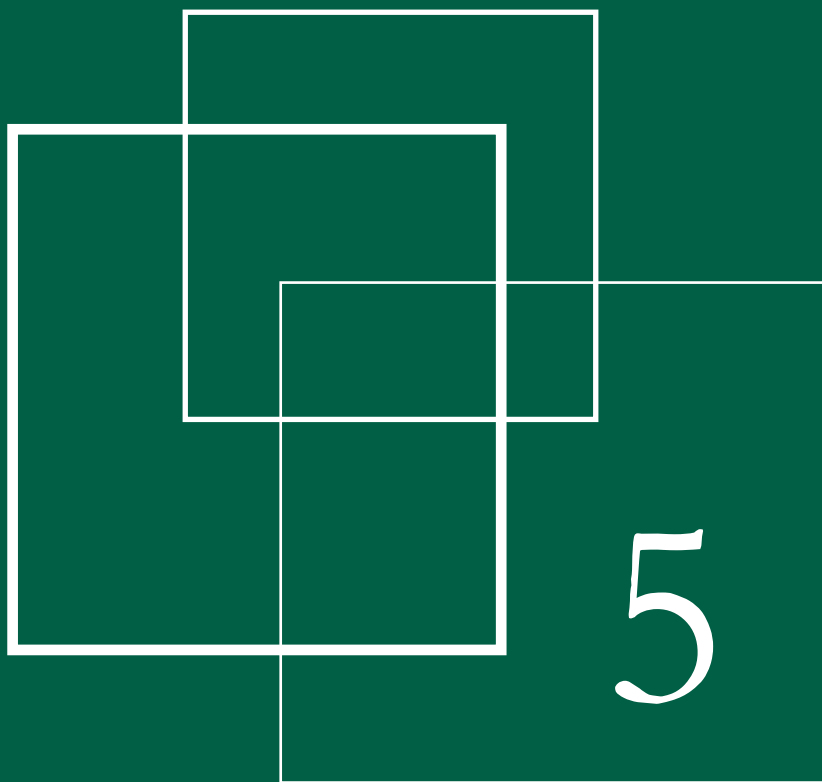
Legal status	Country	Cambodian		Laotian		Total	
		%	number	%	number	%	number
Formal migrants	Home country	54.10	33	25.42	15	40.00	48
	Thailand	44.26	27	74.58	44	59.10	77
	Do not answer	1.64	1	0.00	0	0.83	1
	Total	100	61	100	59	100	120
Informal	Home country		5		0		5
	Thailand		5		10		15
	Total		10		10		20

Source: Thailand Report

Reasons for preferring to remain at home varied from disillusionment with the migratory process, to having secured work in the home country, to entering another phase in life. As a 30 year-old woman from Savannakhet observed:

I worked from 1997-2006 in a garment factory in Thailand. Every year for 'phi mai' [Lao New Year] I visited my village and gave money to my parents. They have now built a new house and bought rice-land. In addition, I have saved more than 100,000 Babt. When I returned last time I got married and had a baby. I am now planning to build my own house from the money I have saved and start a small shop in my village.⁷¹

⁷¹ Lao PDR Report.



5. CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

The signing of the MOU on Cooperation in the Employment of Workers between Thailand and Lao PDR in 2002 and between Thailand and Cambodia in 2003 laid the groundwork for the formalization of labour migration from Lao PDR and Cambodia into Thailand. Since the signing of the MOU, procedures have been put in place at the national and regional levels, and Cambodian and Laotian migrants have begun to move to Thailand through formal channels for work. Formal recruitment practices were first implemented in late 2006, and by June 2007, 3161 migrant workers from Lao PDR and 3628 migrant workers from Cambodia had been placed in Thailand.

It is against this background of recent formalization of recruitment processes that this report examines recruitment in terms of policy and practice. In particular, this report compares the experiences of workers who migrate through formal and informal migration channels and tests the assumption that formal channels provide migrants with greater benefits and protection.

While the Thai research team found that migrants noted the benefits of formal migration in terms of safety, freedom of movement, and equal protection under Thai labour law, the Cambodian and Lao research teams did not find sufficient evidence to conclude that the formalization of migration processes has increased protection for migrant workers. Both studies found that workers who immigrated through formal channels remained vulnerable to exploitation, deception, and mistreatment at various stages in the formal process. Moreover, while formal contracts provided legal standing (and protection) for migrants, these contracts also bound workers to particular employers to whom they were indebted financially. In this way, formal contracts acted as a double-edged sword, both guaranteeing migrants legal

work for two years, while binding them to this work, even in cases where the job was not what the migrant had been promised.

In contrast, informal migration channels, which are currently employed by the vast majority of labour migrants, were found to be more flexible, more efficient, and significantly less expensive than formal migration channels. If formal migration channels are to be made more attractive to potential migrants, then, formal processes must be streamlined and made much less expensive. Further, the enforcement of existing laws as well as new laws should be pursued to ensure that formal status guarantees protection for migrants in practice.

This research found that the formal recruitment process currently holds a number of challenges for migrant workers, employers, and recruitment agencies. The following discussion highlights the key issues that emerged in this research so that future policy and practice can better address these.

Challenges for formal migrant workers included: high recruitment cost, which fixed them in a situation of leveraged debt; insufficient or inaccurate information about the destination in the pre-departure phase; a long and complicated recruitment process, including an extended wait for job placement; inability to keep one's identity documents or work contract; arbitrary salary deductions; and a lack of protection in cases where the destination conditions differed from what was promised by the recruiter.

Challenges for employers included: a complicated and hierarchical recruitment process that meant employers had to wait months for requested workers; high recruitment fees (generally 15,000 to 20,000 baht per worker), usually paid upfront by the employer; the risk that a worker might depart before completing his

contract, leaving the employer at a loss for the initial fee; and a lack of or slow replacement of workers who leave prematurely. Another issue of concern to employers was insufficient pre-departure orientation and training, which employers said gave workers unrealistic expectations of what life would be like at the worksite; the lack of training also made it difficult for workers to adjust and begin work immediately upon arrival. Employers also noted that the inadequate dissemination of knowledge about formal recruitment had in some cases led police to arrest formal migrants at the worksite, despite workers' legal status. A final concern of employers was the irregularity of employment in certain sectors such as construction. If employers must commit to hiring workers for two years through formal channels, they may find themselves having to absorb costs or lay off workers during slow periods.

Government officers noted that their greatest challenges were a lack of authority and lack of coordination among agencies. The Lao and Cambodian Embassies currently have limited power in overseeing the activities of consulting agents in Thailand. Officers from the Lao Embassy noted, for example, that they lack the authority to help Laotian workers who come to them with grievances, as their power is limited to checking documents such as the demand letter. The Lao government plans to send a Labour Attaché to supervise and assist migrant workers, but this has not yet eventuated.

According to Thai law, the Office of Labour Recruitment's mandate covers only the registration of workers and an examination of the workplace. It is only in extreme cases (such as smuggling, forced labour, or slavery of workers) that an officer can pay a visit to the premises. It is the Provincial Welfare Office that is responsible for protection with regard to welfare, wages, and workplace conditions. Coordination between these two offices, however, is still minimal.

Another significant obstacle for government workers was the poor internal coordination among government agencies, both domestically and between sending and receiving countries. This caused significant delays (which were punctuated by busy periods of work).

Officials also noted that some employers cancelled employment contracts before the term ended, leaving workers unemployed. Such premature cancellation of contracts not only caused difficulties for workers, but it also led to poor relations between sending and receiving countries.

Finally, problems and challenges faced by recruitment agencies included: the lengthy and bureaucratic process of recruitment, which led many potential workers to drop out of the process before they were placed; the premature departure of workers from the worksite, which left agencies to fill their spaces; and the difficulty of recruiting enough workers at any one time to fill a particular order.

The following section offers recommendations for addressing these key issues.

5.2 Recommendations

1. *Improve current recruitment practices*

- *Lower the cost of recruitment.*

At present, formal migrant workers regularly assume debts of 15,000 to 20,000 baht for the cost of recruitment. The Cambodia team recommends that the MOLVT conduct a comprehensive review of fees charged by recruitment agencies to ensure that such fees reflect the economic indicators of the sending country and the potential earnings of migrants abroad. The MOLVT should cap recruitment fees at a set percentage of the migrant's salary, ideally no more than one month's salary, which is currently the norm in the region.

One step toward reducing recruitment fees would be lowering the fees currently levied for government documentation. A breakdown of recruitment charges reveals that charges of approximately 2,000 baht for a passport and 5,000 baht for a visa contribute substantially to recruitment fees. Where possible, governments should reduce these fees. If such reductions are not possible, then subsidies (possibly of an international nature) might

be considered. The Lao PDR research team found that the high cost of printing passports in the post-9/11 security context makes price reductions difficult; they recommend therefore that subsidies be put in place so that migrant workers are not made to bear the cost of international security concerns.

The Cambodia team urges the MOLVT to take proactive and immediate action to work with recruitment agencies to reduce the administrative and operational costs of providing overseas employment services to migrant workers and to ensure that the costs of these services are not passed on to the workers themselves.

- *Prohibit pre-departure fees for workers.*

The Cambodia team recommends that the MOLVT prohibit recruitment agencies from taking money from migrant workers prior to their departure. Recruitment agencies should be made to bear the initial costs of obtaining passports, visas, work permits, and medical examinations. If this is not possible, advance fees should not be set so high that migrants are compelled to take out loans or sell their assets to pay service fees.

- *A public fund should be created for migrants.*

Where loans for migration are inevitable, the governments of sending countries should set up a public fund for helping workers finance their loans. Loans should be provided at a nominal interest rate that is lower than the rate offered by all other financial institutions in the country.

- *Governments should subsidize employment services for migrants.*

In the absence of free public employment services, the governments of sending countries should take every measure to subsidize private employment services that are integral to the overall placement process or beneficial to migrant workers.

- *Shorten the lengthy timeframe of recruitment procedures and simplify the process.*

The wait time of 3 to 6 months involved in formal recruitment is too long for both workers and employers; the process should not take longer than 30 to 45 days once the demand letter is received in the country of

origin. In shortening the process, however, it is important that appropriate checks remain in place to protect workers.

To shorten the procedure time, the Lao research team recommends that part (or all) of the recruitment process occur at the provincial or district level. Currently, most official procedures must be undertaken in Vientiane over an extended period of time. By moving procedures to the local level with the effective coordination of relevant authorities, migrants will be able to process their paperwork through “one-stop” services near their homes.

The Thai team also recommends maintaining a pool of job seekers in sending countries as a labour bank. This would help accelerate recruitment, as some time is spent finding enough workers to fill the employer’s request.

- *Regulate the sub-contracting of agents.*

The MOLVT should examine recruitment agencies’ current practice of subcontracting agents and regulate the way in which agencies conduct the procurement of workers. Governments must hold recruitment agencies accountable and liable for the actions of their agents, especially for the disclosure of full and accurate information on the destination in the recruitment phase.

- *Create a standard employment contract for migrant workers.*

The governments of sending countries, together with the Thai government, should develop and promulgate a standard employment contract for hiring migrant workers that must be used by all employers and recruitment agencies. This standard contract should be fully in line with national labour laws and applicable international standards, and it should be legally enforceable by relevant national courts.

The contract should contain provisions detailing the conditions of work and remuneration offered to the migrant, and it should be presented to the migrant for a full and comprehensive review before it is signed. The recruitment companies shall be responsible for ensuring that terms and conditions are fully understood by the worker.

- *Familiarize workers with the various contracts they sign.*

Recruitment agencies should ensure that workers understand the contracts they sign, particularly the employment contract. A translation of the contract into the worker's language is highly recommended. At present, employment contracts are available only in English and Thai, and some workers see them for only a few minutes before they sign them. The Lao team recommends that workers be allowed to take contracts home for careful perusal before signing.

- *Provide professional pre-departure orientation and training to workers.*

Recruitment agencies should provide relevant and sufficient professional training to all workers before they leave their home country. Pre-departure orientation should cover the terms and conditions of employment; workers' rights, obligations, and protection; the importance of retaining identity documents and copies of contracts; basic language and cultural skills; information on salary deductions and remittance channels; health; complaint mechanisms; and relevant Thai laws.

The Cambodian research team recommends that the MOLVT, in cooperation with international organizations and civil society, develop a minimum standard and format for pre-departure training that educates migrant workers on their rights and the actions migrants should take to protect these rights. The Cambodian team also recommends that the MOLVT provide vocational training and education services (including safe migration and protection strategies) that complement pre-migration training provided by recruitment agencies.

In cases where recruitment agencies claim not to have the skills or resources to offer comprehensive orientation and training, governments should provide capacity building for agencies.

- *Regulate deductions from workers' salaries.*

Until the ultimate goal of ensuring that employers cover the costs of recruitment fees is achieved, governments of sending and receiving countries should regulate deductions from workers' salaries that are intended to cover such fees. At present, workers' salary deductions are arbitrary and leave little or no savings for workers. A

mutually acceptable deduction should be arranged with the consent of workers. The Cambodian research team recommends deductions of no more than 25% of the migrant's monthly salary.⁷² The remaining salary should be enough for the migrant to sustain a decent and respectable standard of living in the host country.

- *Implement a system for the payback of debt upon early return.*

In cases where workers want to terminate their employment contract prematurely, a system should be established for managing the debt incurred. This system should assist both employers and recruitment agencies who paid fees in advance. Eventually, Thai employers should pay recruitment services on a monthly basis rather than in a lump sum in order to reduce indebtedness.

- *Clarify the details of the Lao "repatriation fund."*

Although the MOU between Thailand and Lao PDR stipulates the creation of a repatriation (or savings) fund, the Lao research team found no mention of this fund in other policy documents or during interviews. The government should clarify whether migrants who use formal recruitment services are currently paying into this fund, and, if they are, how the fund is being managed and how migrants can access it upon their return.

- *Raise awareness of employers, police, and the general public about formal recruitment.*

A public relations awareness campaign on formal recruitment should target: the Thai police; the general public in Thailand; and those living in the border provinces of sending countries. Because formal recruitment is relatively new, many of the parties involved do not yet fully understand migrants' legal rights and obligations. This study found that some employers confined formal workers to the workplace for fear of police. The Cambodian Embassy similarly reported that Thai police arrested formal workers under the suspicion that they were illegal. Public relations campaigns should address the legality as well as the benefits of formal migration.

⁷² This is the percentage currently set in Indonesia. See Verite (2005).

2. *Enforce laws, penalties, and policies*

- *Regulate and monitor recruitment agencies' activities and accountability.*

The Ministries of Labour in sending countries should closely supervise and monitor all recruitment agencies to ensure that they operate in accordance with government guidelines and laws. Governments should suspend the licenses of recruitment agencies that violate laws.

Recruitment agencies that repeatedly violate recruitment laws should have their licenses withdrawn, and owners and key agency personnel involved in violations should be barred from future involvement in migrant recruitment.

- *The provision of pre-departure information must be monitored.*

According to national laws and the MOU, recruitment agencies must inform migrants about the nature of work and living conditions at the destination during the pre-departure phase. If recruitment agencies provide inaccurate information on the destination or fail to provide pre-departure orientation, the governments of sending countries should penalize such malpractice.

In cases where agencies do not have the capacity to adequately train migrants, agencies should be offered capacity building. If they continue to fail to provide adequate orientation, their licenses should be suspended or revoked and they should be held liable for contract violations.

The surety fund mentioned in the MOU and the Cambodian law on recruitment aims to compensate migrant workers for possible monetary losses that result from the failure of recruitment agencies to meet obligations to them. This fund should be replicated in Lao PDR.

- *Curb excessive recruitment fees.*

Recruitment fees should be kept to a minimum and should be borne by employers. Governments should regulate the maximum fee for services that can be charged to workers in consultation with employers' and workers' organizations. Document 3011/MOLSW

(2007) caps this fee at 5% of the worker's salary in Lao PDR. Compliance with this regulation should be monitored in Lao PDR and similar caps should be implemented in Cambodia.

- *Ensure the minimum wage for formal workers.*

While most formal workers surveyed were paid the minimum wage, some received less. Minimum wage payments are mandatory, and employers must be reminded of this.

- *Protect workers' rights.*

Standardized employment contracts and decent working conditions should be pursued toward the protection of workers' rights. In cases where workers' rights have been repeatedly violated in the past, governments should correct and monitor such abuses.

- *Penalize the seizure of workers' identification documents.*

The governments of sending and receiving countries should enforce the prohibition of employers' and recruitment agencies' seizure of migrant workers' personal documents. They should also ensure that complaints by workers of such withholdings are investigated seriously.

- *Create mechanisms to address workers' grievances and labour disputes.*

The Thai research team recommends the creation of an efficient hotline service where migrants can speak to a representative in the migrant's own language and lodge an official complaint to the Department of Labour Protection and Social Welfare of the Thai Ministry of Labour.

The Thai government should ensure that migrant workers are protected in terms of wage and work conditions through regular inspections of worksites by the Department of Social Welfare and Labour Protection (DSWLP).

Representatives of formal recruitment agencies from Cambodia and Laos should also regularly monitor that workers receive the protection they are guaranteed under Thai labour law. To facilitate the protection of workers, recruitment agencies should hear workers' complaints

and discuss these with employers. In cases where employers fail to address such grievances, recruitment agencies should forward these complaints on to relevant embassies.

The embassies of sending countries should also set up labour attachés who coordinate with the Ministry of Labour to oversee foreign workers.

The Ministry of Labour in sending countries should ensure that adequate machinery and procedures exist for the investigation of complaints and allegations of abuse by recruitment agencies.

- *Monitor the situation of migrant workers in Thailand.*

The governments of sending countries and recruitment agencies should monitor workers' situation in Thailand after they begin work. This is particularly important in the early stages of the formal recruitment process, as the process is not yet streamlined, and unexpected obstacles and problems may arise. Such monitoring will make migrants feel safer and better protected. Inspections should monitor working conditions as well as employers' compliance with labour contracts.

3. Revise the current regulatory framework

- *Include more sectors of employment in formal recruitment.*

The Lao PDR government should include domestic service as a sector of formal employment for Laotian migrants, as nearly one-third of Laotian workers who obtained a work permit in the Thai 2004 registration were involved in domestic work. Excluding domestic workers and cleaners from formal channels leaves the largest employment sector unaddressed.

- *Standardize recruitment procedures and streamline the migration process.*

The current formal recruitment process should be revised to minimize delays and costs associated with recruitment, including excessive wait times for passports, visas, work permits, and health certificates.

The governments of Thailand, Cambodia, and Lao PDR should cooperate to revise recruitment procedures. On the Thai side, the Unskilled Foreign Workers Employment System Administration Division

(UFWESAD), newly established in the Department of Employment of the Thailand Ministry of Labour, is the key agency to undertake such change. The UFWESAD should proceed in tandem with the Manpower Training and Overseas Sending Board (MTOSB) of the MOLVT in Cambodia and the Department of Labour and Employment Promotion of the MOLSW in Lao PDR. These three parties have already begun agreements on lowering passport and visa fees, and they should also consider reducing the wait time and simplifying procedures for formal recruitment.

- *Consider an incentive system for good practices.*

The Cambodian research team recommends that the MOLVT explore the possibility of establishing an incentive system through which recruitment agencies are rewarded for good practices.

4. Consider government-to-government recruitment

This study found that the governments of all three countries need further capacity building and additional staff to enforce existing laws, monitor the operations of private recruitment agencies, and cooperate with recruitment agencies to organize effective pre-departure orientation and training.

Improving government capacity to execute these tasks efficiently and effectively will require time and experience, but it is not impossible. This study recommends initiating a pilot project on government-to-government recruitment by the three states with ASEAN and international organizations as technical support and advisors. Such a programme would have as many as two million beneficiaries among formal migrant workers.

5. Consider independent migration

A significant number of experienced migrant workers expressed an interest in migrating independently to work in Thailand. This option is particularly relevant to Laotian migrants who can speak Thai. Independent migration would reduce the costs of recruitment and the waiting time for potential migrants. The governments of sending and receiving countries should consider and explore the possibility of this new migration channel.

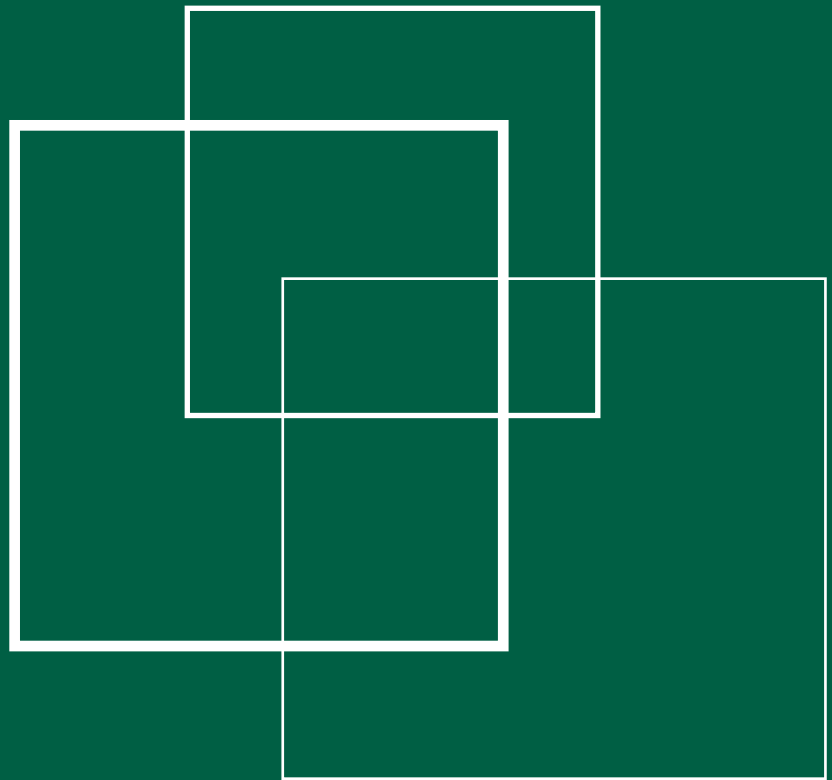
REFERENCES

- Asian Research Center for Migration. 2004. *Cross Border Migration between Thailand and Lao PDR: A Qualitative Assessment of Lao Migration and its Contribution to HIV Vulnerability*. Institute of Asian Studies. (Bangkok, Chulalongkorn University).
- Asian Research Center for Migration. 2008. *Thai Report: Migrant Recruitment from Cambodia and Laos into Thailand*. (Bangkok, Institute of Asian Studies. Chulalongkorn University)
- Asian Research Center for Migration and World Vision. 2003. *Research Report on Migration and Deception of Migrant Workers in Thailand*. (Bangkok, Institute of Asian Studies. Chulalongkorn University)
- ASEAN Secretariat. 2007. *ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers* [Online]. Available at: <http://www.aseansec.org/19264.htm>. [2007, June. 22]
- Beesey, A. 2004. *From Lao PDR to Thailand and Home Again: The Repatriation of Trafficking Victims and Other Exploited Women and Girl Workers (a study of 124 cases)*. (Bangkok, International Organization for Migration)
- Busza, J., S. Castle and A. Diarra. 2004. *Trafficking and Health*. (London, British Medical Journal 328: 1369-71)
- Castles, S. 2004. *The Myth of the Controllability of Difference: Labour migration, transnational communities and state strategies in the Asia-Pacific region*. (State/Nation/Transnation. B. S. A. Yeoh and K. Willis. London, Routledge).
- Chantavanich, S., Vungsiriphisal, P and Laodamrongchai, S. 2007. *Thailand Policies toward migrant workers from Myanmar*. (Asian Research center for Migration. Institute of Asian Studies. Institute of Asian Studies, Chulalongkorn University)
- Charoensutthipan, P. 2005 *New Bridge 'could carry human cargo'*, (Bangkok, Bangkok Post. 19th March).
- Continuation of sending of Lao workers abroad (unofficial translation). 2007. 3011/MOLSW. Minister of Labour and Social Welfare, Lao PDR 8th August 2007.
- De Genova, N. P. 2002. "Migrant "Illegality" and Deportability in Everyday Life." (Annual Review of Anthropology 31: 419-447.)
- De Haan, A. 2006 *Migration in the Development Studies Literature: Has it come out of its marginality?* (Research Paper No. 2006/19. Helsinki, UNU-WIDER.)
- Evans, G. 1999. Introduction: *What is Lao culture and society? Laos: Culture and society*. Chiang Mai, Silkworm Books: 1-34.
- Ganjanakhundee, S. 2007. *Laos urges suspension of a Thai soap opera*, (Bangkok, The Nation. 13th February, 2007).
- Ganjanakhundee, S. 2007. *Laos border problems slowly being fixed*, (Bangkok, The Nation. 6th March, 2007).
- Government Public Relations Department. 2006. *Guide book for managing the employment of migrant workers in Thailand*. (Bangkok: Government Public Relations Department)

- Government Public Relations Department and Department of Employment. 2007. *Guide for foreign workers unified systems*, (Bangkok)
- Ministry of Labour and Social Welfare, Lao PDR. 2002. *Guideline on implementation of Decree on export of Lao workers abroad* (unofficial translation). 2417/MOLSW. (Vientiane 29th July 2002).
- Huijsmans, R. et al. 2008. *Laos Report: A study of formal and informal recruitment practices of Lao workers migrating to Thailand*.
- Huguet, J. W. and S. Punpuing. 2005. *International Migration in Thailand*. Bangkok, (Bangkok, International Organization for Migration).
- Huijsmans, R. 2008. *Children Working Beyond their Localities: Lao children working in Thailand*. (Bangkok, Childhood 15.).
- Inthasone Phetsiriseng. 2007. *Migration Mapping Study: A Review of Trends, Policy and Programme Initiatives, Gender Concerns in Migration in LAO PDR*. (Vientiane)
- ILO. 2007. *Guide to Private Employment Agencies - Regulation, Monitoring and Enforcement*. (Geneva, International Labour Organization)
- IOM. World Migration 2005. 2005. *Costs and Benefits of International Migration*. (Geneva, International Organization for Migration).
- Iredale, Robyn, Tim Turpin, Ray Grannall, Peter Brimble. 2007. *Skills Recognition within ASEAN*. Paper prepared for the 8th APMRN International Conference. 26-29 May, 2007.
- Jerndal, R. and J. Rigg. 1999. *From Buffer State to Crossroad State: Spaces of human activity in the Lao PDR. Laos: Culture and society*. G. Evans. (Chiang Mai, Silkwood Books: 35-60.)
- Lee, Chen Chen. 2008. *Cambodia Report: Migrant recruitment from Cambodia into Thailand*.
- Lee, Chen Chen 2007. *Exploitative Labour Brokerage Practices in Cambodia: The Role and Practices of Private Recruitment Agencies*. In A Study into Exploitative Labour Brokerage Practices in Cambodia. (Phnom Penh, UN Inter-Agency Project on Human Trafficking).
- MOLSW Lao PDR. 2002. *Limitations set by the Ministry of Labour and Social Welfare concerning the kind of professions the Lao government does not allow to be recruited for labour abroad* (unofficial translation). 3824/MOLSW. (Vientiane, Ministry of Labour and Social Welfare, Lao PDR 19th December 2002).
- Nilvarangkul, K., Rungreangkulki, S., and Wongprom, J. 2006. *Enhancing Laotian Migrant Workers' Quality of Life within Thai-Lao Border Area*. (Khon Kaen, Faculty of Nursing and Research and Development Institute, Khon Kaen University).
- McKenzie, D. 2007. *Paper Walls are Easier to Tear Down: Passport costs and legal barriers to emigration*. (World Development 35(11): 2026-2039).
- MOLSW and ILO-IPEC/TICW. Labour Migration Survey 2003. Vientiane, Ministry of Labour and Social Welfare (Lao PDR).
- Muntarbhorn, V. 2005. *The Mekong Challenge Employment and Protection of Migrant Workers in Thailand: National Law/Practices versus International Labour Standards*. (Bangkok. International Labour Office)
- Office of Foreign Workers Administration, Report of Meeting of the Subcommittee for Unified Systems and Foreign Workers Standards. 1/2006.
- Office of Foreign Workers Administration. Report of Secretary Commission, 2005.

- Office of Foreign Workers Administration, Working Manual for Unified Systems of Regulating Illegal Workers from Myanmar, Cambodia and Laos. 2004.
- On the preparation to solve the problems faced by Lao workers working illegally in Thailand (unofficial translation). 2427/PM. Prime Minister's Office Notice, The Lao PDR 22nd November 2001.
- Pearson, E., et al. 2006. *The Mekong Challenge: Underpaid, Overworked and Overlooked, the realities of young migrant workers in Thailand*. (Bangkok, International Labour Organization).
- Phouthonesy, E. 2007. *Garment factories face labour shortage*, (Vientiane, Vientiane Times. 2nd May, 2007).
- Pongkhao, S. 2007. *Lao Authorities Demand Legalisation of Workers in Thailand*, (Vientiane, Vientiane Times. Issue 206: 1+3. 3rd September 2007).
- Prime Minister Decree on export of Lao workers working abroad (unofficial translation). No. 68/2002. Prime Minister's Office, Lao PDR 28th May 2002.
- Report of Royal Thai Embassy in Vientiane, LAO PDR., 4 October 2006
- SCUK, LYU and MOLSW. 2004. *Migrant Children and Youth in Lao PDR: Migration along the Border of Thailand*. (Vientiane, Save the Children UK, Lao Youth Union, Ministry of Labour and Social Welfare).
- Seng, S. 2006. *Changing Life Style and Attitude of Cambodian Illegal Migrant Workers in Thailand*, (Bangkok, Masters Graduate, Chulalongkorn University. Chulalongkorn).
- Skeldon, R. 2000. "Trafficking: A Perspective from Asia." (International Migration Special Issue (1): 7-30).
- Thammavongsa, P. 2006. *Permit system vital to control migration*, (Vientiane. Vientiane Times. 16th January 2006).
- The Government Public Relations Department and Department of Employment, *Guide for foreign workers unified systems*, 2007
- Theeravit, K., Semyaem, A. 2002. *Thai-Lao Relations in Laotian Perspective*. (Bangkok, Institute of Asian Studies, Chulalongkorn University).
- Van der Linden, M. N. J. 2005. *Trafficking for Forced Labour: How to monitor the recruitment of migrant workers. Training Manual*. (Geneva, International Labour Organization).
- Vientiane Times. 2005. *Laos to Export Legal Labour to Thailand*, (Vientiane, Vientiane Times. 5th August 2005).
- Whitehead, A. and I. Hashim. 2005. *Children and Migration: Background paper for DJID migration team*. (London, Department for International Development)
- World Bank. 2006. *Labor Migration in the Greater Mekong Sub-region. Synthesis report: Phase 1*, The World Bank. 2006.
- Interviews:
- Transcript of employer interviews, 20 May 2007.
- Transcript of local staff of Embassy officer's interview, Lao Embassy in Bangkok, 14 June 2007.
- Transcript of Chief Commission Officer's interview, Office of Foreign Workers Administration, 23 July 2007.

ANNEXES



ANNEX 1

MEMORANDUM OF UNDERSTANDING BETWEEN THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE KINGDOM OF CAMBODIA ON COOPERATION IN THE EMPLOYMENT OF WORKERS -----

THE GOVERNMENT OF THE KINGDOM OF THAILAND AND THE GOVERNMENT OF THE KINGDOM OF CAMBODIA, hereinafter referred to as “the Parties”;
RECOGNISING the principles enshrined in “The Bangkok Declaration on irregular Migration of 1999”;
BEING CONCERNED about the negative social and economic impacts caused by illegal employment;
DESIROUS of enhancing mutually beneficial cooperation between the two countries;

HAVE AGREED AS FOLLOWS:

OBJECTIVE AND SCOPE ARTICLE I

The Parties shall apply all necessary measures to ensure the following:

- 1) Proper procedures for employment of workers;
- 2) 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 addressed;
- 3) 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;
- 4) Prevention of, and effective action against, illegal border crossings, trafficking of illegal workers and illegal employment of workers.

This Memorandum of Understanding is not applicable to other existing processes of employment that are already in compliance with the laws of the Parties.

AUTHORISED AGENCIES ARTICLE II

For the purpose of this Memorandum of Understanding, the Ministry of Labour of the Kingdom of Thailand and the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation of the Kingdom of Cambodia shall be the authorised agencies for the Government of the Kingdom of Thailand and for the Government of the Kingdom of Cambodia respectively.

ARTICLE III

The Parties, represented by the authorised agencies, shall hold regular consultations, at senior official and/or ministerial levels, at least once a year on an alternate basis, on matters related to the implementation of this Memorandum of Understanding.

The authorised agencies of both Parties shall work together for the establishment of procedures to integrate illegal workers, who are in the country of the other Party prior to the entry into force of this Memorandum of Understanding, into the scope of this Memorandum of Understanding.

AUTHORITY AND PROCEDURE

ARTICLE IV

The Parties shall take all necessary measures to ensure proper procedures for employment of workers.

Employment of workers requires prior permission of the authorised agencies in the respective countries. Permission may be granted upon completion of procedures required by laws and regulations in the respective countries.

The authorised agencies may revoke or nullify their own permission at any time in accordance with the relevant laws and regulations.

The revocation of nullification shall not affect any deed already completed prior to the revocation or nullification.

ARTICLE V

The authorised agencies may through a job offer inform their counterparts of job opportunities, number, period, qualifications required, conditions of employment, and remuneration offered by employers.

ARTICLE VI

The authorised agencies shall provide their counterparts with lists of selected applicants for the jobs with information on their ages, permanent addresses, reference persons, education, experiences and other information deemed necessary for consideration by the prospective employers.

ARTICLE VII

The authorised agencies shall coordinate with the immigration and other authorities concerned to ensure that applicants, who have been selected by employers and duly permitted in accordance with Article IV, have fulfilled, inter alia, the following requirements:

- 1) Visas or other forms of entry permission;
- 2) Work permits;
- 3) Health insurances or health services;
- 4) Contribution into savings fund as may be required by the authorised agencies of the respective Parties;
- 5) Taxes or others as required by the Parties;
- 6) Employment contracts of employers and workers.

Contract of the terms and conditions of employment shall be signed between the Employer and Worker and a copy each of the contract submitted to the authorised agencies.

ARTICLE VIII

The authorised agencies shall be responsible for the administration of the list of workers permitted to work under this Memorandum of Understanding. They shall keep, for the purpose of reference and review, the lists of workers who report themselves or have their documents certified to the effect that they have returned to their permanent addresses after the end of the employment terms and conditions, for at least four years from the date of report or certification.

RETURN AND REPATRIATION

ARTICLE IX

Unless stated otherwise, the terms and conditions of employment of workers shall not exceed two years. If necessary, it may be extended for another term of two years. In any case, the terms and conditions of employment shall not exceed four years. Afterwards, it shall be deemed the termination of employment.

A three-year break is required for a worker who has already completed the terms and conditions of employment to re-apply for employment.

ARTICLE X

The Parties shall extend their fullest cooperation to ensure the return of bona fide workers, who have completed their employment terms and conditions, to their permanent addresses.

ARTICLE XI

The authorised agencies of the employing country shall set up and administer a saving fund. Workers are required to make monthly contribution to the fund in the amount equivalent to 15 percent of their monthly salary.

ARTICLE XII

Workers who have completed their terms and conditions of employment and returned to their permanent addresses shall be entitled to full refund of their accumulated contribution to the savings fund and the interest by submitting the application to the authorised agencies three months prior to their scheduled date of departure after completion of employment. The disbursement shall be made to workers within 45 days after the completion of employment.

In the case of workers whose services are terminated prior to completion of employment and have to return to their permanent addresses, the refund of their accumulated contribution and the interest shall also be made within 45 days after termination of employment.

ARTICLE XIII

Temporary return to country of origin by workers whose terms and conditions of employment are still valid and in compliance with the authorised agencies' regulations shall not cause termination of the employment permission as stated in Article IV.

ARTICLE XIV

Procedures and documents required in the application for refund as stated in Article XII shall be set forth by the authorised agencies.

ARTICLE XV

The right to refund of their contribution to the savings fund is revoked for workers who do not return to their permanent addresses upon the completion of their employment terms and conditions.

ARTICLE XVI

The authorised agencies of the employing country may draw from the savings fund to cover the administrative expenses incurred by the bank and the deportation of workers to their country of origin.

PROTECTION

ARTICLE XVII

The Parties in the employing country shall ensure that the workers enjoy protection in accordance with the provisions of the domestic laws in their respective country.

ARTICLE XVIII

Workers of both Parties are entitled to wage and other benefits due for local workers based on the principles of non-discrimination and equality of sex, race, and religion.

ARTICLE XIX

Any dispute between workers and employers relating to employment shall be settled by the authorised agencies according to the laws and regulations in the employing country.

MEASURES AGAINST ILLEGAL EMPLOYMENT

ARTICLE XX

The Parties shall take all necessary measures, in their respective territory, to prevent and suppress illegal border crossings, trafficking of illegal workers and illegal employment of workers.

ARTICLE XXI

The Parties shall exchange information on matters relating to human trafficking, illegal immigration, trafficking of illegal workers and illegal employment.

AMENDMENTS

ARTICLE XXII

Any amendment to this Memorandum of Understanding may be made as agreed upon by the Parties through diplomatic channels.

SETTLEMENT OF DISPUTES

ARTICLE XXIII

Any difference or dispute arising out of this Memorandum of Understanding shall be settled amicably through consultations between the Parties.

ENFORCEMENT AND TERMINATION

ARTICLE XXIV

This Memorandum of Understanding shall enter into force after the date of signature and may be terminated by either Party in written notice. Termination shall take effect 90 (ninety) days following the date of notification. In case of termination of this Memorandum of Understanding by either Party, for the benefit of the workers, the Parties shall hold consultation on how to deal with employment contracts that are still valid.

IN WITNESS WHEREOF, the undersigned, being duly authorised by their respective Governments, have signed this Memorandum of Understanding.

DONE at Ubon Ratchatani on the Thirty First Day in the Month of May of Two Thousand and Three of the Christian Era in English language, in two original copies all of which are equally authentic.

FOR THE GOVERNMENT OF
THE KINGDOM OF THAILAND



(Suwat Liptapanlop)
Minister of Labour

FOR THE GOVERNMENT OF
THE KINGDOM OF CAMBODIA



(Ith Samheng)
Minister of Social Affairs,
Labour, Vocational Training

ANNEX 2

Memorandum of Understanding Between the Royal Thai Government and the Government of Lao PDR On Employment Cooperation

Both Government, hereinafter called “the parties” are concerned with the widespread trafficking in human due to common illegal unemployment, and accept the principles in the Bangkok Declaration on illegal migration 1999, agree to:

Objectives and Scope Article 1

The Parties will take action to realize:

- 1.1) appropriate procedure in employment
- 1.2) effective deportation and return of migrant workers who have completed the duration of their work permit
- 1.3) appropriate labour protection
- 1.4) Prevention and intervention in illegal border crossing, illegal employment services and illegal employment of migrant workers. The MOU does not include other measures currently in force in national legal frameworks.

Authorized Agency Article 2

MOL of Thailand and MOL of Lao PDR are authorized to carry out this MOU.

Article 3

The parties can organize regular high-level meetings at least once a year to discuss matters related to this MOU.

Authority and procedures Article 4

Employment of workers must be authorized by competent authorities.

The competent authorities may cancel work permits issued to individual workers as per the agreement above whenever appropriate within the purview of the parties’ respective national laws.

The cancellation will not affect any action already completed prior to the announced date of cancellation.

Article 5

The competent authority of each party can inform its counterpart of labour needs, number of desired workers, duration, qualifications, employment conditions and wages as proposed by concerned employers.

Article 6

The counterpart competent authority will respond by sending a list of potential workers (name, hometown, reference, education, and other experiences).

Article 7

The competent authorities will work with national immigration services to process:

- 7.1) visa/other travel document/arrangement
- 7.2) work permit issuance
- 7.3) insurance or health insurance
- 7.4) contribution to the deportation fund
- 7.5) other taxes as per national regulations

Article 8

Both parties will maintain a list of workers benefited from this MOU. The list will be kept and record the return of the workers until 4 years after the recorded date of return

Return and Deportation

Article 9

Unless otherwise specified, each worker will receive a two-year work permit,. If renewal is necessary, for whatever reasons, the total term of permit shall not exceed 4 years. Thereafter, the person shall be ineligible for work permit. Also, the work permit will expire when the employment of the worker concerned is terminated.

Workers who have completed the terms of their work permit can re-apply for work again after three years have passed between the date of the expiration of the first term and date of the reapplication. Exception shall be made when the worker concern had his or her employment terminated under the conditions not of their faults.

Article 10

The parties will collaborate in sending workers home.

Article 11

Workers will contribute 15% of their salary to deportation fund set up by the host country.

Article 12

Workers who wish return home can claim their contribution to the fund in full amount with interest. The request must file 3 month before the return date and the money will be paid to the workers within 45 days after the date their employment ends.

Article 13

Home visit during the period of work permit does not end the employment.

Article 14

The host country will determine the procedure and required documents as per the steps/application mentioned in Article 12.

Article 15

A worker will forfeit his or her right to receive his or her contribution to the deportation fund unless s/he reports him/herself to the designated authority in his/her home country upon his/her return.

Article 16

The competent authority of the host country can use the deportation fund to cover the cost of deportation of workers.

Protection

Article 17

The parties will apply national laws to protect the rights of workers (to whom this MOU applies)

Article 18

Workers will receive wage and benefits at the same rate applied to national workers based on the principles of nondiscrimination and equality on the basis of gender, ethnic identity, and religious identity.

Article 19

Labour disputes will be governed by the host country's national laws and by its relevant authorities.

Measures on Illegal Employment

Article 20

The parties will take necessary measures to prevent and intervene in illegal cross-border labour practices and employment.

Article 21

The parties will share information with regards to human trafficking, undocumented entry, unlawful employment, and unlawful labour practices.

Amendment on the MOU

Article 22

Amendment of this MOU requires consultation through diplomatic channels.

Dispute Intervention

Article 23

Any conflict arising from this MOU shall be settled through consultation between the parties.

Enforcement and Cancellation

Article 24

The agreements in this MOU are in force upon the date of signing by the representatives of the parties. Cancellation requires written notification and will be in effect 3 months after the date of notification.

This MOU is signed at Vientiane, Lao PDR, on 18 October 2002, in the Lao and Thai version. Both versions have similar values.

For the Government of Thailand
Original Signed Original Signed

Suwat Liptapanlop
Minister of Labour
Royal Government of Thailand

For the Government of Lao PDR

Sompan Pangkammee
Minister of Labour and Social Welfare
Lao PDR

ANNEX 3

Regulation of the Ministry of Labour in Importing Labour The Legal Employment of Immigrants in Thailand According to the Memorandum of Understanding (MOU)

The Employment Department serves and imports immigrants to legally work in Thailand by complying to agreements made between Thailand and other countries. The Employment Department's role is to be as the center for coordinating in terms of coordination but is not responsible for the direct recruitment of immigrants to work for an employer/establishment in Thailand.

Employers/establishments that would like to legally employ immigrants to work in Thailand must proceed as follows:

Step 1: Request for Employment of Immigrant (Quota)

1.1 Employers/establishments that would like to legally employ immigrants must hand in their requests to the Employment Office 10 or at the Recruitment office in the province where the establishment is located or the province that the labour will be working.

(1) If the employer is a juristic person in the construction business, the quota must be requested using the head office only. If the juristic person is in any business other than construction, the request must be made using the head office of the juristic person or the location where the immigrant will be working that does not hold the same address as the head office.

(2) If the employer is an ordinary person, the request for unskilled labour must be made using the office or the residence in cases of domestic workers.

1.2 Once the employer/establishment is granted permission to hire immigrants, the Department of Employment will issue a quota certification.

Step 2 : Submission for Petition in Importing Immigrants into Thailand

2.1 Employers/establishments that have been granted quotas must submit the following documents along with 3 sets of copies (total 4 sets) at the Employment Office 10 or at the Recruitment office in the province:

- (1) Petition for the import of immigrants according to the Memorandum of Understanding (MOU)
- (2) Copy of permission in employing immigrants (copy of quota)
- (3) Copy of the Demand Letter. The employer/establishment must specify the conditions in working
- (4) Power of Attorney appointing the recruitment company in the home country to recruit labour for the employer/establishment. The document must specify the name of the recruitment company, in English only. The employer/establishment is responsible for direct coordination of the recruitment
- (5) Sample of the filled-in employment contract
- (6) For juristic persons, documents include copy of registration, copy of an authorized person's citizen's identification card

Documents specified in 2.1(1)(3)(4) and (5) must be filled in by the employer in both Thai and English.

2.2 The Employment Office 10 or at the Recruitment office in the province sends 2 sets of approved documents to the Department of Employment (1 original copy). The employer keeps 1 copy, while the Employment Office 10 or at the Provincial Recruitment office in the province keeps 1 copy

2.3 The Department of Employment compiles and checks the documents received from the Employment Office 10 or at the Provincial Recruitment office. The documents are proposed to the Ministry of Labour to issue a notification to the Ministry of Labour in the labour's home country

2.4 The Department of Employment sends the completed documents to the home country's embassy in Thailand. Afterwards, the home country's embassy in Thailand will send the documents to their Ministry of Labour

2.5 Once the Ministry of Labour in the home country receives the documents from the Thai Ministry of Labour, they will send the requests to the recruitment company (as specified in the request) to further proceed with the recruitment process

2.6 When the recruitment company is able to hire labour, the company will send a name list to the home country's Ministry of Labour to stamp for approval before sending to the employer/establishment in Thailand

Step 3 : Request to Work on Behalf of the Immigrant

3.1 When the employer/establishment receives the approved name list from the home country's Ministry of Labour in 2.6, the employer must submit the name list and the employer's documents, stating the border the entry, along with a request to work on behalf of the immigrant at the Provincial Recruitment Office the immigrant will be working. If the location is in Bangkok, the documents to be submitted to the Office of Foreign Workers Administration are as follows:

- (1) The name list as provided and officially approved by the home country's Ministry of Labour
- (2) TT 15 per each individual
- (3) pieces individual photo of the immigrant, size 2.5 x 3 cm, taken not longer than 6 months, with name written on the back to prevent from losing
- (4) Copy of quota certification

After submission of the documents, the employer/establishment must pay for commission fee of 100 Baht per request.

3.2 The Provincial Recruitment Office send the name list to the Department of Employment

3.3 The Department of Employment proceeds with the transaction, notifies the Thai embassy or consulate in the labour's home country and to the Immigration Office for further processing for the issuance of visa and permission to reside in Thailand

Step 4 : Issuance of Work Permit to the Immigrant

4.1 The recruitment company in the home country takes the labour to request for immigration at the Thai embassy or consulate in the home country. The labour will receive a non-immigrant visa L-A according to the request made by the recruitment company in Step 3.3

4.2 After acquiring visa to enter Thailand to work (Non-Immigrant Visa L-A) from the Thai embassy or consulate, the immigrant is issued permission by the immigration to reside in the Kingdom of Thailand for 2 years. In order to receive work permit as soon as possible, the employer must take the immigrant for medical check-up in the hospital as specified by the Ministry of Health. The employer should coordinated and make an appointment with the hospital beforehand, for efficiency and convenience. Information on the hospitals of the Ministry of Health can be asked at the Office of Health Service Development Tel. 02-5901639 or at Provincial Health Offices.

The employer must then submit a work permit request within the specified period. Documents include:

- (1) Petition for work permit
- (2) Copy of result of work permit petition
- (3) Original passport with 1 copy
- (4) Medical certificate

4.3 The immigrant must pay for commission fee of 1,800 Baht per year within the time period of the work permit or no later than 1 year.

4.4 The employers/establishments in provinces submit requests according to 4.2 at the Provincial Employment Office while employers/ establishments in Bangkok submit at the Office of Foreign Workers Administration. The division will continue with the process of making the permit and setting an appointment date to pick up at the permit. The immigrant will need to pay for commission for the period of time of the work permit or no later than 1 year.

Taking Care of Immigrants/Reporting according to Specified Schedule/Termination of Employment

1. In cases where the employer/establishment would want to transfer power to another individual or juristic person for 1 transaction, post a 10-Baht stamped envelop along with a copy each of the citizen's identification of the employer and the person the authority is transferred to. For multiple transactions, post a 30-Baht stamp.

2. Once the employer/establishment has hired the immigrant, the employer must treat the immigrant according to the condition of the Labour law, such as applying for social security and payment of wages and benefits

3. For termination of immigrants, the procedures are as follows:

3.1 Take the immigrant to the Department of Employment for notification of resignation or termination. If the immigrant moved out or left without notice, the employer/establishment must give notice within 15 days (in this case, should notify the police as well). For provinces, notification can be made at the Provincial Recruitment Office and at the Office of Foreign Workers Administration for those in Bangkok. The immigrant needs to return the work permit as well.

3.2 The employer takes the immigrant out of the country and notifies immigration at all borders.

June 2007
Ministry of Labour
Department of Employment
Office of Foreign Workers Administration
Tel. 02-3541723 Fax. 02-3541723

ANNEX 4

Name list of Cambodian recruitment agencies that send labour to other countries, guaranteed by the Ministry of Labour in Cambodia as of February 2007.

No	Recruitment Company Name	Location of Recruitment Company	Tel. No.
1	CDM Trading Manpower Co., Ltd	No.20, St.265, Sangkat Toeuk La Ork, Khan Tuol Kork, Phnom Penh City, Kingdom of Cambodia	Tel. 011-28 4444 012-490 906 Fax: 023-353 538
2	Human Resources Development Co., Ltd	No.144EQ, St.146 On Mao Tsc Tung Blvd.,Sangkat Toeuk Laak II, Khan Tuol Kork, Phnom Penh City, Kingdom of Cambodia	Tel. 855 - 23 - 880 773 Fax: 855 - 23 - 882 980
3	Top Manpower Co., Ltd	No.68, St.122, Sangkat Phsadeo3, Khan Tuol Kork, Phnom Penh City, Kingdom of Cambodia	Tel. 855-23-987 890 Fax: 855-23-987 822
4	Human Power Co., Ltd	No.2D, St.335, Sangkat Boeung Kak 1, Khan Tuol Kork, Phnom Penh City, Kingdom of Cambodia	Tel. 855-12-600 996
5	S.T.P. International (Cambodia) Public Co., Ltd	No 168, Preah Norodom Blvd, Sangkat Tonlebasak, Khan Chamkarmorn, Phnom Penh City, Kingdom of Cambodia	Tel. 855-23-982 922 855-23-987 837 Fax: 855-23-369 329
6	May Yorn Service Co., Ltd	No 6, St 402, Sang Kat Turnnup Toek, Khan Chamkarmorn, Phnom Penh City, Kingdom of Cambodia	Tel. 855-23-355 353 Fax: 855-12-445 855
7	Philimore Cambodia Co., Ltd	No.10 - 12, St.528, Sangkat Boeung Kak 1, Khan Yuol Kork, Phnom Penh City, Kingdom of Cambodia	Tel. + Fax : 855-23-88 11 33
8	Chhun Hong Manpower Co., Ltd	St.Veng Sreng - Sorla, Sangkat Stoeung Meanchey,Khan Mean Chey, Phnom Penh City, Kingdom of Cambodia	Tel. 855-23-880 497 855-23-424 175 Fax: 855-23-424 175
9	UNG Rithy Group Co., Ltd	No.392, St.271, Sangkat Tumnup Toeuk, Khan Chamkarmorn, Phnom Penh City, Kingdom of Cambodia	Tel. 855-12-365 777 855-12-678 997 855-16-287 007
10	Cambodia Labour Supply PTY. Ltd	No 161B, Norodom Blvd, angkat Boeung Kengkangl, Khan Chamkarmon, Phnom Penh City, Kingdom of Cambodia	Tel. 855-23-215 323 855-12-902 823 Fax:: 855-23-215 322

List of Lao recruitment agencies that send labour to other countries, guaranteed by the
Ministry of Labour in Lao as of February 2007.

No	Recruitment Company Name	Location of Recruitment Company	Tel. No.
1	LAO STATE EMPLOYMENT ENTERPRISE (LSEE)	Omoong Village, Luang Prabang Rd. Sikhottabong District, Vientiane, Lao PDR	(856 - 21) 250 993 (856 - 21) 222 635
2	LANEXANG LABOUR STATE ENTERPRISE (Co.,LTD)	Nahaidiao Village, Chandhabould District, Vientiane, Lao PDR	(856 - 20) 551 5932 (856 - 21) 216 800
3	LAO LABOUR PROMOTION (LLPC, Co.,LTD)	Thatkhao Village, Sisattanak District, Vientiane, Lao PDR	(856 - 20) 593 6831 (856 - 30) 525 7537 (856 - 21) 264 084
4	XAYA EMPLOYMENT (XE,Co.LTD)	Vattay Village, Sikhottabong District, Vientiane, Lao PDR	(856 - 21) 226 3516 (856 - 20) 561 3675 (856 - 21) 214 431
5	INTER LABOUR CO.,LTD E- mail : Interlabour@hotmail.com	Mixay Village, Chandhabouly District, Vientiane, Lao PDR	(856 - 21) 241 012 Fax(856- 21)244 217 Mobile: 856202401607
6	DEAUNSAVAN EMPLOYMENT COMPANY	Nahe Village, Sikhottabong District, Vientiane, Lao PDR	(856 - 21) 620 936 (856 - 20) 541 8177
7	SINXAI EMPLOYMENT SERVICE	261/02 Nongbon Rd., Nongbon Village, Xaisetha District, Vientiane, Lao PDR	(856 - 20) 552 0463 (856 - 21) 264 120 (856 - 21) 264 119
8	BOUASAVAN EMPLOYMENT Co.,LTD	Somsanouk Village, Sayfong District, Vientiane, Lao PDR	(856 - 20) 551 7442 (856 - 21) 313 187
9	STATE ENTERPRISE BORRIKHAMXAY PROVINCE	Phonxay Village, Borrikhamxay District Borrikhamxay Province	(856 - 45) 212 098 (856 - 20) 233 5691

ANNEX 5

ILO Research “Migrant recruitment from Cambodia and Lao PDR to Thailand” A. Survey of migrant workers

Informed consent

Hello, my name is I am an interviewer for a ILO research project examining the recruitment of workers to Thailand. The findings of this research will lead to policy recommendations and programmes which should benefit migrant workers by promoting safe and legal channels for migration.

We have a number of questions to ask you. Please be assured that your responses will be kept strictly confidential. We do NOT need your name. The information that you give will be used solely for the purpose of this study. The interview will take approximately 30 minutes and we will note down your responses.

You can choose whether you would like to participate in the survey. If you do not want to answer a question, you can choose not to. In addition you can end the interview at any point. We would like to encourage you to participate and assist us by providing honest responses to the questions. Your views are very important. If you have any further queries about the survey please let me know.

May I start the interview now? **Proceed/Stop**

Name of interviewee:	Date of interview:
Place of interview:	Name of interviewer:
Work sector: Manufacturing (e.g. textile/garment) Food processing Construction	Duration of current/recent work in Thailand:monthsyears

Instructions for questions:

None: Interviewer to choose based on answer given

Yes/No/NA: Interviewer to choose based on answer given

List: Read out the options to interviewee

Did a recruiter help you to go and work in Thailand? Yes/No

<If yes, proceed.

If no, terminate interview now.>

1: Background

- 1.1 Sex: Male / Female
- 1.2 Age:
- 1.3 Marital status: Single / Married / Divorced / Widow / Cohabiting
- 1.4 Place of origin:
Village.....District.....Commune.....Province.....
- 1.5 Education (number of years in school):
- 1.6 Household size (number of people):

2: Recruitment and sending

- 2.1 Did you decide to migrate to Thailand by yourself?
a) Yes b) No
- 2.2 If no, who made the decision for you to migrate to Thailand?
a) Spouse b) Parents c) Brothers/ sisters d) Relatives
e) Boyfriend/girlfriend f) Recruiter g) others (specify)
- 2.3 Why did you decide to migrate? (List the options - Tick 3 only):
a) Economic (poverty, lack of employment, debts)
b) Family (going with or join family/friends)
c) Social network (know the recruiter, positive experiences from returnees)
d) Personal (adventure, new experiences)
e) Problems at home (e.g. domestic violence, relationship problems)
f) Escape risks and dangers at place of origin (e.g. flooding or environmental disaster, conflict)
g) Others (specify)
- 2.4 Who is your recruiter? (Tick one only)
a) Someone known to you and family
b) Broker in Cambodia/Laos
c) Broker in Thailand
d) Recruiting company
e) Employer
f) Others (specify)

- 2.5 Is your recruiter a licensed company?
) No c) Don't know
 <If yes - then use formal recruiter questions
 If no - then use informal recruiter questions>
- 2.6 How were you recruited? (Tick one only)
 a) Newspaper/Radio/TV ads (mass media)
 b) Notices
 c) Labour agents
 e) Others(specify)
 f) Does not apply
- 2.7. What do you consider when using a formal/informal recruiter? (List options -tick 3 only)
 a) Trust/reliability
 b) Services provided
 c) Speed
 d) Costs
 e) Safety and protection (legality of movement, insurance and welfare)
 f) Availability of information and support services
- 2.8 What types of services did your formal/informal recruiter provide? (List options - tick 3 only)
 a) Job placement
 b) Helping to make travel and/or ID documents
 c) Pre-departure orientation or training
 d) Arranging for free or cheap accommodation at destination
 e) Follow up or support at destination
 f) Access to complaints mechanism (if problem at destination)
 g) Facilitation to open bank accounts and/or facilitation of sending remittances
 h) Arranging for safe travel across border and to destination
 i) Others (specify)
- 2.9 Was the process of obtaining work in Thailand simple or complicated?
 a) Simple b) Complicated
- 2.10 From the time of deciding to migrate, how long did it take for you to start work in Thailand?
days.....weeks.....months
- 2.11 Were you aware of the risks and dangers involved in migrating through an informal recruiter?
 a) Yes b) No (go to 2.14)
- 2.12 If yes, how did you know?
 a) Recruiter informed me
 b) Someone in village informed me
 c) NGOs informed me through awareness raising activities
 d) From media reports
 e) Others (specify)

- 2.13 How much did you pay your recruiter?
 a) Nothing
 b) Not sure
 c)USD
- 2.14 Did you loan money to pay the recruiter (i.e. for the costs of travel and finding a job in Thailand)?
 a) Yes
 b) No (If no, go to 2.17)
- 2.15 If yes, who provided the loan?
 a) Recruiter b) Family c) Moneylender
 d) Bank e) Others
- 2.16 Was your salary deducted in order to pay the recruitment fee?
 a) Yes b) No
 c) Not applicable d) don't know
- 2.17 If yes, how was it deducted?
 a) Full deduction of salary formonths
 b) Partial deduction salary formonths (state percentage of salary: %)
- 2.18 Are you satisfied with the services provided by your recruiter?
 a) Yes b) No

3. Information disclosure at pre-departure

- 3.1 Before leaving for Thailand, did your recruiter provide clear and adequate information on what to expect? (Yes/No to each item on List)
 a) Nature of work (type of job) - Yes/No
 b) Wages - Yes/No
 c) Working hours - Yes/No
 d) Living conditions - Yes/No
 e) Healthcare services - Yes/No
 f) Termination of employment - Yes/No

For formal recruitment only (i.e. if Yes to 2.5)

- 3.2 Did you sign a contract with your recruiter?
a) Yes b) No (go to 3.6)
c) Don't know
- 3.2 If yes, did you recruiter explain the contents of the contract(s) clearly before you sign?
a) Yes b) No
- 3.3 Did you keep a copy of the contract(s)?
a) Yes (go to 3.6) b) No
- 3.4 If no, who kept it?
a) Employer b) Recruitment agency
c) Don't know d) Others (specify)
- 3.5 Did you undergo pre-departure training?
a) Yes b) No (go to 4)
- 3.6 If yes, how long was the training/orientation?weeks.....months
- 3.10 If yes, would you recommend other migrants going to Thailand to have the same pre-departure training/orientation?
a) Yes b) No

- 3.11 Did you sign a contract with your employer?
a) Yes b) No (go to 4.1)
c) Don't know
- 3.12 Did you keep a copy of the employment contract(s) whilst working in Thailand?
a) Yes b) No
- 3.13 If no, who kept it?
b) Recruitment agency c) Don't know
d) Others (specify)

4. Situation at workplace

- 4.1 Were your working and living conditions in Thailand the same as what was promised (informal recruitment) or described in your contract (formal recruitment)?
 - a) Yes
 - b) No
 - b) No description given/promised
- 4.2 If no, which part was different? (List and tick all that apply)
 - a) Nature of work
 - b) Salary
 - c) Working hours
 - d) Overtime pay
 - e) Rest days
 - f) Living conditions
 - g) Risks and dangers
 - h) Other (specify)
- 4.3 What were your wages?THB per day or month
- 4.4 Did you have freedom of movement (to go outside the workplace or living quarters when you were not working)?
 - a) Yes
 - b) No
- 4.5 If no, who restricted your freedom of movement? Do not prompt. Tick one only
 - a) Employer
 - b) recruiter
 - c) family members
 - d) workmates
 - e) police
 - f) myself
 - g) others (specify)
- 4.6 Did you have freedom of communications? (e.g. to call or write to your family)
 - a) Yes
 - b) No
- 4.7 Did you hold/have possession of your original ID documents whilst working in Thailand?
 - a) Yes
 - b) No
 - c) Did not have any ID documents
- 4.8 If no, who held them?
 - a) Employer
 - b) Recruitment agency
 - c) Thai authority
 - b) d) Others (specify)

- 4.9 Can you change your job or employer whilst working in Thailand?
a) Yes b) No
- 4.10 Would you prefer to work in your home country than Thailand?
a) Yes b) No
- 4.11 If you travelled again to work in Thailand, would you do so through (Tick one only):
a) Recruitment agency
b) Informal recruiter
c) Myself
- 4.12 Why so? (Tick 3 only) Answer Yes or No
a) Legal and safe (not subject to arrest or deportation as illegal worker, safe travel to destination)
b) More protection e.g. Guaranteed wages and rights under contract
c) Bad experience with informal recruiters
a) Cheaper
b) Faster
c) Trust in recruiter
d) Bad experience with recruitment agencies
e) Flexibility (can change jobs or come home if I want)
f) I'm experienced at going to Thailand so I know how to do it
g) Others (specify)

ANNEX 6

ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers

WE, the Heads of State/Government of the Member Countries of the Association of Southeast Asian Nations (hereinafter referred to as ASEAN), attending the 12th ASEAN Summit on 13 January 2007 in Cebu, Philippines;

RECALLING the Declaration of ASEAN Concord II adopted at the 9th ASEAN Summit in Bali, Indonesia, which stipulated the establishment of an ASEAN Community resting on three pillars: an ASEAN Security Community, an ASEAN Economic Community and an ASEAN Socio-Cultural Community;

RECALLING also the Universal Declaration on Human Rights adopted and proclaimed by General Assembly Resolution 217(A)(III) of 10 December 1948, as well as other appropriate international instruments which all the ASEAN Member Countries have acceded to, in order to safeguard the human rights and fundamental freedoms of individuals such as the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child;

RECALLING further the Vientiane Action Programme adopted at the 10th ASEAN Summit in Vientiane, Lao PDR, which provides for, inter alia, the promotion of human rights and obligations to realise an open, dynamic and resilient ASEAN Community;

CONFIRMING our shared responsibility to realise a common vision for a secure and prosperous ASEAN Community by improving the quality of life of its people and strengthening its cultural identity towards a people-centered ASEAN through, among others, measures on the protection and promotion of the rights of migrant workers;

RECOGNISING the contributions of migrant workers to the society and economy of both receiving states and sending states of ASEAN;

RECOGNISING further the sovereignty of states in determining their own migration policy relating to migrant workers, including determining entry into their territory and under which conditions migrant workers may remain;

ACKNOWLEDGING the legitimate concerns of the receiving and sending states over migrant workers, as well as the need to adopt appropriate and comprehensive migration policies on migrant workers;

ACKNOWLEDGING also the need to address cases of abuse and violence against migrant workers whenever such cases occur;

REITERATING that ASEAN should make further progress as a cohesive and caring society committed to enhancing the quality of life and well being of its people, especially those in the vulnerable and disadvantaged sectors;

HEREBY DECLARE AS FOLLOWS:

GENERAL PRINCIPLES

1. Both the receiving states and sending states shall strengthen the political, economic and social pillars of the ASEAN Community by promoting the full potential and dignity of migrant workers in a climate of freedom, equity, and stability in accordance with the laws, regulations, and policies of respective ASEAN Member Countries;
2. The receiving states and the sending states shall, for humanitarian reasons, closely cooperate to resolve the cases of migrant workers who, through no fault of their own, have subsequently become undocumented;
3. The receiving states and the sending states shall take into account the fundamental rights and dignity of migrant workers and family members already residing with them without undermining the application by the receiving states of their laws, regulations and policies; and
4. Nothing in the present Declaration shall be interpreted as implying the regularisation of the situation of migrant workers who are undocumented.

OBLIGATIONS OF RECEIVING STATES

Pursuant to the prevailing laws, regulations and policies of the respective receiving states, the receiving states will:

1. Intensify efforts to protect the fundamental human rights, promote the welfare and uphold human dignity of migrant workers;
2. Work towards the achievement of harmony and tolerance between receiving states and migrant workers;
3. Facilitate access to resources and remedies through information, training and education, access to justice, and social welfare services as appropriate and in accordance with the legislation of the receiving state, provided that they fulfill the requirements under applicable laws, regulations and policies of the said state, bilateral agreements and multilateral treaties;
4. Promote fair and appropriate employment protection, payment of wages, and adequate access to decent working and living conditions for migrant workers;
5. Provide migrant workers, who may be victims of discrimination, abuse, exploitation, violence, with adequate access to the legal and judicial system of the receiving states; and
6. Facilitate the exercise of consular functions to consular or diplomatic authorities of states of origin when a migrant worker is arrested or committed to prison or custody or detained in any other manner, under the laws and regulations of the receiving state and in accordance with the Vienna Convention on Consular Relations.

OBLIGATIONS OF SENDING STATES

Pursuant to the prevailing laws, regulations and policies of the respective sending states, the sending states will:

1. Enhance measures related to the promotion and protection of the rights of migrant workers;
2. Ensure access to employment and livelihood opportunities for their citizens as sustainable alternatives to migration of workers;
3. Set up policies and procedures to facilitate aspects of migration of workers, including recruitment, preparation for deployment overseas and protection of the migrant workers when abroad as well as repatriation and reintegration to the countries of origin; and
4. Establish and promote legal practices to regulate recruitment of migrant workers and adopt mechanisms to eliminate recruitment malpractices through legal and valid contracts, regulation and accreditation of recruitment agencies and employers, and blacklisting of negligent/unlawful agencies.

COMMITMENTS BY ASEAN

For purposes of protecting and promoting the rights of migrant workers, ASEAN Member Countries in accordance with national laws, regulations and policies, will:

1. Promote decent, humane, productive, dignified and remunerative employment for migrant workers;
2. Establish and implement human resource development programmes and reintegration programmes for migrant workers in their countries of origin;
3. Take concrete measures to prevent or curb the smuggling and trafficking in persons by, among others, introducing stiffer penalties for those who are involved in these activities;
4. Facilitate data-sharing on matters related to migrant workers, for the purpose of enhancing policies and programmes concerning migrant workers in both sending and receiving states;
5. Promote capacity building by sharing of information, best practices as well as opportunities and challenges encountered by ASEAN Member Countries in relation to protection and promotion of migrant workers' rights and welfare;
6. Extend assistance to migrant workers of ASEAN Member Countries who are caught in conflict or crisis situations outside ASEAN in the event of need and based on the capacities and resources of the Embassies and Consular Offices of the relevant ASEAN Member Countries, based on bilateral consultations and arrangements;
7. Encourage international organisations, ASEAN dialogue partners and other countries to respect the principles and extend support and assistance to the implementation of the measures contained in this Declaration; and
8. Task the relevant ASEAN bodies to follow up on the Declaration and to develop an ASEAN instrument on the protection and promotion of the rights of migrant workers, consistent with ASEAN's vision of a caring and sharing Community, and direct the Secretary-General of ASEAN to submit annually a report on the progress of the implementation of the Declaration to the Summit through the ASEAN Ministerial Meeting.

DONE at Cebu, Philippines, this Thirteenth Day of January in the Year Two Thousand and Seven, in a single original copy in the English Language.

For Brunei Darussalam:

HAJI HASSANAL BOLKIAH
Sultan of Brunei Darussalam

For the Kingdom of Cambodia:

SAMDECH HUN SEN
Prime Minister

For the Republic of Indonesia:

DR. SUSILO BAMBANG YUDHOYONO
President

For the Lao People's Democratic Republic:

BOUASONE BOUPHAVANH
Prime Minister

For Malaysia:

DATO' SERI ABDULLAH AHMAD BADAWI
Prime Minister

For the Union of Myanmar:

GENERAL SOE WIN
Prime Minister

For the Republic of the Philippines:

GLORIA MACAPAGAL-ARROYO

President

For the Republic of Singapore:

LEE HSIEN LOONG

Prime Minister

For the Kingdom of Thailand:

GENERAL SURAYUD CHULANONT (RET.)

Prime Minister

For the Socialist Republic of Viet Nam:

NGUYEN TAN DUNG

Prime Minister

- 1 The Cambodia Report found that only 15% of migrants had received any pre-departure orientation or training. See Table 30.
- 2 See National Institute of Statistics (2005), Mith Samlanh/Friends International (2006), Maltoni (2006) <unpublished paper>, and Legal Support for Children and Women (2005).
- 3 Cambodia Report.
- 4 Thailand, Cambodia, and Lao PDR have not ratified the three ILO conventions.
- 5 The MOU is reproduced in Annex 1 in (Vitit Muntarbhorn 2005).
- 6 A recent UNIFEM study presents a thorough analysis of the policy framework concerning migration from the Lao PDR to Thailand (Inthasone Phetsiriseng, 2007).
- 7 Prakas is the Khmer term for Ministerial Order.
- 8 The domestic service sector is not currently protected under Thai labour law. There is a move by NGOs and academics to include this sector in the labour law that is currently being revised in the Thai Parliament. Significant numbers of Laotians, particularly women and girls, currently work in this sector without protection; at the time of open registration, 32,000 Lao domestic workers were already working in Thailand (Inthasone Phetsiriseng, 2007).
- 9 Thailand Report.
- 10 Thailand Report.
- 11 Cambodia Report.
- 12 2003 statistic.
- 13 Most informal work in Cambodia is concentrated in rural areas and centered around agricultural industries and activities such as food processing, mining, furniture manufacture, vehicle maintenance and repair, electricity generation, construction, retail trade, home-based apparel making, spinning and weaving, and transport.
- 14 Thailand Report.
- 15 At the time of research, Thai employers were required to use the service of private recruiting companies or individuals who registered themselves as consulting companies, as there was no formal channel for the registration of Thai recruitment agencies to bring workers to Thailand. Such registration only existed for agencies sending Thai workers abroad. A new law licensing such agencies, the Working of Aliens Act BE 2551 went into effect in February 2008.
- 16 Cambodia Report.

- 17 Thailand Report.
- 18 Most employers appoint individuals or consulting agencies to carry out this task on their behalf.
- 19 Thailand Report.
- 20 Thailand Report.
- 21 A new law licensing such agencies, the Working of Aliens Act BE 2551, was passed in late 2007 and published in the Royal Gazette in February 2008.
- 22 Thailand Report.
- 23 Thailand Report.
- 24 Thailand Report.
- 25 Thailand Report.
- 26 Thailand Report.
- 27 Cambodia Report.
- 28 Official statements on costs are difficult to obtain and subject to change. Hence, official statements on the breakdown of costs are likely to differ from source to source. The UNIFEM figures represented here were originally provided by Bounkham Sihalath from the Employment Promotion Division at the Department of Labour, Lao PDR. Also note that Lao migrants have to undergo medical examination twice to satisfy both the Lao and the Thai side of the process.
- 29 Cambodia Report.
- 30 Lao PDR Report.
- 31 Lao PDR Report.
- 32 Lao PDR Report.
- 33 Cambodia Report.
- 34 Lao PDR Report.
- 35 In Lao PDR, a third contract is required between the Thai employer and the Lao recruitment agency.
- 36 Thailand Report.

- 37 Thailand Report.
- 38 Cambodia Report.
- 39 Cambodia Report.
- 40 Cambodia Report.
- 41 The number of informal workers surveyed in the Thai sample was too low to draw statistical comparisons with the formal workers' responses.
- 42 Lao PDR Report.
- 43 Cambodia Report.
- 44 The fact that some formally recruited migrants claimed to have paid nothing to their recruiter contrasts with statements by recruitment agencies that fees are at least 15,000 baht. This discrepancy may be explained by the way in which the respondents understood the question: since most formally recruited migrants are unable to pay their fees prior to departure (and therefore enter into a situation of leveraged debt), they may have responded that they paid nothing to their recruiter.
- 45 Thailand Report.
- 46 At a current rate of 282 Lao Kip to 1 Thai baht, this equals 1,418-2,836 baht.
- 47 The fees are paid in advance by the Thai employer or are shared by the Thai employer and the recruitment agency. The migrant then reimburses these fees through salary deductions after beginning work in Thailand.
- 48 Lao PDR Report.
- 49 Cambodia Report.
- 50 Cambodia Report.
- 51 Cambodia Report.
- 52 In addition, when more information is provided, the chances of misunderstanding and misrepresentation of information are increased.
- 53 It should be re-emphasized here that all 20 formally recruited migrants returned home early, mainly due to negative experiences. Hence the complaints presented here may not be representative for all formally recruited migrants.
- 54 The legal minimum wage in Thailand varies by province.
- 55 Thailand Report.

- 56 Cambodia Report.
- 57 Cambodia Report.
- 58 Lao PDR Report.
- 59 Lao PDR Report.
- 60 Lao PDR Report.
- 61 Lao PDR Report.
- 62 A representative from the Immigration Department explained that people who are caught crossing the border illegally are fined 200,000 Kip and are kept in custody until they are picked up by their relatives. If this does not happen within 15 days, a further 5,000 Kip is charged for every additional day to cover food expenses.
- 63 Cambodia Report.
- 64 It is important to remember that the Thai research group sampled Cambodian and Lao migrants who were currently working in Thailand. It is likely then, that this group would offer more positive visions of the recruitment experience than the Cambodian and Lao groups, which were comprised of early returnees.
- 65 Lao PDR Report.
- 66 Cambodia Report.
- 67 Lao PDR Report.
- 68 Lao PDR Report.
- 69 Apparently there is also a practice of fining migrants who have returned before the end of their contract. The Trade Union representative who was interviewed explained to have received several complaints from early returned formally recruited migrant workers. According to him, recruitment agencies often imposed a fine of 4,000 to 5,000 Baht for early return. Further, indebtedness can be explained by the fact that Thai employers pay (according to the recruitment agencies interviewed) the full fee of recruitment to the Lao recruitment agency prior to sending the Lao workers to Thailand.
- 70 From 5th January 2007 till 8th August 2007 (and thus at the time of interviewing) a ban was imposed on sending of Lao workers abroad by recruitment agencies (2007). However, none of the early returned formally recruited migrants showed awareness of this when complaining about the fact that they were waiting for re-migration.
- 71 Lao PDR Report.
- 72 This is the percentage currently set in Indonesia. See Verite (2005).



Contact information:

**ILO Mekong Sub-regional Project
to Combat Trafficking in Children and Women**

United Nations' Building

P.O. Box 2-349

Rajadamnern Nok Ave.

Bangkok, 10200 Thailand

Tel: +662 288 2218 Fax: +662 288 3063

E-mail: prevention@childtrafficking.net